

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL JEFFREY BAKER
(CRD No. 2565823),

Respondent.

Disciplinary Proceeding
No. 2014041664201

Hearing Officer—MAD

DEFAULT DECISION

February 3, 2015

Respondent is barred from associating with any member firm in any capacity for failing to respond to requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010.

Appearances

For Department of Enforcement, Complainant, Albert A. Starkus III, Esq., Penelope Brobst Blackwell, Esq., and David B. Klafter, Esq.

For Michael Jeffrey Baker, Respondent, no appearance.

DECISION

I. Introduction

The FINRA Department of Enforcement filed the attached Complaint with the Office of Hearing Officers on October 1, 2014. The Complaint alleges that Respondent failed to respond to FINRA requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010.

Respondent defaulted by failing to answer or otherwise respond to the Complaint. On December 18, 2014, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions (Default Motion) with the Office of Hearing Officers, together with the Declaration of Albert A. Starkus III ("Decl.") and eight exhibits. Respondent did not respond to the Default Motion.

Based on the facts alleged in the Complaint, which are deemed admitted pursuant to Rules 9215(f) and 9269(a), as well as the additional evidence Enforcement filed in support of its Default Motion, the Hearing Officer barred Respondent from associating with any member firm in any capacity for the violation.

II. Jurisdiction

Respondent entered the securities industry in August 1993, and became registered with FINRA as a General Securities Representative in June 1995.¹ From December 2009 until October 25, 2012, Respondent was registered with FINRA as a General Securities Representative through his association with Southwest Securities, Inc.² On October 25, 2012, Southwest filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) on Respondent’s behalf, and terminated Respondent’s registration.³

FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA’s By-Laws, because (1) the Complaint was filed within two years of the termination of his registration with FINRA, and (2) the Complaint charges him with failing to respond to FINRA requests for information.⁴

III. Respondent’s Default

On October 1, 2014, Enforcement served Respondent with the Notice of Complaint and Complaint by first-class certified mail (return receipt requested) sent to his residential address recorded in the Central Registration Depository (“CRD”), and an alternate address (Alternate address) that Enforcement located through an internet search and a prior United States Postal Service (“USPS”) return slip.⁵ The USPS returned the CRD certified mailing to Enforcement as undeliverable.⁶ However, Enforcement received the return receipt for the Alternate address certified mailing, signed by “M. Baker.”⁷

On November 3, 2014, Enforcement served Respondent with the Second Notice of Complaint and Complaint in the same manner.⁸ The USPS returned the CRD certified mailing to Enforcement as unclaimed.⁹ Again, FINRA received the return receipt for the Alternate address certified mailing, signed by “M. Baker.”¹⁰ To date, Respondent has not responded to the Complaint.

¹ CX-1, at 3.

² CX-1, at 1.

³ Decl. ¶ 7; CX-2.

⁴ See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow “FINRA Manual” hyperlink to “Corporate Organization: By-Laws”).

⁵ Decl. ¶ 9.

⁶ Decl. ¶ 10; CX-5.

⁷ Decl. ¶ 10.

⁸ Decl. ¶ 12.

⁹ Decl. ¶ 13; CX-8.

¹⁰ Decl. ¶ 13; CX-10.

The Hearing Officer finds that, by signing the return receipts for the Alternate address certified mailings, Respondent received actual notice of this proceeding.¹¹ Accordingly, the Hearing Officer finds that Respondent defaulted by failing to answer or otherwise respond to the Complaint.

IV. Findings of Fact and Conclusions of Law

A. Background

During the course of FINRA's 2013 cycle exam of Southwest, FINRA staff reviewed records that indicated Respondent potentially failed to timely report a judgment on his Uniform Application for Securities Industry Registration or Transfer ("Form U4").¹² Specifically, on November 19, 2010, a company obtained a judgment against Respondent in the amount of \$8,936.21.¹³ The judgment was not disclosed on Respondent's Form U4 until 18 months later.¹⁴ Additionally, during a public records search using LexisNexis, the staff determined that the Internal Revenue Service ("IRS") of the United States filed a lien against Respondent in the amount of \$9,868 on March 4, 2008.¹⁵ The IRS lien was not reflected on Respondent's Form U4.¹⁶

FINRA then commenced an investigation into whether Respondent had engaged in any violations of the federal securities laws or FINRA rules due to a potential failure to timely report the judgment or disclose the IRS Lien.¹⁷ During the course of its investigation, FINRA made requests seeking information and documents from Respondent.¹⁸

B. Information Requests

The Complaint alleges that Respondent failed to respond to written requests seeking information about the circumstances of his judgment and lien. The requests were dated July 3 and July 17, 2014.¹⁹ Pursuant to Procedural Rule 8210, FINRA staff sent the July 3 and July 17

¹¹ Even if Respondent did not sign the return receipts for the certified mailings sent to the Alternate address, the Hearing Officer finds that he received constructive notice of this proceeding. *Dep't of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (NAC Dec. 9, 2003) (Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (citation omitted).

¹² Compl. ¶ 6.

¹³ Compl. ¶ 6.

¹⁴ Compl. ¶ 6.

¹⁵ Compl. ¶ 6.

¹⁶ Compl. ¶ 6.

¹⁷ Compl. ¶ 7.

¹⁸ Compl. ¶ 8.

¹⁹ Compl. ¶¶ 1, 8, 16.

request letters to Respondent at his CRD Address by certified mail and first-class mail.²⁰ The staff also sent the request letters to the Alternate address by certified mail and first-class mail.²¹

Regarding the July 3 request letter, FINRA received the return receipt, signed by “M. Baker,” certifying the delivery of the letter to the Alternate address.²² The first-class letter to the Alternate address was not returned.²³ The USPS returned the first-class letter to the CRD address as undeliverable, and FINRA did not receive a return receipt for the CRD certified letter.²⁴

Regarding the July 17 request letter, FINRA again received the return receipt, signed by “M. Baker,” certifying the delivery of the letter to the Alternate address.²⁵ The USPS did not return the first-class letter to the Alternate address.²⁶ The USPS returned the first-class letter to the CRD address as undeliverable.²⁷ FINRA did not receive a return receipt for the CRD certified letter.²⁸

Respondent did not respond to any of FINRA’s information request letters.²⁹

The Hearing Officer finds that the allegations in the Complaint are sufficient to establish, for purposes of this Default Decision, that Respondent violated FINRA Procedural Rule 8210 and Conduct Rule 2010.

V. Sanctions

For failing to respond to FINRA Rule 8210 requests for information, the FINRA Sanction Guidelines provide that a bar should be standard when there is a complete failure to respond.³⁰

The Sanction Guidelines also instruct adjudicators to consider the importance of the information requested from FINRA’s perspective. Applying the foregoing principles to this case, the Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction. The information Enforcement sought was important. Respondent’s failure to comply with FINRA’s requests for information impeded

²⁰ Compl. ¶¶ 9, 14

²¹ Compl. ¶¶ 9, 13.

²² Compl. ¶ 11.

²³ Compl. ¶ 11.

²⁴ Compl. ¶ 11.

²⁵ Compl. ¶ 14.

²⁶ Compl. ¶ 14.

²⁷ Compl. ¶ 14.

²⁸ Compl. ¶ 14.

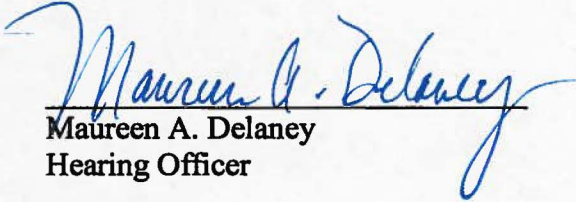
²⁹ Compl. ¶¶ 12, 15, 16.

³⁰ FINRA Sanction Guidelines at 33 (2013), www.finra.org/sanctionguidelines.

FINRA's investigation, and prevented FINRA from completing its regulatory responsibilities to fully investigate potential rule violations.

VI. Order

Respondent is barred from associating with any member firm in any capacity for failing to provide information to FINRA, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010, as alleged in the Complaint. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Maureen A. Delaney
Hearing Officer

Copies to:

Michael Jeffrey Baker (via overnight mail)

Albert A. Starkus, III, Esq. (via first-class mail and electronic mail)

Penelope Brobst Blackwell, Esq. (via electronic mail)

David B. Klafter, Esq. (via electronic mail)

Jeffrey Pariser, Esq. (via electronic mail)

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Michael Jeffrey Baker
(CRD No. 2565823),

Respondent.

DISCIPLINARY PROCEEDING
No. 2014041664201

HEARING OFFICER:

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In connection with an investigation concerning possible violations of the federal securities laws and/or FINRA rules, FINRA requested that Respondent Michael Jeffrey Baker ("Baker" or the "Respondent") provide information and documents in accordance with FINRA Rule 8210. Baker has completely failed to respond to the Staff's request and has failed to provide any of the documents and information requested. As a result, Baker violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Baker entered the securities industry in August 1993 and became registered with FINRA in June 1995 as a general securities representative. Baker left the industry in March 2000. He reentered the industry in October 2004 and became registered with FINRA in December 2004 as a general securities representative. He left the industry again in February

2005. Baker reentered the industry once again in December 2009 as a general securities representative when Southwest Securities, Inc. ("Southwest" or "the Firm"), a FINRA member firm, filed a related Uniform Application for Securities Industry Registration and Transfer ("Form U4") on his behalf. Baker remained at Southwest through October 25, 2012, when the Firm filed a related Uniform Termination Notice for Securities Industry Registration ("Form U5") that terminated his registration and association with Southwest effective October 25, 2012.

3. Baker is not currently registered or associated with a FINRA member. Although Respondent is no longer registered or associated with a 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 (1) the Complaint was filed within two years after the effective date of termination of Respondent's registration with Southwest, namely, October 25, 2012, and (2) the Complaint charges him with failing to respond to FINRA requests for documents and information during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

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

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.

5. Article V, Section 2(c) of FINRA's By-Laws provides that every application for registration filed with FINRA shall be kept current at all times by supplementary amendments which must be filed within thirty days after learning of the facts or circumstances giving rise to the amendment. Since at least 2010, Disclosure Question 14M of the Form U4 has read: "Do you have any unsatisfied judgments or liens against you?"

6. During the course of its 2013 cycle exam of Southwest, FINRA Staff reviewed records that indicated Baker potentially failed to timely report a judgment on his Form U4. Specifically, on or about November 19, 2010, AA, LLC obtained a judgment entered against Baker in the amount of \$8,936.21 ("AA, LLC Judgment"). The AA, LLC Judgment was not disclosed on Baker's Form U4 until 18 months later, on or about May 16, 2012. Additionally, during a public records search using LexisNexis, Staff determined that the Internal Revenue Service ("IRS") of the United States filed a lien against Baker in the amount of \$9,868 on March 4, 2008. The IRS lien has never been reported on Baker's Form U4.

7. FINRA then commenced an investigation into whether Baker, while registered or associated with a FINRA member, had engaged in any violations of the federal securities laws and/or FINRA rules due to a potential failure to timely report the AA, LLC Judgment or disclose the IRS Lien.

8. During the course of this investigation, FINRA made numerous requests seeking information and documents from Baker. These requests were made pursuant to FINRA Rule 8210, and Baker was advised that failure to respond could result in disciplinary action. However, in spite of the numerous requests and admonitions, Baker completely failed to respond to any of the Staff's requests and failed to provide any documents or information requested.

The July 3, 2014 Letter

9. On July 3, 2014, FINRA sent Baker a letter, via first class and certified mail (Certified Mail # 7011 3500 0000 7016 0681), addressed to his residential address as listed in the Central Registration Depository ("CRD"), which was 1023 Clinton St. Apt. 2D Hoboken, NJ 07030 ("Hoboken Address"). On that same date, FINRA sent the same letter, also via first class and certified mail (Certified Mail # 7011 3500 0000 7016 0698), to an alternative address at

1816 Redwood Terrace Washington, DC 20012 (“DC Address”). FINRA obtained the DC Address from an online LexisNexis search and a post office label affixed when prior correspondence to the Hoboken Address was returned.

10. The July 3, 2014 letter requested, pursuant to FINRA Rule 8210, that Baker provide certain information and documents (collectively the “Requested Information”) about the AA, LLC Judgment and the IRS Lien, including:

- “How did [Baker] become aware of the judgment/lien . . .”;
- “When did [Baker] become aware of the judgment/lien . . .”;
- “When did [Baker] first notify Southwest Securities, Inc. regarding the judgment/lien . . .”;
- “Provide details concerning to whom [Baker] communicated this information, how it was communicated, and any supporting documentation”; and
- “Provide an explanation regarding why the disclosure on [Baker’s] CRD record was not made within 30 days of the event, as required by FINRA Bylaws Article 2, Section V.”

The July 3, 2014 letter, further requested that Baker respond and deliver the Requested Information by July 17, 2014.

11. The July 3, 2014 first class letter to the Hoboken Address was returned on July 29, 2014 marked “Return to sender – not deliverable as addressed – unable to forward”, and FINRA did not receive a U.S. Postal Certified Mail Domestic Return Receipt for the certified letter sent to the Hoboken Address. However, the July 3, 2014 first class letter to the DC Address was not returned, and, according to postal service records, the certified mail letter to the DC Address was delivered. FINRA subsequently received a U.S. Postal Certified Mail Domestic Return Receipt, which was signed by “M. Baker” on July 16, 2014, certifying the delivery of the July 3, 2014 letter to the DC Address.

12. Baker failed to respond to the July 3, 2014 letter by the requested date of July 17, 2014, and has not responded since.

The July 17, 2014 Letter

13. On July 17, 2014 FINRA sent Baker a second letter, via first class and certified mail (Certified Mail # 7011 3500 0003 1056 7805 and # 7011 3500 0003 1056 7812), addressed to his CRD Hoboken Address and to his alternative DC Address. The July 17, 2014 letter notified Baker that he had failed to respond to the July 3, 2014 letter and stated that he “may be subject to the institution of an expedited or formal disciplinary proceeding leading to sanctions, including a bar from the securities industry.” The July 17, 2014 letter also included a copy of the July 3, 2014 letter and made a “second request . . . pursuant to 8210” for Baker to deliver the Requested Information. The July 17, 2014 letter further requested that Baker deliver the Requested Information by July 31, 2014.

14. The July 17, 2014 first class letter sent to the Hoboken Address was returned on July 29, 2014 marked “Return to sender – not deliverable as addressed – unable to forward”, and FINRA did not receive a U.S. Postal Certified Mail Domestic Return Receipt for the certified letter sent to the Hoboken Address. However, the July 17, 2014 first class letter to the DC Address was not returned, and, according to postal service records, the July 17, 2014 certified mail letter to the DC Address was delivered. FINRA subsequently received a U.S. Postal Certified Mail Domestic Return Receipt, which was signed by “M. Baker” on July 21, 2014, certifying the delivery of the July 17, 2014 letter to the DC Address.

15. Baker failed to respond to the July 17, 2014 letter by the requested date of July 31, 2014, and has not responded since.

16. To date, Respondent has failed to respond to either the July 3, 2014 or the July 17, 2014 letter or to provide the Requested Information or any explanation why he cannot provide the Requested Information, which Staff requested pursuant to FINRA Rule 8210.

17. FINRA Rule 8210(a)(1) authorizes FINRA, in the course of an investigation, to require persons associated with a FINRA member to “provide information orally [or] in writing . . . with respect to any matter involved in the investigation” FINRA Rule 8210(c) requires those persons to provide information when requested by FINRA. FINRA Rule 8210(d) provides that notice under the Rule is deemed received by mailing or otherwise transmitting such notice to a person’s last known residential address reflected in the CRD and any other more current address known by FINRA. A person subject to the requirement to provide information pursuant to FINRA Rule 8210, also violates FINRA Rule 2010 if that person does not provide the information requested

18. The information requested by FINRA was material to FINRA’s investigation of potential rule violations and was necessary for FINRA to complete its regulatory mandate to fully investigate potential rule violations.

19. Baker’s failure to comply with FINRA’s requests for information impeded FINRA’s investigation, and prevented FINRA from completing its regulatory responsibilities to fully investigate potential rule violations.

20. Baker’s failures to respond to the July 3, 2014 and July 17, 2014 requests for information constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Baker.

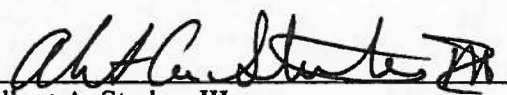
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent 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 Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: October 1, 2014


Albert A. Starkus III
Principal Regional Counsel
Penelope Brobst Blackwell
Deputy Regional Chief Counsel
FINRA – Department of Enforcement
12801 North Central Expressway, Suite 1050
Dallas, Texas 75243
Phone: (972)716-7663; Fax: (972) 716-7612
E-Mail: albert.starkus@finra.org
E-Mail penny.blackwell@finra.org

David B. Klafter
Regional Chief Counsel
FINRA — Enforcement Department
5200 Town Center Circle, Suite 200
Boca Center Tower 1, Boca Raton, FL 33486
Phone: (561) 443-8110; Fax: (561) 443-7998
E-Mail: david.klafter@finra.org
Authorized House Counsel
Admitted in NY and NJ Only

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Michael Jeffrey Baker
(CRD No. 2565823),

Respondent.

DISCIPLINARY PROCEEDING
No. 2014041664201

HEARING OFFICER:

ADDENDUM TO COMPLAINT

The initials that appear in the Complaint are as follows:

AA, LLC = Asset Acceptance LLC

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Michael Jeffrey Baker
(CRD No. 2565823),

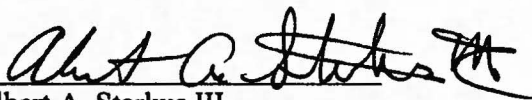
Respondent.

DISCIPLINARY PROCEEDING
No. 2014041664201

HEARING OFFICER:

CERTIFICATE OF SERVICE

I hereby certify that on this 1ST day of October, 2014, I caused a copy of the foregoing Complaint and Notice of Complaint to be sent by first class mail and first class certified mail to Michael Jeffrey Baker at 1023 Clinton St., Apt. 2D, Hoboken, NJ, 07030 (Certified Receipt No. 7011 3500 0003 1056 6471) and at 1816 Redwood Terrace, Washington, DC, 20012 (Certified Receipt No. 7011 3500 0003 1056 6495).


Albert A. Starkus III
Principal Regional Counsel
FINRA – Department of Enforcement
12801 North Central Expressway, Suite 1050
Dallas, Texas 75243
Phone: (972)716-7663; Fax: (972) 716-7612
E-Mail: albert.starkus@finra.org