

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

STEPHEN ROY DESIDERIO,
(CRD No. 2833627),

Respondent.

Disciplinary Proceeding
No. E102004104901

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

September 19, 2007

Respondent provided false and misleading testimony to FINRA staff, in violation of Procedural Rule 8210 and Conduct Rule 2110. Respondent is barred from associating with any member firm in any capacity.

Appearances

Paul Hare, Senior Regional Counsel, New York, NY (Rory C. Flynn, Chief Litigation Counsel, Washington, D.C., Of Counsel) for the Department of Enforcement.

No appearance by or for Stephen Roy Desiderio.

DECISION

I. Introduction

On June 15, 2007, the Department of Enforcement (“Enforcement”) for the Financial Industry Regulatory Authority (FINRA)¹ filed the attached Complaint against Stephen Roy Desiderio (“Desiderio” or the “Respondent”). The Complaint alleges that the Respondent provided false testimony to FINRA staff during three on-the-record interviews, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110.²

¹ Effective July 30, 2007, the corporate successor to NASD is FINRA.

² The FINRA Rules, which include NASD Procedural and Conduct Rules, are available on FINRA’s Internet site at <http://www.finra.org/RulesRegulation/FINRARules/index.htm>.

Desiderio did not answer or otherwise respond to the Complaint. Consequently, on August 31, 2007, Enforcement filed a Motion for Entry of Default Decision ("Motion"). The Affidavit of Paul Hare and six attached exhibits support Enforcement's Motion.³ Desiderio did not respond to the Motion. Thus, pursuant to Procedural Rules 9215 and 9269, the Hearing Officer grants Enforcement's Motion.

II. Respondent's Default

Enforcement served Desiderio with copies of the Complaint, Notice of Complaint, and Second Notice of Complaint in accordance with Procedural Rules 9134(a)(2) and 9134(b)(1).

On June 13, 2007, Enforcement served the Complaint and Notice of Complaint on the Respondent by certified and first-class mail sent to his current residential address shown in the Central Registration Depository (the "CRD address").⁴ On July 12, 2007, Enforcement served the Complaint and Second Notice of Complaint on the Respondent by certified and first-class mail sent to the Respondent at his CRD address.⁵ To date, Desiderio has not filed a response.⁶

The Hearing Officer finds that Enforcement properly served Desiderio and that he thereby received valid constructive notice of this proceeding. Accordingly, the Hearing Officer finds Desiderio in default and deems the allegations in the attached Complaint admitted.⁷

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

Desiderio first became registered as a General Securities Representative in January 1997. Between July 2, 2003, and July 13, 2004, Desiderio was registered as a General Securities Representative and a General Securities Principal through National Securities Corporation

³ The affidavit is referenced as "Hare Aff." followed by the applicable paragraph number.

⁴ Hare Aff. ¶¶ 11, 12; CX-2.

⁵ Hare Aff. ¶ 18.

⁶ *Id.* ¶ 22.

⁷ The following findings of fact incorporate the allegations in the attached Complaint.

("NSC").⁸ Desiderio is no longer registered or associated with a FINRA member firm. His last registration terminated on November 3, 2006.⁹ Nonetheless, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of the FINRA By-Laws, because (1) the Complaint was filed within two years following the termination of his registration with FINRA and (2) the Complaint charges him with misconduct committed while he was associated with NSC.

B. Providing False Testimony

The Complaint alleges that Desiderio provided false testimony to FINRA staff during his on-the-record interviews conducted on June 13, July 12, and August 14, 2006. During each interview, Desiderio was asked if he had engaged in undisclosed private securities transactions while registered with NSC. Desiderio denied any such misconduct. However, on February 8, 2007, Desiderio testified under oath as a government witness in the case of *United States v. Steven Gray*, No. 05-CR-1054 (JSR) that he knowingly provided false and misleading testimony during his sworn on-the-record interviews when he denied that he engaged in selling away activities while registered through NSC.¹⁰

The Hearing Officer finds the foregoing allegations sufficient to establish that the Respondent knowingly provided false and misleading information to FINRA staff during his on-the-record interviews, in violation of Procedural Rule 8210 and Conduct Rule 2110.

IV. Sanctions

The FINRA Sanction Guidelines for failing to respond truthfully to requests for information made pursuant to Procedural Rule 8210 recommend the imposition of a bar in the absence of mitigating circumstances.¹¹ Here, the record discloses no mitigating factors that would

⁸ CX-1.

⁹ *Id.*

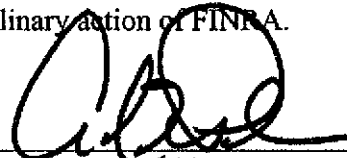
¹⁰ CX-6 (transcript of trial testimony). The Respondent also admitted that he provided false and misleading testimony to the Securities and Exchange Commission on the same subject.

¹¹ FINRA Sanction Guidelines 35 (2007).

warrant a lesser sanction. Accordingly, the Hearing Officer will bar the Respondent from associating with any member firm in any capacity for this violation.

V. Order

Stephen Roy Desiderio is barred from association with any member firm in any capacity for knowingly providing false and misleading information to FINRA staff during three on-the-record interviews, in violation of Procedural Rule 8210 and Conduct Rule 2110. The bar shall become effective once this decision becomes the final disciplinary action of FINRA.



Andrew H. Perkins
Hearing Officer

Copies to:

Stephen Roy Desiderio (by FedEx, overnight delivery, and first-class mail)
Paul Hare, Esq. (by first-class and electronic mail)
Rory C. Flynn, Esq. (by first-class and electronic mail)
Mark P. Dauer, Esq. (by first-class and electronic mail)

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

STEPHEN ROY DESIDERIO
(CRD No. 2833627),

Respondent.

Disciplinary Proceeding No. E102004104901

Hearing Officer _____

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From June 2006 through August 2006, Respondent Stephen Roy Desiderio ("Desiderio") was interviewed on the record by the staff of NASD's District No. 10 office (the "Staff") on three separate occasions. At the on-the-record interviews ("OTRS") Desiderio testified falsely.

JURISDICTION

2. In or about November 1997, Desiderio first became registered with NASD as a General Securities Representative (GSR) and General Securities Principal (GSP) through his association with a former member firm.
3. From in or about November 1997 through in or about March 2006, Desiderio was registered with NASD as a GSR and GSP through his association with eight different member firms.

4. Most recently, from March 27, 2006 through October 20, 2006, Desiderio was registered as a GSR and GSP through his association with Great Eastern Securities (BD No. 2061)("Great Eastern").
5. On November 3, 2006, Great Eastern filed a Uniform Termination Notice for Securities Industry Registration (Form U-5) stating that Desiderio was terminated due to "company downsizing."
6. Desiderio is not currently registered with NASD or associated with any NASD member firm. However, he remains subject to NASD's jurisdiction pursuant to Article V, Section 4 of its By-Laws.

**FIRST CAUSE OF ACTION
Violation of NASD Rules 8210 and 2110
(Providing False Testimony to NASD)**

7. The Department realleges and incorporates by reference paragraphs 1 through 6 above.
8. On June 13, 2006, July 12, 2006, and August 14, 2006, while he was registered with Great Eastern, Desiderio testified at OTRs pursuant to NASD Procedural Rule 8210.
9. On each date, Desiderio, who was represented by counsel, failed to respond truthfully to questions regarding whether he engaged in undisclosed private securities transactions while registered with a member firm.
10. Subsequently, on February 8, 2007, Desiderio testified, in an unrelated matter, in U.S. District Court for the Southern District of New York.
11. During his court testimony, Desiderio admitted under oath that he knowingly made false and misleading statements during the aforementioned OTRs about *inter alia*, whether he engaged in undisclosed private securities transactions.

By reason of the foregoing, Desiderio violated NASD Rule 8210 and NASD Rule 2110.

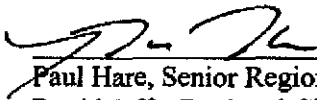
PRAYER

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed.
- B. order that the Desiderio bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

NASD DEPARTMENT OF ENFORCEMENT

Date: June 13, 2006


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