

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

Department of Enforcement,

Complainant,

v.

Gary Francis Harpe
CRD No. 2983634,

Respondent.

Disciplinary Proceeding
No. 2023077591501

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Gary Francis Harpe failed to respond to three FINRA requests for information and documents made pursuant to FINRA Rule 8210 and in connection with FINRA’s investigation into the circumstances surrounding Harpe’s termination from his FINRA member firm. As a result, Harpe violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Harpe first registered with FINRA in 1998. Harpe, through his association with PFS Investments, Inc. (CRD No. 10111) (“PFS”), was registered with FINRA as an investment company shares and variable contracts representative from February 5, 1998 to January 10, 2023, and as an investment company products and variable contracts principal from October 12, 2000 to January 10, 2023.

3. On January 10, 2023, PFS filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”), disclosing that it terminated its association with Harpe “due

to the nature of the disclosure event,” which references a criminal charge for larceny by conversion of \$1,000 or more but less than \$20,000.

4. Although Harpe is no longer registered or associated with any FINRA member, he remains subject to FINRA’s jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA’s By-Laws, because this Complaint (1) was filed within two years after January 10, 2023, which was the effective date of the termination of Harpe’s registrations with FINRA, and (2) charges him with failing to respond to requests for information and documents during the two-year period after he ceased to be registered or associated with a FINRA member.

FACTS

5. On January 10, 2023, FINRA staff began investigating the circumstances surrounding Harpe’s termination and felony charge, as well as whether Harpe failed to disclose judgments and liens.

6. For the purpose of that investigation and pursuant to FINRA Rule 8210, on May 8, 2023, FINRA staff requested that Harpe provide documents and information related to (1) the nature of his criminal charge, and (2) identification and disclosure of bankruptcies, judgments, liens, and compromises with any creditors involving Harpe directly or indirectly (“May 8 Request”). Harpe’s response to the May 8 Request was due by May 22, 2023.

7. FINRA staff served the May 8 Request via certified and first-class mail to Harpe’s last known residential address as reflected in the Central Registration Depository (“Harpe’s CRD Address”). At the time, FINRA staff (a) confirmed, through a LexisNexis public records search, that there were no more current addresses attributable to Harpe; and (b) had no actual knowledge that Harpe’s CRD Address was out of date or inaccurate.

8. The U.S. Postal Service was unable to locate delivery information in its records for the certified mailing of the May 8 Request. The first-class mailing was not returned to FINRA.

9. Harpe did not respond to the May 8 Request in any way or request an extension of the response deadline.

10. As a result, on June 5, 2023, again for the purpose of its investigation and pursuant to Rule 8210, FINRA staff sent a second request for the information and documents sought in the initial May 8 Request (“June 5 Request”). Harpe’s response to the June 5 Request was due by June 20, 2023.

11. FINRA staff served the June 5 Request via certified and first-class mail to Harpe’s CRD Address and another address in Farmington Hills, MI, indicated as current on a LexisNexis search result (“Harpe’s Alternate Address”).

12. The certified mailing of the June 5 Request sent to Harpe’s CRD Address was returned to FINRA and marked as “Not Deliverable as Addressed. Unable to Forward.” The first-class mailing of the June 5 Request sent to Harpe’s CRD Address was not returned to FINRA.

13. USPS tracking results show that the certified mailing of the June 5 Request was returned without being successfully delivered to Harpe’s Alternate Address. The first-class mailing of the June 5 Request sent to Harpe’s Alternate Address was returned to FINRA and marked “Not Deliverable as Addressed. Unable to Forward.”

14. Harpe did not respond to the June 5 Request in any way or request an extension of the response deadline.

15. As a result, on July 27, 2023, again for the purpose of its investigation and pursuant to Rule 8210, FINRA staff sent Harpe a third request for the same documents and information sought in the initial May 8 Request (“July 27 Request”). Harpe’s response to the July 27 Request was due by August 10, 2023.

16. FINRA staff served the July 27 Request via certified and first-class mail, and FedEx to both Harpe’s CRD Address and Harpe’s Alternate Address. At the time, FINRA staff confirmed, through a LexisNexis public records search, that there were no more current addresses attributable to Harpe.

17. The certified mailing of the July 27 Request to Harpe’s CRD Address was returned to FINRA with the notation “Notice Left (No Authorized Recipient Available).” The first-class mailing sent to Harpe’s CRD Address was not returned. FedEx tracking shows that the FedEx mailing to Harpe’s CRD Address was scheduled to return to FINRA with the notation: “Unable to deliver shipment, return to shipper,” although the status remains “pending.”

18. The certified mailing of the July 27 Request to Harpe’s Alternate Address was returned to FINRA and marked “Not Deliverable as Addressed. Unable to Forward.” The first-class mailing sent to Harpe’s Alternate Address was not returned. FedEx tracking shows that the FedEx mailing to Harpe’s Alternate Address remains “pending.”

19. Harpe did not respond to the July 27 Request in any way or request an extension of the response deadline.

20. Harpe’s CRD Address and Harpe’s Alternate Address are the most current addresses for Harpe available through public records. At no point in time has FINRA staff had actual knowledge that Harpe’s CRD Address is out of date or inaccurate.

21. Harpe has not contacted FINRA staff or responded to any of FINRA's three requests in any way.

**CAUSE OF ACTION
Failure to Provide Information
(FINRA Rules 8210 and 2010)**

22. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

23. FINRA Rule 8210(a)(1) provides that FINRA staff may "require a . . . person subject to FINRA's jurisdiction to provide information . . . in writing . . . with respect to any matter involved in [an] investigation."

24. FINRA Rule 8210(a)(2) further provides that FINRA staff may "inspect and copy the books, records, and accounts of such . . . [a] person with respect to any matter involved in the investigation, complaint, examination, or proceeding that is in [that] . . . person's possession, custody or control."

25. FINRA Rule 8210(c) provides that "[n]o member or person shall fail to provide information . . . pursuant to this Rule."

26. A violation of FINRA Rule 8210 also constitutes a violation of FINRA Rule 2010, which requires associated persons to "observe high standards of commercial honor and just and equitable principles of trade."

27. While subject to FINRA's jurisdiction, Harpe failed to comply with FINRA staff's requests for information and documents made pursuant to FINRA Rule 8210, *i.e.*, the May 8 Request, the June 5 Request and the July 27 Request.

28. The information and documents requested from Harpe were material and necessary to FINRA staff's investigation into (1) the criminal charge against him for larceny by

conversion of \$1,000 or more but less than \$20,000, and (2) possible failure to disclose financial events (tax liens, judgments, and creditor compromises), for the purpose of determining whether violations of federal securities laws or FINRA rules occurred.

29. By virtue of the foregoing, Harpe violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Harpe committed the violations charged and alleged in this Complaint;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. order that Harpe bear such costs of this proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

Date: April 26, 2024

Respectfully submitted,



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