

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL JEAN-PAUL MASON
(CRD No. 4938877),

Respondent.

Disciplinary Proceeding
No. 2015044198601

Hearing Officer – CC

DEFAULT DECISION

March 6, 2017

**Respondent failed to appear twice for on-the-record testimony, in violation of
FINRA Rules 8210 and 2010. For these violations, Respondent is barred
from associating with any member firm in any capacity.**

Appearances

For Complainant: Rebecca L. Segrest, Esq., David B. Klafter, Esq., Department of Enforcement,
Financial Industry Regulatory Authority.

No appearance by or on behalf of Respondent Michael Jean-Paul Mason.

I. Introduction

Michael Jean-Paul Mason (“Mason”) failed to appear twice for scheduled on-the-record testimony. The Department of Enforcement (“Enforcement”) properly served Mason with two notices of the Complaint and the Complaint, and Mason failed to respond. In light of Mason’s failure to respond, I deem the allegations of the Complaint admitted, find that Mason violated FINRA Rules 8210 and 2010, and bar Mason from associating with any member firm in any capacity.

On November 2, 2016, Enforcement filed the Complaint with FINRA’s Office of Hearing Officers (“OHO”). The Complaint alleges in one cause of action that, on September 6, 2016, Enforcement properly served Mason with a request pursuant to FINRA Rule 8210 to appear for on-the-record testimony on September 28, 2016, and Mason failed to appear. The Complaint further alleges that, on September 29, 2016, Enforcement properly served Mason with a request pursuant to FINRA Rule 8210 to appear for on-the-record testimony on October 19, 2016, and Mason failed to appear. The Complaint alleges that Mason’s conduct violated FINRA Rules 8210 and 2010.

Enforcement served Mason with the Complaint in accordance with FINRA's Code of Procedure. Mason failed to file an Answer or otherwise respond to the Complaint. Accordingly, on January 31, 2017, Enforcement filed a Motion for Entry of Default Decision ("Default Motion"), together with the Declaration of Rebecca L. Segrest ("Segrest Decl.") in support of the Default Motion and three exhibits.¹ Mason did not respond to the Default Motion.

II. Findings of Fact and Conclusions of Law

A. Mason's Background

Mason entered the securities industry in 2005.² Most recently, Mason was associated with member firm Edward Jones as a general securities representative and investment company and variable contracts products representative from November 2009 through January 2015.³ The Central Registration Depository ("CRD") reports that Mason was permitted to resign from Edward Jones on January 12, 2015.⁴ Mason is not currently associated with a member firm.⁵

B. FINRA's Jurisdiction

FINRA has jurisdiction over this disciplinary proceeding pursuant to Article V, Section 4(a) of FINRA's By-Laws because: (1) Enforcement filed the Complaint on November 2, 2016, which is within two years of Mason's termination of his association with Edward Jones on January 12, 2015; and (2) the Complaint alleges that Mason failed to respond to a request made pursuant to FINRA Rule 8210 during the two-year period after the end date of Mason's registration or association with a member firm.⁶

C. Origin of the Proceeding

On January 26, 2015, Edward Jones filed with FINRA a Uniform Termination Notice for Securities Industry Registration ("Form U5") indicating that Mason was permitted to resign effective January 12, 2015.⁷ Edward Jones indicated on Mason's Form U5 that Mason falsified client information to open seven new firm accounts and provided the firm with inaccurate information during an internal review.⁸

¹ In this decision, Enforcement's exhibits are referenced as CX-1 through CX-3.

² CX-1.

³ Segrest Decl. ¶ 6; CX-1.

⁴ Segrest Decl. ¶ 7; CX-1.

⁵ CX-1.

⁶ Article V, Sec. 4, FINRA By-Laws; Segrest Decl. ¶ 8.

⁷ Segrest Decl. ¶ 4; CX-1.

⁸ Segrest Decl. ¶ 4; CX-1.

D. Mason's Default

When Enforcement filed the Complaint in November 2016, Mason's residential address as reflected in the CRD was an address in Cordova, Tennessee (the "CRD Address").⁹ Segrest represents that Enforcement is unaware of any other addresses for Mason, and the CRD indicates that, in November 2016, Mason was not employed or affiliated with a FINRA member firm.¹⁰

On November 2, 2016, Enforcement served Mason at the CRD Address with the Notice of Complaint and Complaint by certified mail.¹¹ The United States Postal Service ("USPS") did not return a signed receipt card for Enforcement's certified mailing of the Complaint.¹² Enforcement sent a copy of the Notice of Complaint and Complaint to Mason's CRD Address by first class mail.¹³ The USPS did not return the first-class mailing.¹⁴ Mason's Answer to the First Notice of Complaint was due on or before November 30, 2016.¹⁵ Mason failed to answer or otherwise respond to the Complaint.¹⁶

On December 5, 2016, Enforcement served Mason by certified mail at the CRD Address with the Second Notice of Complaint and the Complaint.¹⁷ Enforcement also sent copies of the Second Notice of Complaint and the Complaint to Mason's CRD Address by first-class mail.¹⁸ The USPS did not return a signed receipt card for Enforcement's certified mailing of the Complaint and Second Notice of Complaint.¹⁹ The USPS did not return the first-class mailing.²⁰ Mason's Answer to the Second Notice of Complaint was due on or before December 22, 2016.²¹ Mason failed to answer or otherwise respond to the Second Notice of Complaint.²²

FINRA Rule 9134 provides for service of a complaint on a natural person by certified mail to the person's residential address as indicated in the CRD. Rule 9134(b)(1) states that, if the party responsible for serving the complaint has actual knowledge that the CRD Address is out of date, the serving party shall send duplicate copies to the last known address and business

⁹ Segrest Decl. ¶ 9; CX-1.

¹⁰ Segrest Decl. ¶¶ 10, 12; CX-1.

¹¹ Segrest Decl. ¶ 11; CX-2.

¹² Segrest Decl. ¶ 13.

¹³ Segrest Decl. ¶ 11.

¹⁴ Segrest Decl. ¶ 14.

¹⁵ Segrest Decl. ¶ 15.

¹⁶ Id.

¹⁷ Segrest Decl. ¶ 16.

¹⁸ Id.

¹⁹ Segrest Decl. ¶ 17.

²⁰ Segrest Decl. ¶ 18.

²¹ Segrest Decl. ¶ 19.

²² Segrest Decl. ¶ 20.

address indicated in the CRD. Here, the CRD indicates that Mason left the securities industry in January 2015 and has not been registered since.²³ Therefore, the CRD did not include a current business address for Mason. Enforcement represents that it was not aware of an alternate residential address for Mason.²⁴ I find that Enforcement properly served Mason with the First and Second Notices of the Complaint and the Complaint and that Mason failed to file an Answer to the Complaint. Pursuant to FINRA Rules 9215(f) and 9269(a), I find Mason in default and deem admitted all allegations of the Complaint.²⁵

E. Mason Failed to Appear for On-the-Record Testimony

The Complaint alleges that pursuant to FINRA Rule 8210, Enforcement twice requested that Mason appear and provide on-the-record testimony, that Enforcement properly served Mason with both requests, and that Mason failed to appear for testimony or request that Enforcement reschedule his appearance. The Complaint alleges that Mason's conduct violated FINRA Rules 8210 and 2010.

On September 6, 2016, Enforcement sent Mason, by certified and first-class mail, a written request for him to appear for on-the-record testimony on September 28, 2016 (hereafter, "the First Request").²⁶ Enforcement mailed the request to Mason's CRD Address.²⁷ Enforcement's Rule 8210 request letter stated that FINRA sought to question Mason regarding the circumstances set forth in Edward Jones' Form U5 filing.²⁸ The First Request advised Mason that he was obligated to appear for testimony pursuant to FINRA Rule 8210, his failure to appear and provide information could be deemed a violation of Rule 8210 and the basis for the initiation of a disciplinary proceeding, and a disciplinary proceeding could result in the imposition of sanctions, including a bar from the industry.²⁹ The USPS reported that the certified mailing of the First Request was "Delivered, Individual Picked Up at Post Office" on September 23, 2016.³⁰ The USPS did not return the first-class mailing of the First Request to Enforcement.³¹ On September 28, 2016, Mason did not appear to provide testimony.³²

²³ CX-1.

²⁴ Segrest Decl. ¶ 10.

²⁵ See *Dep't of Enforcement v. Moore*, No. 2008015105601, 2012 FINRA Discip. LEXIS 45, at *21 (NAC July 26, 2012) (finding constructive notice of a complaint served on respondent by regular first-class and certified mail at his last known residential address, as indicated in the CRD).

²⁶ Complaint ("Compl.") ¶¶ 7, 9.

²⁷ Compl. ¶ 9.

²⁸ Compl. ¶ 7.

²⁹ Compl. ¶ 8.

³⁰ Compl. ¶ 10.

³¹ Compl. ¶ 11.

³² Compl. ¶ 12.

On September 29, 2016, Enforcement sent Mason, by certified and first-class mail, a written request for him to appear on October 19, 2016, for on-the-record testimony (hereafter, “the Second Request”).³³ Enforcement mailed the request to Mason’s CRD Address.³⁴ The Second Request advised Mason that he was obligated to appear for testimony pursuant to FINRA Rule 8210, his failure to appear, provide information, and answer questions completely and truthfully could be deemed a violation of Rule 8210 and the basis for the initiation of a disciplinary proceeding, and a disciplinary proceeding could result in the imposition of sanctions, including a bar from the industry.³⁵ The USPS reported that the certified mailing of the Second Request was signed for by “Michael Mason” on October 4, 2016.³⁶ The first-class mailing of the Second Request was not returned to Enforcement by the USPS.³⁷ On October 19, 2016, Mason did not appear to provide testimony.³⁸

As of the date of Enforcement’s filing of the Default Motion, Mason had not contacted FINRA staff to reschedule his on-the-record testimony or offer an explanation for his absence.³⁹

F. Discussion

FINRA Rule 8210(a) states that FINRA staff shall have the right to require a person subject to FINRA’s jurisdiction to provide information orally.⁴⁰ Rule 8210(c) states that no member or associated person shall fail to provide information or testimony pursuant to Rule 8210. Notice of a request for information or testimony under Rule 8210 shall be deemed received if Enforcement mailed the notice to the recipient’s last known residential address as reflected in the CRD.⁴¹ Thus, I find that Enforcement properly served Mason with two notices of requests for his appearance to provide on-the-record testimony, and twice Mason failed to appear.⁴² By doing so, Mason violated FINRA Rule 8210. Furthermore, a violation of FINRA Rule 8210 constitutes conduct inconsistent with just and equitable principles of trade and therefore violates FINRA Rule 2010.⁴³

³³ Compl. ¶¶ 13, 16.

³⁴ Compl. ¶ 15.

³⁵ Compl. ¶ 14.

³⁶ Compl. ¶ 16.

³⁷ Compl. ¶ 17.

³⁸ Compl. ¶ 18.

³⁹ Compl. ¶ 19.

⁴⁰ Pursuant to Article V, Section 5 of FINRA’s By-Laws, a person whose association with a member firm has been terminated shall continue to be subject to FINRA’s jurisdiction for two years after the effective date of termination.

⁴¹ See FINRA rule 8210(d).

⁴² See *Moore*, 2012 FINRA Discip. LEXIS 45, at *20, *27 (finding that Enforcement properly served a respondent with a FINRA Rule 8210 request by mailing the request to his CRD address).

⁴³ See *Joseph Ricupero*, Exchange Act Release No. 62891, 2010 SEC LEXIS 2988, at *9-14 (Sept. 10, 2010) (finding violation of FINRA Rules 8210 and 2110 (now 2010) for failing to respond to several requests for information), *petition for rev. denied*, 436 F. Appx. 31, 2011 U.S. App. LEXIS 18428 (2d Cir. 2011); *CMG Inst.*

III. Sanctions

FINRA's Sanction Guidelines ("Guidelines") advise that, if an individual did not respond in any manner to a Rule 8210 request for information or testimony, a bar in all capacities is standard.⁴⁴ For failing to appear twice for on-the-record testimony, I bar Mason from associating with any member firm in any capacity.

Enforcement sought Mason's on-the-record testimony to investigate the circumstances surrounding the allegations that Mason falsified information to open new accounts for several individuals. The Guidelines suggest that I consider the importance of the information requested as viewed from FINRA's perspective.⁴⁵ Because Mason refused to cooperate in any manner and provided no information responsive to Enforcement's requests, I cannot know with any certainty how much or how little Mason's failure to appear hindered Enforcement's investigation. I can, however, glean from the topic of Enforcement's information requests the nature of Enforcement's investigation and conclude that Mason may have possessed information responsive to Enforcement's requests and that Enforcement's investigation related to a possible rule violation. I therefore find this factor aggravating. I find no mitigating factors.

"A failure to comply with Rule 8210 is a serious violation because it subverts [FINRA's] ability to execute its regulatory responsibilities."⁴⁶ I find that Mason's failure twice to appear for on-the-record testimony requested pursuant to FINRA Rule 8210 "renders [him] presumptively unfit for employment in the securities industry because the self-regulatory system of securities regulation cannot function without compliance with Rule 8210 requests."⁴⁷ For violating FINRA Rules 8210 and 2010, I bar Mason from associating with any member firm in any capacity.

IV. Order

Respondent Mason is barred from associating with any FINRA member firm in any capacity for failing twice to appear for on-the-record testimony, in violation of FINRA Rules

Trading, LLC, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *15-30 (Jan. 30, 2009) (finding violation of FINRA Rules 8210 and 2110 (now 2010) for failing to respond completely and timely to a request for information).

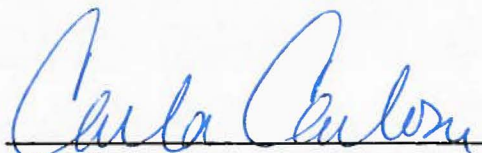
⁴⁴ FINRA Sanction Guidelines (2016), at 33, http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

⁴⁵ Guidelines, at 33 (Consideration No. 1 (Importance of the information requested as viewed from FINRA's perspective)).

⁴⁶ *Dep't of Enforcement v. Rebecca Amy Reichman*, No. 200801201960, 2011 FINRA Discip. LEXIS 18, at *46 (NAC July 21, 2011) (citing *Ricupero*, 2010 SEC LEXIS 2988, at *21).

⁴⁷ *PAZ Sec., Inc.*, Exchange Act Release No. 57656, 2008 SEC LEXIS 820, at *10 (Apr. 11, 2008), *aff'd*, 566 F.3d 1172 (D.C. Cir. 2009).

8210 and 2010. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Carla Carloni
Hearing Officer

Copies: Michael Jean-Paul Mason (*via first-class mail*)
Rebecca L. Segrest, Esq. (*via electronic and first-class mail*)
David B. Klafter, Esq. (*via electronic mail*)
Jeffrey D. Pariser, Esq. (*via electronic mail*)