

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MATTHEW F. DELINE
(CRD No. 4910379),

Respondent.

Disciplinary Proceeding
No. 2009019067201

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

June 5, 2013

Respondent is barred from associating with any FINRA registered firm in any capacity for failing to appear and testify at an on-the-record interview, in violation of FINRA Rules 8210 and 2010.

Appearances

Soo H. Im, Esq., and Scott M. Andersen, Esq., for the Department of Enforcement.

No appearance by or on behalf of respondent Matthew F. Deline.

DECISION

Respondent Matthew F. Deline failed to appear and testify at an on-the-record interview (“OTR”) FINRA staff scheduled in connection with its investigation to determine if Deline (1) had made unsuitable recommendations to his customers at WFP Securities Corporation, and (2) had caused WFP’s books and records to be inaccurate by submitting materially inaccurate information about his customers’ finances. The Department of Enforcement therefore initiated this disciplinary proceeding by filing the attached Complaint with the Office of Hearing Officers on February 25, 2013. The Complaint charges that Deline violated FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

I. PROCEDURAL HISTORY AND MOTION FOR ENTRY OF DEFAULT DECISION

Enforcement served the Complaint on Deline in accordance with FINRA Rules 9131 and 9134. On February 25, 2013, Enforcement served Deline with the Notice of Complaint by first-class certified mail sent to his residential address recorded in the Central Registration Depository (“CRD”) and a second address.¹ Enforcement also sent copies of the Notice of Complaint by first-class mail to both addresses. Deline did not respond to the Complaint by the deadline specified in the Notice of Complaint.²

On March 26, 2013, Enforcement served Deline with a Second Notice of Complaint by first-class certified mail sent to the same two addresses.³ Enforcement also sent copies of the Second Notice of Complaint to both addresses by first-class mail. Deline did not answer or otherwise respond to the Complaint.⁴

On May 14, 2013, Enforcement filed a Motion for Entry of Default Decision (“Default Motion”) with the Office of Hearing Officers. The Default Motion is supported by the declaration of Soo H. Im, Esq. and ten exhibits.⁵ Enforcement served Deline with a copy of the Default Motion by first-class mail sent to his CRD address and the second address. Deline did not respond to the Default Motion.

For the reasons set forth below, the Hearing Officer finds Deline in default, grants Enforcement’s Default Motion, and bars Deline from associating with any FINRA member firm in any capacity.

¹ Decl. of Soo H. Im in Support of Mot. for Entry of Default and Default Decision (“Decl.”) ¶ 14.

² *Id.* ¶ 19.

³ *Id.* ¶ 20.

⁴ *Id.* ¶ 26.

⁵ The exhibits are labeled CX-1 through CX-10.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Hearing Officer deemed the allegations in the attached Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

A. Matthew F. Deline

Deline was associated with WFP between January 2005 and May 2010, and was registered with FINRA as a General Securities Representative until June 3, 2010, when WFP filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on Deline's behalf with FINRA.⁶ Deline has not been associated with a FINRA member firm since WFP filed the Form U5.⁷

On May 3, 2011, WFP filed an amended Form U5 that disclosed that a customer had filed a statement of claim against Deline and the firm, alleging that Deline had engaged in fraud and other wrongful misconduct in connection with the sales of Direct Participation Products.⁸

B. Jurisdiction

FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws. Enforcement filed the Complaint and requested his appearance at an OTR within two years after WFP filed the amended Form U5.⁹

C. Failure to Appear and Testify at an On-The-Record Interview

The Complaint alleges that Deline failed to appear and testify at an OTR. Enforcement sought his testimony in connection with its investigation of (1) his unsuitable recommendations to WFP customers involving multiple speculative and illiquid Direct Participation Programs and

⁶ CX-2.

⁷ CX-1.

⁸ CX-3, at 6.

⁹ 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").

non-traded real estate investment trusts, and (2) whether Deline caused WFP's books and records to be inaccurate by submitting materially inaccurate Direct Purchase Application Forms and Subscription Documents.¹⁰

FINRA staff initially focused its investigation on alleged unsuitable recommendations Deline made to certain WFP customers to invest in a series of private placement offerings by one particular issuer.¹¹ Deline cooperated with this phase of the investigation and testified at an OTR on July 1, 2010.¹² Thereafter, FINRA staff expanded its investigation because it had learned that Deline may have engaged in additional wrongful conduct. Accordingly, on May 3, 2011, FINRA staff sent Deline's attorney a Rule 8210 request that Deline appear for an OTR on June 10, 2011.¹³

Deline's attorney twice requested that FINRA staff adjourn the OTR, which FINRA staff granted. Deline's attorney first requested that the OTR be rescheduled to June 15, 2011.¹⁴ To confirm the new date, on May 11, 2011, the staff sent Deline a Rule 8210 letter by first-class and first-class certified mail to his CRD address.¹⁵ The staff also mailed a copy of the request letter to Deline's attorney. Shortly after rescheduling for June 15, however, Deline's attorney requested that the staff reschedule the OTR again.

On June 22, 2011, Deline's attorney requested that the OTR be rescheduled to August 9, 2011.¹⁶ FINRA staff agreed and sent a confirming letter to Deline's attorney on June 23, 2011. The staff included an attachment with the letter entitled "Addendum A to Request for

¹⁰ Compl. ¶¶ 2, 9.

¹¹ *Id.* ¶ 7.

¹² *Id.* ¶¶ 1, 8.

¹³ *Id.* ¶¶ 2, 9.

¹⁴ *Id.* ¶ 11.

¹⁵ "Katie Deline" signed the return receipt card for the certified mailing. *Id.* ¶ 12.

¹⁶ *Id.* ¶ 13.

Testimony,” which included a warning that the failure to appear and testify at the OTR may subject an individual to disciplinary action and the imposition of sanctions, including a bar.¹⁷ Nonetheless, on August 5, 2011, Deline’s attorney informed FINRA staff by letter that Deline would neither appear for the OTR on August 9, 2011, nor provide any further sworn testimony in connection with FINRA’s investigation.¹⁸

Deline did not appear for the OTR on August 9, 2011. Accordingly, the Hearing Officer concludes that Deline violated FINRA Rules 8210 and 2010.

III. SANCTIONS

The FINRA Sanction Guidelines (“Sanction Guidelines”) provide that a bar should be “standard” where there is a complete failure to respond to a Rule 8210 request for information.¹⁹ In addition, the Sanction Guidelines instruct adjudicators to consider the importance of the information requested as viewed from FINRA’s perspective when assessing sanctions.²⁰

The Hearing Officer concludes that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction given the facts and circumstances of this case, including a lack of mitigating factors that would warrant a lesser sanction. The information Enforcement sought was important. Enforcement was investigating serious misconduct, involving the potential of customer harm.

IV. ORDER

Deline is barred from associating with any member firm in any capacity for failing to appear and testify at an on-the-record interview, in violation of Procedural Rule 8210 and

¹⁷ *Id.* ¶ 14.

¹⁸ CX-4; Compl. ¶ 15.

¹⁹ *FINRA Sanction Guidelines* 33 (2011), available at www.finra.org/sanctionguidelines.

²⁰ *Id.*

Conduct Rule 2010. The bar shall become effective immediately if this Default Decision becomes FINRA's final action in this disciplinary proceeding.

A handwritten signature in black ink, appearing to read 'A. Perkins', is written over a solid horizontal line.

Andrew H. Perkins
Hearing Officer

Copies to:

Matthew F. Deline (*via overnight courier and first-class mail*)
Soo H. Im, Esq. (*via email and first-class mail*)
Scott M. Andersen, Esq. (*via email and first-class mail*)
Mark P. Dauer, Esq. (*via email*)
Jeffrey D. Pariser, Esq. (*via email*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Matthew F. Deline (CRD No. 4910379),

Respondent.

DISCIPLINARY PROCEEDING

—No. 2009019067201

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. On July 1, 2010, Respondent Matthew F. Deline (Deline or Respondent), appeared for testimony and answered questions, pursuant to Rule 8210, relating to staff's investigation into allegations that he had made unsuitable recommendations to certain customers while he was a registered representative with WFP Securities Corporation.

2. Thereafter, in connection with its ongoing investigation, the staff learned of additional WFP Securities Corporation customers to whom Deline may have made unsuitable recommendations. The staff's investigation also focused on whether Deline caused WFP Securities Corporation's books and records to be inaccurate by submitting subscription agreements and other WFP internal documents on behalf of his customers, which may have contained materially incorrect information about customers' financial situation.

3. In order to obtain information material to the staff's investigation, on May 3, 2011, the staff requested, pursuant to Rule 8210, that Deline appear for an OTR on June 10, 2011 to continue his testimony. Pursuant to requests from Deline's counsel, the staff rescheduled Deline's OTR on several occasions until it was finally agreed upon that Deline's OTR would resume on August 9, 2011. Thereafter, by letter dated August 5, 2011, Deline's counsel informed the staff that Deline would neither appear for on-the-record testimony on August 9, 2011, nor provide any further sworn testimony. By failing to appear for further on-the-record testimony in connection with the staff's investigation, Deline violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

4. From February 23, 2005 through June 3, 2010 (Relevant Period), Deline was registered with FINRA through WFP Securities Corporation, a FINRA member, as a General Securities Representative. WFP Securities Corporation conducted business under the name WFP Securities (WFP or the Firm). During the Relevant Period, Deline was also associated with WFP affiliate, Western Financial Planning Corporation.

5. Although Deline has not been registered or associated with a FINRA member since June 3, 2010, he remains subject to FINRA's jurisdiction for the purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint will be filed within two years of the Firm's filing of an amendment to Form U5 on May 3, 2011, disclosing that Deline may have engaged in conduct actionable under any applicable statute, rule or regulation; and (2) the Complaint charges Deline with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

FIRST CAUSE OF ACTION
(Failure to Appear and Provide On-the-Record Testimony)
(FINRA Rules 8210 and 2010)

6. The Department realleges and incorporates by reference paragraphs 1 through 5 above.

7. On June 18, 2010, in connection with an investigation involving alleged unsuitable recommendations made by Deline to certain WFP customers to invest in a series of private placement offerings by one particular issuer, the staff requested, pursuant to Rule 8210, that Deline appear for on-the-record (OTR) testimony at the FINRA District office located in Los Angeles, California.

8. On July 1, 2010, Deline appeared for testimony and answered the staff's questions.

9. Thereafter, in connection with its ongoing investigation, the staff learned that Deline may have made unsuitable recommendations to additional WFP customers involving multiple speculative and illiquid Direct Participation Programs and non-traded real estate investment trusts (REITs). The staff's investigation also focused on whether Deline caused WFP's books and records to be inaccurate by submitting Direct Purchase Application Forms and Subscription Documents on behalf of his customers, which may have contained materially incorrect information about customers' income, assets, net worth, and status as purported accredited investors.

10. Therefore, in order to obtain information material to the staff's investigation of additional potential violations discovered subsequent to Deline's initial OTR, the staff sent a letter, on May 3, 2011, via first class mail to Deline's counsel, requesting pursuant to Rule 8210 that Deline appear for an OTR at 9:00 a.m. on June 10, 2011, at FINRA's Los Angeles office.

11. In or about May 11, 2011, Deline's counsel requested that the staff reschedule Deline's OTR for June 15, 2011 to accommodate his client's schedule. In order to confirm the new OTR date, on May 11, 2011 the staff sent a letter via first class and certified mail to Deline at his CRD residential address of record, which was located in Encinitas, California (CRD Address), to confirm Deline's appearance for an OTR requested pursuant to Rule 8210 at 9:00 a.m. on June 15, 2011, at FINRA's Los Angeles office. The staff also sent a copy of the May 11, 2011 letter, via first class mail, to Deline's counsel.

12. The first class mailing of the May 11, 2011 letter to Deline's CRD address was not returned. The return receipt card for the certified mailing of the May 11, 2011 letter to Deline's CRD address was returned to the staff having been signed for by "Katie Deline."

13. Shortly after the staff agreed to reschedule Deline's OTR for June 15, 2011, Deline's counsel requested that the staff further reschedule the OTR. On or about June 22, 2011, Deline's counsel requested that the staff reschedule Deline's OTR from June 15, 2011 to August 9, 2011.

14. On June 23, 2011, the staff sent a letter via first class mail to Deline's counsel confirming that Deline's OTR would resume at 9:00 a.m. on August 9, 2011, at FINRA's Los Angeles office. The letter enclosed an attachment titled "Addendum A to Request for Testimony," which included a statement that the failure to appear and testify at the OTR, may subject an individual to disciplinary action and the imposition of sanctions, which might include a bar from the securities industry, suspension, censure and/or fine.

15. Thereafter, by letter dated August 5, 2011, Deline's counsel informed the staff that Deline would neither appear for OTR testimony on August 9, 2011, nor provide any further sworn testimony in connection with FINRA's investigation.

16. Deline did not appear on August 9, 2011 and, to date, has not provided the requested testimony. Deline's failure to appear and continue his testimony has detrimentally impacted FINRA's investigation.

17. By reason of the foregoing, Deline violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. 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

Date: February 25, 2013



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