

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Robert Flanagan, CRD No. 5755699,

Respondent.

DISCIPLINARY PROCEEDING
NO. 2016050447102

HEARING OFFICER:

COMPLAINT

The Department of Enforcement (“Enforcement”) alleges:

SUMMARY

1. In 2016, Enforcement opened an investigation into Robert Flanagan’s (“Flanagan” or “Respondent”) potential failure to disclose a civil judgment on his Uniform Application for Securities Industry Registration or Transfer (“Form U4”) and potential sales practice violations.

2. During the period of June 1, 2015, through October 9, 2015, Flanagan willfully failed to disclose a civil judgment entered against him in the amount of \$212,875.38 via the filing of an amended Form U4, in violation of Article V, Section 2(c) of FINRA’s By-Laws and FINRA Rules 1122 and 2010. Flanagan also made false statements to his member firm regarding the existence of the civil judgment, in violation of FINRA Rule 2010.

3. In addition, in connection with its investigation, on July 27, 2016 and October 5, 2016, FINRA requested that Flanagan provide certain documents and information pursuant to Rule 8210. Flanagan did not timely respond to FINRA’s Rule 8210 requests, and only responded on March 3, 2017, after he was served with notice that he would be suspended from association with any FINRA member on March 6, 2017, if he failed to respond to FINRA’s Rule

8210 requests for documents and information. As of March 3, 2017, Flanagan's response to FINRA's requests for documents and information was 205 days late. By failing to timely respond to FINRA's requests for documents and information, Flanagan violated FINRA Rules 8210 and 2010.

4. On May 15, 2017, June 6, 2017 and July 19, 2017, Enforcement requested that Flanagan provide additional documents and information pursuant to FINRA Rule 8210. To date, Flanagan has failed to comply with these requests.

5. On August 1, 2017, Enforcement requested that Flanagan appear and provide on-the-record testimony pursuant to FINRA Rule 8210 on August 16, 2017. To date, Flanagan has failed to appear and provide testimony to Enforcement.

6. By failing to respond to Enforcement's requests for documents and information, and by failing to appear and provide on-the-record testimony to Enforcement, Flanagan violated FINRA Rules 8210 and 2010. Flanagan's failure to cooperate with Enforcement's investigation and provide the requested documents and information, and testimony, constitute separate and distinct violations of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

7. Flanagan entered the securities industry in February 2010 when he became associated with Pruco Securities, LLC ("Pruco" or the "Firm"), a FINRA-regulated broker-dealer. Flanagan obtained his Series 6 (Investment Company Products/Variable Contracts Representative) ("IR") and his Series 63 (Uniform Securities Agent) securities licenses in February and March 2010, respectively.

8. From December 2009 to January 29, 2016, Flanagan was associated with Pruco as an IR. In a Uniform Termination Notice of Securities Registration (“Form U5”), dated January 29, 2016, Pruco reported the termination of Flanagan’s employment due to his lack of production.

9. In an Amended Form U5 dated June 17, 2016, Pruco reported its receipt of a written complaint from a Firm customer, alleging sales practice violations by Flanagan.

10. Flanagan has not been associated with any FINRA-regulated broker-dealer since Pruco terminated his employment.

11. Although Flanagan is no longer registered or associated with a FINRA member firm, he remains subject to FINRA’s jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA’s By-Laws, because (i) the Complaint was filed within two years after the effective date of termination of Flanagan’s registration with Pruco; (ii) the Complaint charges Flanagan with misconduct committed while he was registered or associated with a FINRA member firm; and (iii) the Complaint charges Flanagan with failing to respond to requests for information during the two-year period after the date upon which he ceased to be registered or associated with a FINRA-regulated broker-dealer.

FIRST CAUSE OF ACTION

Willful Failure to Disclose a Civil Judgment on a Form U4 Violation of Article V, Section 2(c) of FINRA’s By-Laws and FINRA Rules 1122 and 2010

12. Enforcement realleges and incorporates by reference Paragraphs 1 through 11 above.

13. Article V, Section 2(c) of FINRA’s By-Laws requires registered representatives to keep their Form U4s “current at all times,” and provides that amendments to a Form U4 must be filed “not later than thirty days after learning of the facts or circumstances giving rise to the amendment.”

14. FINRA Rule 1122 prohibits members or associated persons from filing with FINRA information regarding registration “which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.”

15. FINRA Rule 2010 requires registered representatives to “observe high standards of commercial honor and just and equitable principles of trade.” A violation of Article V, Section 2(c) of FINRA’s By-Laws and FINRA Rule 1122 is also a violation of FINRA Rule 2010.

16. Registered representatives are required to disclose unsatisfied judgments in their Form U4. Specifically, Question 14M of the Form U4 asks registered representatives “Do you have any unsatisfied judgment or liens against you?” If a registered representative answers Question 14M on his Form U4 in the affirmative, then he or she is also required to provide detailed information about each unsatisfied judgment or lien, including the amount and filing date of the judgment or lien.

17. On January 29, 2015, Nationstar Mortgage, LLC (“Nationstar”) filed a foreclosure complaint against Flanagan in the Supreme Court of Pennsylvania, Court of Common Pleas, in Bucks County, Pennsylvania. The complaint was served on Flanagan on or about January 16, 2015 via first class mail at his CRD address, and personally served on Flanagan at his CRD address on February 23, 2015.

18. Flanagan did not file an answer or otherwise respond to the complaint. On May 29, 2015, Nationstar filed a motion seeking entry of judgment against Flanagan in the amount of \$212,875.38. Flanagan was served with a copy of the motion.

19. On June 1, 2015, a civil judgment in the amount of \$212,875.38 was entered in favor of Nationstar against Flanagan (the “Civil Judgment”).

20. The Civil Judgment was personally served on Flanagan on or about June 2 or June 3, 2015.

21. On June 13, 2015, and July 8, 2015, Flanagan was personally served at his CRD address with a Notice of Sheriff's Sale. Flanagan also received a copy of the Notice of Sheriff's Sale via certified mail on or about August 12, 2015.

22. On or around September 14, 2015, Flanagan made a partial payment of \$30,617.80 to Nationstar to stay the foreclosure proceeding, and satisfied the judgment in full on or before October 1, 2015, at which time Nationstar moved to vacate the Civil Judgment.

23. Although Flanagan was required to amend his Form U4 within 30 days of his receiving notice of the entry of the civil judgment, or by July 13, 2015, Flanagan failed to disclose the civil judgment to Pruco or file an amended Form U4 disclosing its existence. Indeed, to date, Flanagan has not amended his Form U4 to disclose the entry of the civil judgment or its satisfaction.

24. The existence of the Civil Judgment was material information, and Flanagan's failure to timely disclose the Civil Judgment was willful.

25. By willfully failing to timely amend his Form U4 to reflect the Civil Judgment, Flanagan violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.

SECOND CAUSE OF ACTION

False Statements to Member Firm Employer Violation of FINRA Rule 2010

26. Enforcement realleges and incorporates by reference Paragraphs 1 through 25 above.

27. FINRA Rule 2010 requires members and associated persons to "observe high standards of commercial honor and just and equitable principles of trade."

28. As of July 15, 2015, Flanagan's Form U4 contained the following answer for Question 14M: "Do you have any unsatisfied judgments or liens against you? No."

29. On July 15, 2015, Flanagan attested, in writing, to Pruco, that the information contained in his Form U4 was accurate and had not changed, even though he was aware that the Civil Judgment had been entered against him on June 1, 2015.

30. Flanagan's attestation on July 15, 2015 was false.

31. By making a false statement to his member firm employer, Flanagan engaged in conduct that was inconsistent with high standards of commercial honor and just and equitable principles of trade and violated FINRA Rule 2010.

THIRD CAUSE OF ACTION
Failure to Timely Respond
Violation of FINRA Rules 8210 and 2010

32. Enforcement realleges and incorporates by reference Paragraphs 1 through 31 above.

33. FINRA Rule 8210(a) requires a "person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically...with respect to any matter involved in [an] investigation...." FINRA Rule 8210(c) similarly provides that "[n]o member or person shall fail to provide information or testimony ... pursuant to this Rule." A failure to comply with a request for information pursuant to FINRA Rule 8210 is also a violation of FINRA Rule 2010.

34. On July 27, 2016, FINRA sent a request for documents and information pursuant to FINRA Rule 8210 to Flanagan at his CRD address. The July 27, 2016 Rule 8210 request was sent via certified mail, return receipt requested and first class mail.

35. The July 27, 2016 Rule 8210 request sent to Flanagan's CRD address by certified mail was attempted to be delivered three times, but was returned and marked unclaimed. The

July 27, 2016 Rule 8210 request sent via first class mail to Flanagan's CRD address was not returned to FINRA.

36. Flanagan was required to produce the requested documents and information by August 10, 2016, but failed to do so.

37. On October 5, 2016, FINRA sent Flanagan a second letter pursuant to FINRA Rule 8210 requiring the production of the documents and information identified in the July 27, 2016 Rule 8210 request. The October 5, 2016 Rule 8210 request was sent to Respondent's CRD address by certified mail, return receipt requested and first class mail.

38. The October 5, 2016 Rule 8210 request sent by certified mail to Flanagan's CRD address was delivered and signed for by Flanagan on October 8, 2016. The October 5, 2016 Rule 8210 request sent via first class mail was not returned to FINRA.

39. Flanagan was required to produce the requested documents and information by October 19, 2016. Again, Flanagan did not respond or provide the requested documents and information.

40. On February 10, 2017, Enforcement sent Flanagan a Notice of Suspension, informing him that he would be suspended from association with any FINRA member on March 6, 2017 if he failed to respond to Enforcement's Rule 8210 requests for documents and information. The Notice of Suspension was sent to Respondent's CRD address by certified mail, return receipt requested and first class mail.

41. On February 14, 2017, Flanagan provided an incomplete response to FINRA's July 27, 2016 and October 5, 2016 Rule 8210 requests for documents and information via e-mail sent from [REDACTED] As of February 14, 2017, Flanagan's response was 188 days late.

42. On February 28, 2017, Enforcement advised Flanagan by return e-mail that his February 14, 2017 response was insufficient to terminate his upcoming suspension and that he would be suspended from association with any FINRA member on March 6, 2017 if he did not provide all of the requested documents and information.

43. On March 3, 2017, Flanagan provided a complete response to FINRA's July 27, 2016 and October 5, 2016 Rule 8210 requests. As of March 3, 2017, Flanagan's response was 205 days late.

44. By failing to timely respond to FINRA's written requests for documents and information, Flanagan violated FINRA Rules 8210 and 2010.

FOURTH CAUSE OF ACTION

Failure to Respond Violation of FINRA Rules 8210 and 2010

45. Enforcement realleges and incorporates by reference Paragraphs 1 through 44 above.

46. On May 15, 2017, Enforcement sent a request for documents and information pursuant to FINRA Rule 8210 to Flanagan at his CRD address by certified mail, return receipt requested and first class mail.

47. The May 15, 2017 Rule 8210 request sent by certified mail to Flanagan's CRD address was delivered on May 18, 2017. The signature on the return receipt is illegible. The May 15, 2017 Rule 8210 request sent by first class mail to Flanagan's CRD address was not returned to Enforcement.

48. Flanagan was required to produce the requested documents and information by May 26, 2017; however, Flanagan did not respond or provide the requested documents and information.

49. On June 6, 2017, Enforcement sent a second request for documents and information pursuant to FINRA Rule 8210 to Flanagan at his CRD address by certified mail, return receipt requested and first class mail.

50. The June 6, 2017 Rule 8210 request sent by certified mail was delivered on June 9, 2017; however, the signature on the return receipt is illegible. The June 6, 2017 Rule 8210 request sent by first class mail to Flanagan's CRD address was not returned to Enforcement.

51. Flanagan was required to produce the requested documents and information by June 20, 2017; however, Flanagan did not respond or provide the requested documents and information.

52. On July 19, 2017, Enforcement sent a third request for documents and information pursuant to FINRA Rule 8210 to Flanagan at his CRD address by certified mail, return receipt requested and first class mail. The July 19, 2017 Rule 8210 request sent by certified mail was delivered on July 22, 2017. The July 19, 2017 Rule 8210 request sent by first class mail to Flanagan's CRD address was not returned to Enforcement.

53. Flanagan was required to produce the requested documents and information by July 28, 2017. To date, Flanagan has not provided the requested documents and information.

54. On August 1, 2017, Enforcement sent a request pursuant to FINRA Rule 8210 for Flanagan to appear in FINRA's offices and provide on-the-record testimony.

55. The August 1, 2017 Rule 8210 request was sent to Flanagan's CRD address via certified mail, return receipt requested and first class mail. The August 1, 2017 Rule 8210 request sent by certified mail was delivered on August 9, 2017; however, the signature on the return receipt is illegible. The August 1, 2017 Rule 8210 request sent by first class mail to Flanagan's CRD address was not returned to Enforcement.

56. Flanagan was required to appear and provide testimony on August 16, 2017; however, Flanagan did not appear for his scheduled testimony.

57. By refusing to produce documents and information requested by Enforcement pursuant to FINRA Rule 8210, and by failing to appear and provide the requested on-the-record testimony, Flanagan violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, Enforcement respectfully requests that the Panel:

- A. makes findings of fact and conclusions of law that Flanagan committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. order that Flanagan bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.
- D. make specific findings that Flanagan's conduct, as alleged in the First Cause of Action, was willful; that the omitted information was material; and that the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: 12/20/17



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