

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

GIOVI ROGELIO ULLOA
(CRD No. 4579872),

Respondent.

Disciplinary Proceeding
No. 2007007253801

Hearing Officer – AWH

DEFAULT DECISION

May 22, 2008

Respondent is barred from associating with any FINRA member in any capacity for failing to respond to requests for information, in violation of NASD Rules 8210 and 2110.

Appearances

Frank M. Weber, Esq., for the Department of Enforcement.

No appearance by or for Giovi Rogelio Ulloa.

DECISION

I. Background

On December 21, 2007, the Department of Enforcement filed the Complaint in this proceeding, alleging that Respondent Giovi Rogelio Ulloa failed to respond to requests for information, in violation of NASD Rules 8210 and 2110. Respondent did not file an Answer to the Complaint. On March 31, 2008, Enforcement filed a motion for a default decision. Ulloa did not respond to that motion.

II. Respondent's Default

The Department of Enforcement sent the Complaint and Notice of Complaint to Respondent on December 21, 2007, by certified and first class mail to his most current residential address listed in the Central Registration Depository ("CRD address"), and to the business address of Max International Broker/Dealer Corp. ("Max"), his member firm where he was employed until December 21, 2007. Enforcement also sent a copy to the attorney who had represented Ulloa with respect to FINRA's requests for Ulloa's appearance at an on-the-record interview ("OTR"). On January 22, 2008, Enforcement sent the Complaint and Second Notice of Complaint to Respondent by certified and first class mail to his most recent CRD address. Enforcement also sent a copy to Ulloa's attorney. Upon discovering that the mailing label on the return receipt card for the December 21 mailing inadvertently omitted Ulloa's last name, Enforcement sent a Third Notice of Complaint and Complaint to Ulloa by certified and first class mail at his CRD address, and sent a copy to the attorney. The certified mail receipt was returned, signed by "Giovi Ulloa." Ulloa did not file an Answer to the Complaint.

Enforcement served the Complaint and Notices of Complaint on Ulloa in accordance with Rule 9134, giving him constructive notice of this proceeding. His signature on the return receipt for the Third Notice of Complaint and Complaint demonstrates that he had actual notice of the Complaint. By failing to respond, he defaulted. Pursuant to NASD Procedural Rules 9215(f) and 9269, Enforcement's motion for a default decision will be granted, and the allegations in the Complaint, which is attached to this decision, will be deemed admitted.¹

¹ The factual determinations in this decision are based on the admitted allegations in the Complaint, the Declaration in Support of Motion for Entry of Default, and the exhibits attached thereto.

III. Jurisdiction

Ulloa was first registered with FINRA as a General Securities Representative through Max on August 29, 2002. His registration was terminated on December 21, 2007. He is not currently registered or associated with any FINRA member. Because the Complaint charges him with failing to respond to FINRA staff requests for information while he was registered through Max, and the Complaint was filed during the two-year period following termination of his last registration, he remains subject to FINRA jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of the FINRA By-Laws.

IV. Violations

During its investigation of sales practices at Max with respect to the sale of penny stocks, FINRA staff sought to obtain information from Ulloa concerning audio recordings of statements he made concerning the sale of penny stocks. The Complaint alleges that on five occasions between July 31 and October 31, 2007, FINRA staff sent Ulloa, pursuant to Rule 8210, requests that he appear for an on-the-record interview at FINRA's offices to provide information with respect to the subject matter of its investigation.

FINRA staff sent the requests to him by first class mail and certified mail to his CRD address. Because the requests were sent to him at his CRD address, pursuant to NASD Rule 8210(d), he is deemed to have received them. Furthermore, the return receipts for the certified mailings were signed by Ulloa on two occasions, by Jose Ulloa on one occasion, and by Cedric Ulloa on the remaining two occasions. Finally, on each occasion, Ulloa's attorney responded by telephone to FINRA staff: twice to request that the OTR be rescheduled, once to advise that Ulloa was ill and not available to testify as

requested, once to advise that the attorney would not be available to attend the OTR, and finally, to advise that Ulloa was not going to appear as requested. Accordingly, Ulloa had actual notice of all five requests for his appearance for testimony. By failing to appear for testimony as requested, Ulloa violated NASD Rules 8210 and 2110.

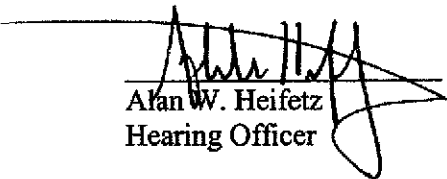
V. Sanctions

Under the Sanction Guidelines a bar is standard for failure to respond in any manner to requests for information. *Sanction Guidelines*, at 35. Here Ulloa failed to provide any testimony and prevented FINRA from gaining a clear picture of the nature and breadth of his alleged misconduct. There is no evidence of any mitigating circumstance that would justify a sanction less than a bar.

VI. Conclusion

Giovi Rogelio Ulloa is barred from associating with any FINRA member firm in any capacity for failing to respond to requests for information, in violation of NASD Rules 8210 and 2110. The bar will become effective immediately if this decision becomes FINRA's final disciplinary action.

SO ORDERED.



Alan W. Heifetz
Hearing Officer

Copies to:

Giovi Rogelio Ulloa (*via first class mail & Overnight Courier*)
Frank M. Weber, Esq. (*via first class & electronic mail*)
Mark P. Dauer, Esq. (*via first class & electronic mail*)
David R. Sonnenberg, Esq. (*via first class & electronic mail*)

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

GIOVI ROGELIO ULLOA
(CRD No. 4579872),

Respondent.

Disciplinary Proceeding
No. 2007007253801

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Giovi Rogelio Ulloa failed to appear for an on-the-record interview ("OTR") that was requested during an investigation of his activities at member firm Max International Broker Dealers Corp. (BD No. 46032) ("Max").

JURISDICTION

2. Ulloa first became registered with FINRA (formerly known as NASD) as a General Securities Representative ("GSR") through an association with Max on or about August 29, 2002.
3. Ulloa is subject to FINRA's jurisdiction because he is currently registered with FINRA through an association with Max.

FIRST CAUSE OF COMPLAINT

Failure to Appear

(Violations of NASD Procedural Rule 8210 and NASD Conduct Rule 2110)

4. Paragraphs 1 through 3 are re-alleged and incorporated by reference.
5. During an examination of Max, the staff of FINRA's District No. 10 office (the "Staff") obtained audio recordings of sales calls to customers, including calls between Ulloa and several customers.
6. The Staff sought information from Ulloa concerning statements he made on the recordings.

The First Request

7. By letter dated July 31, 2007, the Staff requested, pursuant to Rule 8210, that Ulloa appear on Wednesday, September 5, 2007, for an OTR at FINRA's District 10 Office, One Liberty Plaza, New York, New York 10006 (the "District 10 Office") (the "First Request"). The First Request further asked that Ulloa contact the Staff by August 14, 2007 to either confirm his appearance on July 31, 2007 or to reschedule if he was unable to appear on the scheduled date.
8. The First Request was sent by certified mail to Ulloa's current residential address and business address at Max as set forth on the Central Registration Depository: (i) [REDACTED] (the "Residential Address"), and (ii) Max International Broker/Dealer Corp., 75 Maiden Lane, Suite 503, New York, NY 10038 (the "Max Address"). A copy of the First Request was also sent to the Chief Compliance Officer at Max.
9. The return receipt card for the certified mailing to the Residential Address was returned to the Staff by the United States Postal Service ("USPS") having been signed for by Ulloa, dated

August 13, 2007. The return receipt card for the certified mailing to the Max Address was returned having been signed for by "Stephen O'Grady" and dated August 1, 2007.

10. Ulloa's attorney contacted the Staff and the OTR was rescheduled to September 19, 2007.

The Second Request

11. By letter dated August 27, 2007, the Staff confirmed the rescheduled date and requested, pursuant to Procedural Rule 8210, that Ulloa appear on September 19, 2007 for an OTR at the District 10 Office (the "Second Request"). The Second Request further asked that Ulloa contact the Staff by Monday, September 10, 2007 to either confirm the scheduled appearance on September 19, 2007 or to reschedule if he was unable to appear on the scheduled date.

12. The Second Request was sent by certified mail to the Residential and Max Addresses.

Courtesy copies of the Second Request were sent by first class mail to Ulloa's attorney and to the Chief Compliance Officer at Max.

13. The return receipt card for the certified mailing to the Residential Address was returned to the Staff by the USPS having been signed for by "Jose Ulloa," dated August 29, 2007. The return receipt card for the certified mailing to the Max Address was returned having been signed for by "Stephen O'Grady" and dated August 29, 2007.

14. At the request of Ulloa's attorney, the OTR was rescheduled for October 2, 2007.

The Third Request

15. By letter dated September 21, 2007, the Staff confirmed the rescheduled date and requested, pursuant to Rule 8210, that Ulloa appear on Tuesday, October 2, 2007, for an OTR at the District 10 Office (the "Third Request"). The Third Request further asked that Ulloa contact the Staff by Friday, September 28, 2007 to either confirm his appearance on October 2, 2007 or to reschedule if he was unable to appear on the scheduled date.

16. The Third Request was sent by certified mail to the Residential Address and to the Max Address. Courtesy copies of the Third Request were sent by first class mail to Ulloa's attorney and to the Chief Compliance Officer at Max.
17. The return receipt card for the certified mailing to the Residential Address was returned to the Staff by the USPS having been signed for by "Cedric Ulloa," dated September 24, 2007. The return receipt card for the certified mailing to the Max Address was returned having been signed for with an illegible signature and a printed name of "Woo" and dated September 24, 2007.
18. On October 1, 2007, Ulloa's attorney's law office informed the Staff that Ulloa would not appear on October 2, 2007 because Ulloa was ill.
19. The OTR was not adjourned. On October 2, 2007, Ulloa failed to appear for the OTR.

The Fourth Request

20. By letter dated October 12, 2007, the Staff requested, pursuant to Procedural Rule 8210, that Ulloa appear on Tuesday, October 23, 2007, for an OTR (the "Fourth Request").
21. The Fourth Request was sent by certified mail to the Residential Address and to the Max Address. Courtesy copies of the Third Request were sent by first class mail to Ulloa's attorney and to the Chief Compliance Officer at Max.
22. The return receipt card for the certified mailing to the Residential Address was returned to the Staff by the USPS having been signed for by "Cedric Ulloa." The return receipt card for the certified mailing to the Max Address was returned having been signed for by "Stephen O'Grady."

23. On October 22, 2007, Ulloa's attorney's law office contacted the Staff and informed the Staff that Ulloa's attorney was out of the country that week and would not be able to appear on October 23, 2007.

24. The OTR was not adjourned. On October 23, 2007, Ulloa failed to appear for the OTR.

The Fifth Request

25. By letter dated October 23, 2007 to Ulloa's counsel, the Staff: (i) outlined the prior requests to Ulloa and Ulloa's failures to appear, and (ii) requested, pursuant to Rule 8210, that Ulloa appear for an OTR on either Thursday, November 1, 2007 or Friday, November 2, 2007 (the "Fifth Request"). The Fifth Request asked Ulloa's counsel to contact the Staff by October 29, 2007 to inform the Staff as to whether Ulloa would appear on November 1, 2007 or November 2, 2007. The Fifth Request stated that if either Ulloa or his attorney did not contact the Staff as requested, the OTR would be scheduled for November 2, 2007.

26. Courtesy copies of the Fifth Request were sent to Ulloa at the Residential Address and the Max Address by regular first class mail and certified mail, and to the Chief Compliance Officer at Max.

27. The return receipt card for the certified mailing to Ulloa's attorney was returned to the Staff by the USPS having been signed for on October 26, 2007. The return receipt card for the certified mailing to the Residential Address was returned having been signed for by "G. Ulloa," dated October 26, 2007. The certified mailing to the Max Address was returned having been signed for with an illegible signature and printed name of "Woo." The first class mailings to Ulloa at the Residential Address and Max Address were not returned.

28. Neither Ulloa, nor his attorney contacted the Staff by October 29, 2007.

29. On or about November 2, 2007, Ulloa's attorney's law office contacted the Staff and stated that Ulloa was not going to appear as requested on November 2, 2007.

30. On November 2, 2007, Ulloa failed to appear for the OTR.

By reason of the foregoing, Ulloa violated NASD Procedural Rule 8210 and Conduct Rule 2110.

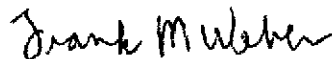
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

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

Dated: December 21, 2007

FINRA DEPARTMENT OF ENFORCEMENT



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