

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOSE SALVADOR RUBIO
(CRD No. 1854133),

Respondent.

Disciplinary Proceeding
No. 2009018879801

Hearing Officer – SNB

DEFAULT DECISION

May 26, 2011

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

Appearances

Jeffrey A. Ziesman, Esq., Kansas City, MO, for the Department of Enforcement.

No appearance by or on behalf of Respondent.

DECISION

I. Background

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on December 13, 2010. The Complaint charges Jose Salvador Rubio (“Respondent”) with failing to respond to requests to appear and provide testimony, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

Respondent did not answer the Complaint. Accordingly, on April 4, 2011, Enforcement filed a Motion for Entry of Default Decision (“Default Motion”), together

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with the declaration of Jeffrey A. Ziesman, Esq. ("Ziesman Decl.") and 5 exhibits.¹ Respondent did not respond to the Default Motion. For the reasons set forth below, the Hearing Officer found Respondent in default and granted Enforcement's Default Motion.

II. Respondent's Default

On December 8, 2010, Enforcement served the Complaint and the Notice of Complaint on Respondent at his most recent address recorded in the Central Registration Depository ("CRD"), as well as at second, third and fourth addresses obtained by FINRA Staff. CX-1, CX-4; Ziesman Decl. ¶ 11. Enforcement mailed the Complaint and Notice of Complaint by certified mail, return receipt requested. CX-4; Ziesman Decl. ¶ 11. The return receipts for the certified mailings were returned as unclaimed. Three of the first-class mailings were not returned. The fourth first-class mailing was returned marked unclaimed. *Id.* Respondent did not answer the Complaint. Ziesman Decl. ¶ 13.

On March 10, 2011, Enforcement served the Complaint and the Second Notice of Complaint on Respondent in the same manner. For three of the mailings, neither the return receipts for the certified mailings nor the first class mailings were returned. For the fourth mailing, the return receipt for the certified mailing and the first class mailing were returned as unclaimed. CX-5; Ziesman Decl. ¶ 14. Respondent did not answer the Complaint. Ziesman Decl. ¶ 16.

By failing to file an Answer or otherwise respond to the Complaint, Respondent defaulted. Based on Respondent's default, the Hearing Officer deemed the allegations in the attached Complaint admitted pursuant to FINRA Procedural Rules 9215(f) and 9269(a).

¹ Enforcement's exhibits are labeled CX-1 through CX-5.

III. Jurisdiction

Respondent entered the securities industry in 1991. Between October 6, 2005, and December 16, 2008, Respondent was registered with Workman Securities Corporation (“the Firm”) as a General Securities Representative. CX-1; Ziesman Decl. ¶ 4.

Although Respondent is not currently associated with a member firm, 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 after the date FINRA terminated Respondent’s registration, and (2) the Complaint charges Respondent with failing to respond to Enforcement’s requests for information made during the two-year period following the termination of his FINRA registration.²

IV. Violation- Failure to Testify

The Complaint alleges that Respondent failed to respond to two Rule 8210 requests to appear for on-the-record testimony regarding customer complaints concerning private offerings and a hedge fund that Respondent allegedly managed. Complaint ¶ 4. The requests were dated August 19, 2010, and September 2, 2010, and were sent to Respondent’s most recent address recorded in the CRD, as well as to second, third and fourth addresses obtained by FINRA Staff. CX-2, CX-3; Ziesman Decl. ¶¶ 7 and 9. The requests were sent by first-class and certified mail, return receipt requested. *Id.* Respondent did not respond to the requests. Ziesman Decl. ¶¶ 8 and 10.

The allegations are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of FINRA

² 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”).

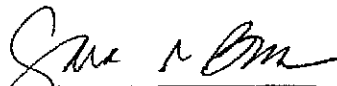
Procedural Rule 8210. A violation of Procedural Rule 8210 is also a violation of Conduct Rule 2010.³

V. Sanctions

For failing to respond to FINRA Rule 8210 requests to appear for testimony, the FINRA Sanction Guidelines (“Guidelines”) provide that a bar should be “standard” where, as here, there is a complete failure to respond.⁴ There are no mitigating factors that would warrant a lesser sanction. Accordingly, the Hearing Officer bars Respondent from associating with any FINRA member firm in any capacity for this violation.

VI. Order

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


Sara Nelson Bloom
Hearing Officer

Copies to: Jose Salvador Rubio (*via courier and first-class mail*)
Jeffrey A. Ziesman, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

³ *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

⁴ *Guidelines* at 33, available at www.finra.org/sanctionguidelines.

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

Department of Enforcement,

Complainant,

v.

**Jose Salvador Rubio
General Securities Representative
CRD No. 1854133**

Respondent.

**DISCIPLINARY PROCEEDING
NO. 2009018879801**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

Jose Salvador Rubio failed to appear for on-the-record interviews (OTRs) scheduled for August 27, 2010 and September 17, 2010. Through this conduct, Rubio violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

1. Rubio entered the securities industry in November 1991. From September 13, 2005 through December 15, 2008, Rubio was associated with broker-dealer Workman Securities Corporation and was registered with FINRA as a general securities representative. Workman filed a Uniform Termination Notice For Securities Industry Registration (Form U5) for Rubio on December 16, 2008. Rubio is not currently associated with any FINRA broker-dealer.

2. Although Rubio has not been associated with a FINRA broker-dealer member since December 15, 2008, 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 date upon which he ceased to be associated with a FINRA broker-dealer and Workman filed a Form U5 for Rubio, and (2) the Complaint charges him with failing to appear for OTRs during the two-year period after the date upon which he ceased to be associated with a FINRA broker-dealer.

FIRST CAUSE OF ACTION

Failure to Appear for OTRs – FINRA Rules 8210 and 2010

3. The Department of Enforcement realleges and incorporates by reference paragraphs 1 and 2 above.

4. FINRA opened several investigations of Rubio to review, among other things, customer complaints made against Rubio relating to private offerings and a hedge fund Rubio allegedly ran. Pursuant to these FINRA investigations, on August 19, 2010, FINRA staff sent Rubio a letter requesting his appearance for an OTR on August 27, 2010. The letter identified that the OTR was to be held at FINRA's District 4 office, in Kansas City, Missouri. The letter was sent to Rubio's CRD address, as well as second, third and fourth addresses for Rubio obtained by FINRA staff. This letter was sent to the various addresses, pursuant to and in accordance with FINRA Rule 8210, as more fully detailed on Exhibit "A," attached hereto.

5. Rubio had constructive notice of the August 27, 2010 OTR. Rubio did not appear for the August 27, 2010 OTR at FINRA's District 4 office in Kansas City, Missouri, as requested.

6. On September 2, 2010, FINRA staff sent Rubio a second letter requesting his appearance for an OTR on September 17, 2010. The letter identified that the OTR was to be held at FINRA's District 4 office, in Kansas City, Missouri. The letter was sent to Rubio's CRD address, as well as second, third and fourth addresses for Rubio obtained by FINRA staff. This letter was sent to the various addresses, pursuant to and in accordance with FINRA Rule 8210, as more fully detailed on Exhibit "B," attached hereto.

7. Rubio had constructive notice of the September 17, 2010 OTR. Rubio did not appear for the September 17, 2010 OTR at FINRA's District 4 office in Kansas City, Missouri, as requested.

8. Through this conduct, Rubio violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

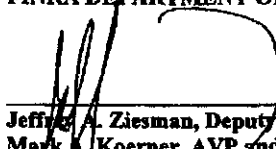
WHEREFORE, the Department respectfully requests that the Panel:

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

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: December 8, 2010


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