

**FINRA
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

vs.

DARREN J. DIETRICH (CRD No.
1814017),

Respondent.

Disciplinary Proceeding
No. 20090166607

Hearing Officer --

COMPLAINT

The Department of Enforcement alleges:

Summary

1. Darren J. Dietrich effectuated four unauthorized trades in violation of NASD Conduct Rule 2110 and IM-2310-2 and failed to appear for investigative testimony on three separate occasions, in violation of FINRA Rules 8210 and 2010.

Respondent and Jurisdiction

2. In June 1988, Dietrich became registered with FINRA (f/k/a NASD) as a General Securities Representative (Series 7). In March 1988, he acquired a Series 63 license.

3. Between March 1988 and March 2007, Dietrich was associated with several FINRA members.

4. On March 26, 2007, Brookstone Securities, Inc. ("Brookstone") filed a Form U4 for Dietrich commencing his association with the firm as of that date.

5. On January 16, 2009, Brookstone filed a Form U5 for Dietrich terminating his association with the firm as of January 8, 2009.

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6. Dietrich is not currently associated with a FINRA member. However, he is still subject to FINRA's jurisdiction under Article V, Section 4 of FINRA's By-Laws.

**First Cause of Action
Unauthorized Trading
Violations of NASD Conduct Rule 2110 and IM-2310-2**

7. The Department realleges and incorporates Paragraphs 1 through 6 by reference.

8. On November 21, 2008, Dietrich purchased of 800 shares of Direxionshares Small Cap Bull ("TNA") in Brookstone customer RG's account without RG's prior knowledge, authorization or consent.

9. On November 24, 2008, Dietrich sold the 800 shares of TNA , again without RG's prior knowledge, authorization or consent.

10. The two unauthorized trades in TNA resulted in a profit of \$2,140 in RG's account and Dietrich earned \$278 in net commissions from the two trades.

11. On December 5, 2008, Dietrich purchased 2,000 shares of Terex Corp ("TEX") in RG's account without RG's prior knowledge, authorization or consent.

12. On December 8, 2008, Dietrich sold the 2,000 shares of TEX, again without RG's prior knowledge, authorization or consent.

13. The two unauthorized trades in TEX resulted in a profit of \$2,310 in RG's account and Dietrich earned \$655 in net commissions from the two trades.

14. As a result of this conduct, Dietrich committed separate and distinct violations of FINRA Conduct Rule 2010 and IM-2310-2.

Second Cause of Action
Failure to Appear for Investigative Testimony
Violation of FINRA Rules 8210 and 2010

15. The Department realleges and incorporates Paragraphs 1 through 14 by reference.

16. On September 13, 2009, Dietrich responded in writing to a FINRA Florida District Office staff's ("Staff") request for information, denying that he placed any unauthorized trades in customer RG's account.

March 22nd Request

17. In connection with an investigation of allegations of unauthorized trading set forth above, and to secure additional information after Dietrich's initial response, pursuant to FINRA Rule 8210, on March 22, 2010, the Staff sent a letter by certified and first class mail to Dietrich requesting that he appear for investigative testimony on April 7, 2010 at the Florida District Office ("March 22nd Request").

18. The Staff sent the March 22nd Request to Dietrich at his residential address reflected in the Central Registration Depository ("CRD Address").

19. On April 6, 2010, the Staff contacted Dietrich by telephone to confirm that he planned to appear for his testimony on April 7, 2010. During the telephone conversation, Dietrich informed the staff that he could not attend the scheduled testimony until mid-June after his child was out of school for the summer holidays, because he is a stay-at-home father. Dietrich also informed the staff that he could not attend his testimony in the Florida District Office because he would need to use a vacation day at his job and would be terminated for doing so.

20. The Staff agreed to postpone the testimony but informed Dietrich that a two-month postponement of his testimony was unacceptable. During the conversation, Dietrich

agreed that within three days he would provide the Staff with alternate dates in April when his testimony could be conducted.

21. Dietrich failed to provide any alternate dates and failed to appear for testimony on April 7, 2010.

April 15th Request

22. April 15, 2010, pursuant to FINRA Rule 8210, the Staff sent a letter by certified and first class mail to Dietrich at his CRD Address requesting that he appear for investigative testimony on April 27, 2010 at the Florida District Office ("April 15th Request").

23. On April 22, 2010, the Staff attempted to contact Dietrich by telephone. Dietrich did not answer the phone call, but the Staff left a voicemail message reaffirming that Dietrich needed to appear for his testimony on April 27, 2010. On April 26, 2010, Dietrich left the Staff a voicemail message stating that he could not attend his testimony on April 27, 2010 and could not attend testimony for several weeks. Dietrich did not provide the Staff with any alternate dates for his testimony.

24. The Staff called Dietrich back the same day but he did not answer the call. The Staff left Dietrich a voicemail message stating that his failure to appear for his testimony the next day would be considered a failure to appear pursuant to Rule 8210.

25. Dietrich did not appear for his testimony on April 27, 2010.

April 28th Request

26. On April 28, 2010, pursuant to FINRA Rule 8210, the Staff sent a letter by certified and first class mail to Dietrich at his CRD Address requesting that he appear for investigative testimony on May 14, 2010 at the Florida District Office ("April 28th Request").

27. On May 10, 2010, the staff received an unsigned letter from Dietrich stating that all future correspondence to him from the Staff must be via mail only and stating that he would not be attending the investigative testimony scheduled for May 14, 2010.

28. Dietrich did not provide any alternate dates for his testimony and did not appear for his testimony on May 14, 2010.

June 2nd Request

29. On June 2, 2010, pursuant to FINRA Rule 8210, the Staff sent a letter by certified and first class mail and by Federal Express to Dietrich requesting that he appear for investigative testimony on June 17, 2010 at the Florida District Office ("June 2nd Request").

30. On June 16, 2010, the staff received an unsigned letter from Dietrich that stating that June 17th was not a good day for him because he was traveling to Tennessee for my his in-laws 50th anniversary. Dietrich also stated that he was unavailable from June 25th to August 3rd.

31. Dietrich did not provide any alternate dates for his testimony and did not appear for his testimony on June 17, 2010.

32. Dietrich's failure to appear for his testimony has impeded the Staff's investigation of his conduct.

33. By failing to appear for and to provide testimony on April 27, 2010, May 14, 2010 and June 17, 2010, Dietrich violated FINRA Rules 8210 and 2010.

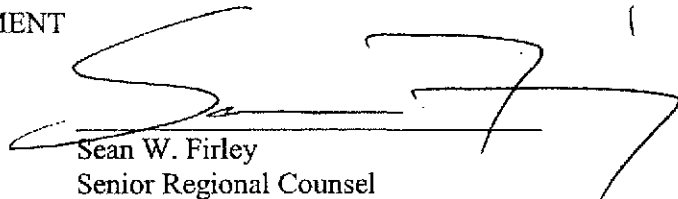
Relief Requested

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; and
- B. 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

Dated: August 30, 2010



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