

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

LOUIS SALERNO
(CRD No. 4704237),

Respondent.

Disciplinary Proceeding
No. 2008015360301

Hearing Officer— Rochelle S. Hall

DEFAULT DECISION

March 18, 2010

The Respondent was barred for violating Procedural Rule 8210 and Conduct Rule 2010 by failing to appear to provide testimony at an on-the-record interview. Because of the bar, he was not additionally sanctioned for violating Conduct Rules 2510(b) and 2110 by exercising unauthorized discretion, or Rule 2110 by using an unapproved outside e-mail account.

Appearances

Vaishali S. Shetty, Senior Regional Counsel, David Jaffe, Regional Chief Counsel, and Jon S. Batterman, Deputy Regional Chief Counsel, Jericho, New York, for the FINRA Department of Enforcement.

No appearance by or for Louis Salerno.

DECISION

I. Introduction

The FINRA Department of Enforcement filed a Complaint in this proceeding on October 22, 2009. In its Complaint, Enforcement charged that the Respondent, Louis Salerno, violated Conduct Rules 2510(b) and 2110 by exercising discretion in a customer's account without having written authorization, and Rule 2110 by using an unapproved outside e-mail account to communicate with the customer. Enforcement also

000047078 2010

charged that Salerno violated Procedural Rule 8210 and Conduct Rule 2010 by failing to appear at an on-the-record (OTR) interview.¹

Salerno did not answer or otherwise respond to the Complaint. Consequently, on January 25, 2010, Enforcement filed a Motion for Entry of Default Decision, supported by the Affidavit of Vaishali S. Shetty and 20 exhibits. Salerno did not reply to the motion.²

II. Jurisdiction and Origin of the Complaint

A. Jurisdiction

Salerno first became registered with FINRA as a General Securities Representative on October 29, 2003.³ From November 13, 2007, through September 19, 2008, Salerno was registered with FINRA member firm J.P. Turner & Company, LLC ("JP Turner"). From September 23, 2008, through January 23, 2009, Salerno was registered with another FINRA member firm. On January 23, 2009, that firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on behalf of Salerno.⁴

Salerno has not been associated with a FINRA member firm since January 23, 2009.⁵ Nevertheless, FINRA has jurisdiction over this disciplinary proceeding, pursuant

¹ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. On December 15, 2008, the first phase of new consolidated FINRA Rules went into effect. *See*, Regulatory Notice 08-57. Under the new rules, the numbering of certain rules was changed. NASD Conduct Rule 2110 was changed to FINRA Conduct Rule 2010. The two rules are substantially identical.

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

³ Complainant's Exhibit (CX)-1; Shetty Declaration ("Shetty Decl."), ¶ 5.

⁴ CX-1; Shetty Decl., ¶¶ 6, 7.

⁵ *Id.*

to Article V, Section 4(a) of FINRA's By-Laws, because (1) FINRA requested information from Salerno when it still retained jurisdiction over him, i.e., within two years following the filing of Salerno's Form U5; and (2) the Complaint charged him with misconduct that occurred while he was employed at a FINRA member firm.⁶

B. Origin of the Complaint

The investigation leading to the filing of the Complaint began when FINRA received a Form U5 filed by JP Turner. On the form, JP Turner stated that it had terminated Salerno's employment because he had failed to execute a special supervision agreement after failing to follow firm policies governing the use of discretion and personal e-mail.⁷

III. Respondent's Default

On October 22, 2009, Enforcement sent the Complaint and Notice of Complaint to Salerno by first-class and certified mail (return receipt requested) to his residential address as recorded in the Central Registration Depository ("CRD Address"). The Complaint and Notice were also sent to Salerno at a second residential address that Salerno had provided to the Staff during the course of the investigation ("Douglaston Address"). The first-class mailing sent to Salerno's CRD Address was not returned; however, all of the other mailings were returned marked "unclaimed" or "not deliverable."⁸ Salerno did not respond to the Complaint.⁹

⁶ 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").

⁷ Shetty Decl., ¶ 9; CX-2.

⁸ Shetty Decl., ¶¶ 13, 14; CX-3-CX-6.

⁹ Shetty Decl., ¶ 15.

On November 24, 2009, Enforcement served Salerno with the Complaint and Second Notice of Complaint, by first-class and certified mail, to his CRD Address and the Douglaston Address. The mailings to his CRD Address were delivered; the return receipt for the certified mailing was signed "S. Salerno," and the first-class mailing was not returned. The mailings to the Douglaston Address were both returned marked "undeliverable."¹⁰ The Second Notice of Complaint directed Salerno to file an answer by December 11, 2009. To date, Salerno has not filed an answer with the Office of Hearing Officers or otherwise responded to the Complaint.¹¹

Salerno defaulted by failing to answer the Complaint.¹² Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's motion for entry of a default decision.

IV. Violations

A. Exercise of Discretion Without Written Authorization

The Complaint alleges that Salerno violated Conduct Rules 2510(b) and 2110 by exercising discretion in a customer account without written authorization from the customer and acceptance by Salerno's member firm.

According to the Complaint, between January and September 2008, customer DB maintained an account with JP Turner that was serviced by Salerno. On June 19, 2008, Salerno made two trades in DB's account without speaking to DB before executing the

¹⁰ Shetty Decl., ¶¶ 16-18; CX-7-CX-10.

¹¹ Shetty Decl., ¶¶ 19, 21.

¹² *Dep't. of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (NASD Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

trades. On June 25, 2008, Salerno made another two trades in DB's account without speaking to DB before executing the trades. The Complaint alleges that Salerno exercised discretion in making all four transactions without written discretionary authority from DB and without JP Turner's acceptance of the account as discretionary.

E-mail correspondence between Salerno and DB shows that DB had given Salerno verbal authority to make trades in the account.¹³ In his response to Enforcement's inquiry, Salerno admitted that he had not spoken to DB before making the trades, and that he had not received written authority from DB to exercise discretion. Salerno also admitted that he had gone beyond the time and price discretion that DB had verbally given him. Salerno further admitted that DB's account had not been accepted by JP Turner as a discretionary account.¹⁴

On July 9, 2008, DB complained to JP Turner that Salerno had been making unauthorized trades in his account. In response, JP Turner cancelled the four June trades and reversed the commissions, which totaled approximately \$12,457.¹⁵

Conduct Rule 2510(b) states that "[n]o member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member..."

The allegations in the Complaint are sufficient to establish, for purposes of this Default Decision, that Salerno exercised discretion in a customer's account without having written discretionary authority and without the account being accepted as

¹³ CX-11.

¹⁴ CX-12, CX-13.

¹⁵ CX-14, CX-15, CX-16; Shetty Decl., ¶¶ 27-28.

discretionary by his member firm. Accordingly, the Hearing Officer finds that Salerno violated Rule 2510(b). It is well-established that a violation of one FINRA rule violates Conduct Rule 2110.¹⁶

B. Unapproved Use of an Outside E-mail Account

The Complaint alleges that Salerno violated Conduct Rule 2110 by communicating with a customer using an outside e-mail account that was not approved by Salerno's firm. While Salerno was registered with JP Turner, the firm had a policy permitting electronic communications with customers and the public only through company-sponsored or approved e-mail accounts. Salerno signed an annual acknowledgement confirming that he used only JP Turner-approved e-mail accounts to communicate with customers. He never sought nor obtained JP Turner's permission to use a private e-mail account; however, on at least five occasions between April 11, 2008, and June 12, 2008, Salerno sent e-mail to customer DB from a personal Gmail Address. JP Turner was unaware of Salerno's private Gmail account, and so was unable to review his e-mails to firm customers, as required by Conduct Rule 3010(d).¹⁷

Conduct Rule 2110 requires members and associated persons to "observe high standards of commercial honor and just and equitable principles of trade." An associated person who violates firm policies and procedures violates Conduct Rule 2110.¹⁸ In this case, JP Turner had a policy against employees using personal e-mail accounts to communicate with customers. By signing an annual compliance form, Salerno acknowledged that he was aware of the policy and was in compliance with it. By e-

¹⁶ *Dep't. of Enforcement v. Shvarts*, 2000 NASD Discip. LEXIS 6, *12-13 (N.A.C. June 2, 2000).

¹⁷ CX-11, CX-18, CX-19, CX-20; Shetty Decl., ¶¶ 30-34.

¹⁸ *Dep't. of Enforcement v. Joseph A. Zaragoza*, 2008 FINRA Discip. LEXIS 28 at *27, n. 21 (N.A.C. Aug. 20, 2008), citing *Vail v. SEC*, 101 F.3d 37, 39 (5th Cir. 1996).

mailing DB using his Gmail account, Salerno bypassed JP Turner's policy and prevented the firm from reviewing e-mails to customers. Using the Gmail account also allowed Salerno to shield his discretionary trading activity from his firm.

The allegations in the Complaint are sufficient to establish, for purposes of this Default Decision, that Salerno violated JP Turner's policies by using an unapproved e-mail account to communicate with a customer. Accordingly, the Hearing Officer finds that Salerno violated Conduct Rule 2110.

C. Failure to Provide Testimony

The Complaint alleges that Salerno violated Procedural Rule 8210 and Conduct Rule 2010 by twice failing to appear to provide testimony as requested pursuant to Rule 8210.

According to the Complaint, on June 1, 2009, FINRA Staff sent a request for testimony to Salerno by first-class and certified mail to his CRD Address and the Douglaston Address. The return receipt for the certified mailing was returned to FINRA with Salerno's signature. The first-class mailing to the CRD Address was not returned. The mailings to the Douglaston Address were returned marked "undeliverable." Salerno did not appear for testimony or respond to the June 1 request.¹⁹

On June 18, 2009, FINRA Staff sent a second letter requesting that Salerno appear to testify. The letter was sent to Salerno's CRD Address and the Douglaston Address by first-class and certified mail. The return receipt for the certified mailing to the CRD Address was returned, signed for by "Sharon Ann Salerno." The first-class mailing to the CRD Address was not returned. The mailings to the Douglaston Address

¹⁹ Complaint, ¶¶ 26-28; Shetty Decl., ¶¶ 42-44.

were returned marked “undeliverable.” Salerno did not appear for testimony or respond to the June 18 request.²⁰

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this Default Decision, that Salerno failed to respond in any manner to two requests for testimony, thereby violating Procedural Rule 8210. A violation of Rule 8210 is also a violation of Rule 2010.²¹

V. Sanctions

A. Failure to Provide Testimony

A violation of Rule 8210 is serious because Rule 8210 is a key element in FINRA’s oversight function and allows FINRA to carry out its regulatory functions without subpoena power.²² When an individual fails to provide information, FINRA’s ability to perform its regulatory functions is subverted.²³ For these reasons, the Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.²⁴ Salerno failed to respond in any manner to two requests to provide testimony. There is no evidence of any mitigating facts that would justify a sanction of less than a bar.

Accordingly, the Hearing Officer finds that Salerno should be barred from associating with any FINRA member in any capacity for violating Procedural Rule 8210 and Conduct Rule 2010.

²⁰ Complaint, ¶¶ 29-32; Shetty Decl., ¶¶ 45-48.

²¹ *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, at *19, n. 28 (July 1, 2008); *Anthony H. Barkate*, 57 S.E.C. 488, 489, n. 1 (2004); *Dep’t. of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

²² *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141 (Nov. 14, 2008); *Joseph G. Chiulli*, Exchange Act Rel. No. 42359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000).

²³ *Joseph P. Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

²⁴ *FINRA Sanction Guidelines* 35 (2007), www.finra.org/sanctionguidelines.

B. Exercise of Discretion Without Written Authorization

For the exercise of discretion without written authorization, the FINRA Sanction Guidelines (“Guidelines”) recommend a fine of between \$2,500 to \$10,000. Principal considerations include whether the customer’s grant of discretion was express or implied and whether the firm’s policy prohibited discretionary trading.²⁵ Salerno appears to have been aware of JP Turner’s policies prohibiting discretionary trading without written authority, yet disregarded the policy. However, from e-mails with DB, it does appear that DB had given Salerno some discretionary authority. Considering the facts and circumstances of this case, a fine in the mid-range suggested by the Guidelines would be appropriate. However, because Salerno is being barred for failing to provide testimony, an additional sanction for unauthorized use of discretion would serve no purpose and will not be imposed.

C. Unapproved Use of an Outside E-mail Account

The Guidelines do not specifically address the unauthorized use of personal e-mail accounts; however, FINRA has previously applied the Guidelines pertaining to recordkeeping violations for failure to submit e-mail correspondence for review.²⁶ Those Guidelines recommend a suspension of up to 30 business days and a fine of \$1,000 to \$10,000.²⁷ In this case, Salerno’s use of his personal e-mail account to send communication to DB is a serious violation warranting a sanction at the upper end of the Guidelines. His firm had issued a clear policy prohibiting the use of personal e-mail accounts without first obtaining permission from the firm’s compliance department.

²⁵ *FINRA Sanction Guidelines* 90 (2007).

²⁶ *See Dep’t. of Enforcement v. Zaragoza*, 2008 FINRA Discip. LEXIS 28, at *31 (N.A.C., Aug. 20, 2008).

²⁷ *FINRA Sanction Guidelines* 30 (2007).

Salerno's use of an outside e-mail account allowed his exercise of discretion in DB's account to go unnoticed by his supervisors, and prevented the firm from carrying out its responsibility to review correspondence. Because Salerno is being barred for his violation of Rule 8210, no additional sanction will be imposed for this e-mail violation.

VI. Order

For failing to appear to give testimony as requested, in violation of Procedural Rule 8210 and Conduct Rule 2010, Louis Salerno is barred from associating with any FINRA member firm in any capacity. Because of the bar, no additional sanctions will be imposed for his use of discretion without written authority or his unapproved use of a personal e-mail account. The bar will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.

SO ORDERED.



Rochelle S. Hall
Hearing Officer

Copies to: Louis Salerno (*via overnight courier and first-class mail*)
Vaishali S. Shetty, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

LOUIS SALERNO (CRD No. 4704237),

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2008015360301**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Louis Salerno used discretion in a customer's account without written authorization from the customer or acceptance of the customer's account as discretionary by his employer firm, in violation of NASD Conduct Rules 2510(b) and 2110.
2. Salerno, while registered with a FINRA member firm, communicated with the customer via an unapproved outside electronic mail address, preventing the member firm from reviewing his electronic mail, pursuant to NASD Conduct Rule 3010(d), in violation of NASD Conduct Rule 2110.
3. Salerno failed to appear and testify, as requested by FINRA during its investigation, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

RESPONDENT AND JURISDICTION

4. Salerno first became registered with FINRA as a General Securities Representative (GSR) on or about October 29, 2003 through a prior FINRA member firm.
5. Salerno was registered as a GSR with J.P. Turner & Company, L.L.C. ("JP Turner") from on or about November 13, 2007 through September 19, 2008.
6. From September 23, 2008 through January 23, 2009, Salerno was registered with another FINRA member firm. On January 23, 2009, that firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of Salerno.
7. Salerno is not currently associated with a FINRA member firm. However, FINRA retains jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

FIRST CAUSE OF ACTION

EXERCISE OF DISCRETION WITHOUT WRITTEN AUTHORIZATION (NASD CONDUCT RULE 2510(B) AND NASD CONDUCT RULE 2110)

8. The Department re-alleges and incorporates by reference paragraphs 1-7 above.
9. NASD Conduct Rule 2510(b) states that "[n]o member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member, in accordance with Rule 3010."

10. During the period from January 2008 through September 2008, customer DB maintained an account with JP Turner that was serviced by Salerno.
11. Customer DB allowed Salerno to make decisions regarding transactions in the account without prior verbal authorization. The permission to make these decisions was not given in writing by DB and DB and Salerno did not enter into any type of written agreement granting Salerno discretionary authority over DB's account.
12. At no point while DB maintained his account with JP Turner had the account been accepted by JP Turner as a discretionary account.
13. On June 19, 2008, Salerno sold 1000 shares of Visa (V) and 1000 shares of Central European Distribution Corp. (CEDC), in DB's account at JP Turner, without speaking with DB prior to executing those sales. On June 25, 2008, Salerno purchased 1500 shares of Mechel Steel (MTL) and 2000 shares of Companhia Vale Do Rio Doce (RIO), in DB's account at JP Turner, again, without speaking with DB prior to executing those trades. With respect to all four transactions, Salerno exercised discretion in customer DB's account without written authorization from DB or acceptance of DB's account as a discretionary account by JP Turner.

By reason of the foregoing, Salerno violated NASD Conduct Rules 2510(b) and 2110.

SECOND CAUSE OF ACTION
UNAPPROVED USE OF OUTSIDE E-MAIL ACCOUNT
(NASD CONDUCT RULE 2110)

14. The Department re-alleges and incorporates by reference paragraphs 1-13 above.
15. In 2007 and 2008, while Salerno was registered with the firm, JP Turner maintained procedures that permitted electronic communications with customers and the public

- only through company sponsored or alternative approved e-mail accounts. This policy was reiterated in a Compliance Acknowledgment Form that JP Turner circulated annually on which employees were required to answer whether they use only JP Turner approved e-mail accounts to communicate with customers. On the form completed by Salerno, dated January 2008, he answered "yes" to that question.
16. On several occasions, including April 11, 2008, April 21, 2008, April 28, 2008, June 11, 2008 and June 12, 2008, Salerno sent electronic mail to JP Turner customer, DB, from a personal, unapproved Gmail e-mail address.
17. Salerno never sought nor obtained the permission of JP Turner's compliance department regarding his use of his private Gmail e-mail account to communicate with firm customers.
18. JP Turner was unaware of Salerno's private Gmail e-mail account and unable to review his e-mails to firm customers, as required pursuant to NASD Conduct Rule 3010(d).

By reason of the foregoing, Salerno violated NASD Conduct Rule 2110.

THIRD CAUSE OF ACTION
FAILURE TO APPEAR AT ON-THE-RECORD
(FINRA PROCEDURAL RULE 8210
AND FINRA CONDUCT RULE 2010)

19. The Department re-alleges and incorporates by reference paragraphs 1-18 above.
20. On February 19, 2009, FINRA Staff sent a request to Salerno via certified mail, return receipt requested and first-class mail to Salerno's residential address, as listed on Central Registration Depository (CRD), [REDACTED] ("CRD Address"). The letter was sent pursuant to FINRA Procedural Rule

8210 and requested that Salerno appear and testify at FINRA's Long Island District Office on March 10, 2009 at 10 am. The letter also asked that Salerno contact the Staff by February 27, 2009 to inform them whether he would be appearing for the OTR on March 10, 2009. The first-class mailing to the CRD Address was not returned. The green return receipt card from the certified mailing was returned, signed and dated by "Louis Salerno" on February 21, 2009. Salerno did not contact FINRA Staff at any point before March 10, 2009.

21. On March 10, 2009, Salerno appeared at FINRA's Long Island District Office at 10:30 am. Salerno and the Staff were unprepared to proceed with the OTR and Salerno stated that he had failed to contact the Staff because he had moved and only recently received the request letter. The Staff discussed the need to reschedule the OTR with Salerno. At that time, Salerno provided his new residential address and cell phone number.
22. On April 13, 2009, FINRA Staff sent a request to Salerno via certified mail, return receipt requested and first-class mail to the new residential address provided by Salerno to the Staff on March 10, 2009, [REDACTED] ("Douglaston Address"). The letter was sent pursuant to FINRA Procedural Rule 8210 and requested that Salerno appear and testify on April 27, 2009 at FINRA's Long Island District Office. The letter also asked that Salerno contact the Staff by April 20, 2009 to inform them whether he would be appearing for the OTR on April 27, 2009. The first-class mailing to the Douglaston Address was not returned. The certified mailing was returned, marked "return to sender" and noted three service attempts. Salerno did not contact FINRA Staff at any point before April

- 27, 2009 and did not appear for the OTR on April 27, 2009. The Staff unsuccessfully attempted to contact Salerno via the cell phone number he had provided to the Staff.
23. On April 28, 2009, FINRA Staff sent a request to Salerno via certified mail, return receipt requested and first-class mail to Salerno's CRD Address and the Douglaston Address. The letter was sent pursuant to FINRA Procedural Rule 8210 and requested that Salerno appear and testify at FINRA's Long Island District Office on May 13, 2009 at 10 am. The letter also asked that Salerno contact the Staff by May 5, 2009 to inform them whether he would be appearing for the OTR on May 13, 2009.
24. The first-class mailings to the CRD Address and Douglaston Address were not returned. The green return receipt from the certified mailing to the CRD Address was returned, signed for by "S. Salerno" and dated April 30, 2009. The certified mailing to the Douglaston Address was returned, marked "return to sender, unclaimed, unable to forward". Salerno did not contact FINRA Staff at any point before May 13, 2009.
25. On May 13, 2009, Salerno appeared at FINRA's Long Island District Office at noon, two hours past the start time as stated in the request letter. Salerno and the Staff were unprepared to proceed with the OTR. The Staff discussed the need to reschedule the OTR with Salerno and his need to keep his contact information updated with the Staff and on CRD.
26. On June 1, 2009, FINRA Staff sent a request to Salerno via certified mail, return receipt requested and first-class mail to Salerno's CRD Address and Douglaston Address. The letter was sent pursuant to FINRA Procedural Rule 8210 and requested that Salerno appear and testify on June 16, 2009 at FINRA's Long Island District Office.

27. The first-class mailing to the CRD Address was not returned. The green return receipt from the certified mailing to the CRD Address was returned, signed for by "Louis Salerno, Sr." and dated June 3, 2009. The certified mailing to the Douglaston Address was returned, marked "return to sender, not deliverable as addressed, unable to forward". The regular mail envelope mailed to the Douglaston Address was returned, marked "UTF", indicating that it was unable to be forwarded.
28. Salerno did not contact the Staff or appear for the OTR interview on June 16, 2009.
29. On June 18, 2009, the Staff sent Salerno a second request letter via certified mail, return receipt requested and first-class mail to the CRD Address and the Bayside Address. The letter was sent pursuant to FINRA Procedural Rule 8210 and requested that Salerno appear and testify on July 2, 2009 at FINRA's Long Island District Office.
30. The first-class mailing to the CRD Address was not returned. The green return receipt from the certified mailing to the CRD Address was returned, signed for by "Sharon Ann Salerno" and dated June 26, 2009. The certified mailing to the Douglaston Address was returned, marked "return to sender, not deliverable as addressed, unable to forward" and "UTF". The regular mail envelope mailed to the Douglaston Address was returned similarly marked "UTF" and "return to sender, not deliverable as addressed, unable to forward".
31. Salerno did not contact the Staff or appear for the OTR interview on July 2, 2009.
32. Salerno failed to appear for an OTR on June 16, 2009 or July 2, 2009.
33. To date, Salerno has not appeared and testified as requested.

By reason of the conduct described in paragraphs 26 - 33, Salerno violated FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- B. order that the 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 22, 2009



Vaishali S. Shetty, Senior Regional Counsel
David Jaffe, Regional Chief Counsel
Jon S. Batterman, Deputy Regional Chief Counsel
FINRA Department of Enforcement
Two Jericho Plaza, 2nd Floor
Jericho, New York 11753
(516) 949-4237; Fax No. (516) 949-4201
vaishali.shetty@finra.org