

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

DEPARTMENT OF MARKET
REGULATION,

Complainant,

v.

MICHAEL J. CASSANO
(CRD No. 2666840),

Respondent.

Disciplinary Proceeding
No. 20090198033

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

June 5, 2012

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 Procedural Rule 8210 and Conduct Rule 2010.

Appearances

Kevin M. McGee, Esq., and James J. Nixon, Esq., for the Department of Market Regulation.

No appearance by or on behalf of Michael J. Cassano.

DECISION

The FINRA Department of Market Regulation (“Market Regulation”) filed the attached Complaint with the Office of Hearing Officers on February 14, 2012. The Complaint charges Respondent Michael J. Cassano (“Cassano”) with failing to appear and testify at an on-the-record interview, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010. Market Regulation sought his testimony in connection with its investigation into possible violations of securities laws and regulations relating to the handling and execution of certain corporate fixed income transactions between January 1, 2008, and December 31, 2010. During the relevant

period, Cassano was registered with FINRA as a General Securities Representative and a General Registered Principal at two FINRA member firms.

I. Procedural History

On February 14, 2012, Market Regulation properly served Cassano with a Notice of Complaint by FedEx and first-class mail. Market Regulation sent the Notice of Complaint and a copy of the Complaint to Cassano at his residential address recorded in the Central Registration Depository (“CRD”).¹ Cassano did not answer or otherwise respond to the Complaint.

On March 16, 2012, Market Regulation served Cassano with a Second Notice of Complaint at his CRD address by FedEx and first-class mail.² To date, Cassano has not answered or otherwise responded to the Complaint.

On May 8, 2012, Market Regulation 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 Kevin M. McGee, Esq. and three exhibits.³ Cassano did not respond to the Default Motion.

For the reasons set forth below, the Hearing Officer finds Cassano in default and grants Market Regulation’s Default Motion. The Hearing Officer deemed the allegations in the attached Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

¹ Decl. in Support of Mot. for Entry of Default Decision (“Decl.”) ¶ 6.

² Decl. ¶ 8.

³ Enforcement’s exhibits are labeled CX-1 through CX-3.

II. Findings of Fact and Conclusions of Law

A. Michael J. Cassano

Cassano entered the securities industry in 1995. Between 1995 and 2010, he was associated with nine different FINRA member firms. Most recently he was associated with Max International Broker/Dealer Corp. from October 2006 to May 2009 and Laidlaw & Company (UK) LTD from December 2009 until March 2010.⁴ Cassano's last registration with FINRA ended on March 22, 2010.

B. Jurisdiction

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 FINRA terminated Cassano's registration, and (2) the Complaint charges him with failing to appear and testify at an on-the-record interview during the two-year period following the termination of his FINRA registration.⁵

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

The Complaint alleges that Cassano failed to appear and testify at an on-the-record interview that Market Regulation had scheduled in connection with its investigation of the handling and execution of certain corporate fixed income transactions between January 1, 2008, and December 31, 2010. Specifically, the investigation focused on whether customers were charged excessive markups and the adequacy of the supervision of the subject transactions.⁶

Market Regulation originally set Cassano's on-the-record interview for April 15, 2011, at FINRA's offices in Rockville, Maryland. On March 31, 2011, Cassano requested that the on-the-

⁴ CX-1, at 2.

⁵ 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").

⁶ Decl. ¶ 2.

record interview be moved to New York.⁷ Market Regulation agreed to Cassano's request. However, on April 11, 2011, Cassano requested that the interview be postponed. Market Regulation agreed to the requested postponement and rescheduled the interview to May 20, 2011.⁸ Market Regulation sent Cassano notice of the new date on May 3, 2011.

On May 10, 2011, Market Regulation sent Cassano a letter, advising him that the location of the on-the-record interview had been changed to FINRA's office at 14 Wall Street, New York, NY.⁹ Market Regulation sent the letter by FedEx to Cassano's CRD address. The letter required Cassano to appear pursuant to FINRA Rule 8210.¹⁰

Cassano failed to appear for the on-the-record interview on May 20, 2011.¹¹

The facts alleged in the Complaint establish that Cassano violated FINRA Rules 8210 and 2010 by failing to appear and testify on May 20, 2011.

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.¹² In addition, the Sanction Guidelines instruct adjudicators to consider the importance of the information requested as viewed from FINRA's perspective when assessing sanctions.¹³

The Hearing Officer finds 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,

⁷ Decl. ¶ 12.

⁸ *Id.* ¶ 15.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* ¶ 16.

¹² FINRA Sanction Guidelines 33 (2011), www.finra.org/sanctionguidelines.

¹³ *Id.*

including a lack of mitigating factors that would warrant a lesser sanction. The information Market Regulation sought was important. Market Regulation was investigating serious misconduct, involving the potential of customer harm. In addition, Market Regulation asserts that its investigation was thwarted by Cassano's refusal to provide information as requested.¹⁴ Accordingly, the Hearing Officer will bar Cassano from associating with any FINRA member firm in all capacities.

IV. Order

Cassano 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 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', written over a horizontal line.

Andrew H. Perkins
Hearing Officer

Copies to:

Michael J. Cassano (*via overnight courier and first-class mail*)
Kevin M. McGee, Esq. (*via electronic and first-class mail*)
James J. Nixon, Esq. (*via electronic mail*)

¹⁴ Decl. ¶ 17.

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

Department of Market Regulation,
Complainant,

v.

Michael J. Cassano
(CRD No. 2666840),

Respondent.

**DISCIPLINARY PROCEEDING
NO. 20090198033**

COMPLAINT

The Department of Market Regulation alleges:

Summary

1. In connection with an investigation by the staff of the Department of Market Regulation to determine whether there were violations of the securities laws, rules and regulations, the staff requested Michael J. Cassano ("Cassano" or the "Respondent") to testify about his knowledge of and participation in the conduct under review. The staff's investigation concerned the handling and execution of certain corporate fixed income transactions at a FINRA member firm, and related supervision, from January 1, 2008 through December 31, 2010. Respondent was identified by the firm as having supervisory responsibilities with respect to the firm's fair pricing obligations in connection with corporate fixed income transactions. Respondent, however, failed to cooperate with the staff's investigation and refused to appear and testify as requested. As a result, Respondent violated FINRA Rules 8210 and 2010.

Respondent

2. Cassano became employed in the securities business and registered with FINRA on or about June 1, 1995. He was associated with nine different brokerage firms from June 1995 through May 2009. Cassano was last registered at a FINRA member firm from December 7, 2009 through March 22, 2010, when the firm filed a Form U5 terminating his registration. Although Cassano is no longer registered or associated with a FINRA member, 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 is being filed within two years after the effective date of termination on March 22, 2010; and (2) the Complaint charges him 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

Cassano's Failure to Appear for Investigative Testimony in Violation of FINRA Rules 2010 and 8210

3. Market Regulation realleges and incorporates by reference paragraphs one and two above.

4. On March 30, 2011, the staff served upon Cassano a written request pursuant to FINRA Rule 8210, via Federal Express, which required him to appear for investigative testimony on April 15, 2011 at 9509 Key West Avenue, Rockville, MD 20850. The written request was sent to Cassano's residential address as reflected in the Central Registration Depository (CRD).

5. On March 31, 2011, Cassano contacted the staff via telephone to request that his testimony be relocated to New York. The staff agreed to the request and sent Cassano a written

letter to his current residential CRD address on April 1, 2011, via U.S. Mail, confirming a New York location for his testimony.

6. On April 11, 2011, Cassano contacted the staff again via telephone and requested that his testimony be temporarily postponed so that he could retain an attorney. The staff agreed to this request.

7. From April 19, 2011 through April 27, 2011, the staff called Cassano four times at his home and cellular telephone numbers and left messages seeking to reschedule his testimony. Cassano never returned any of the phone messages.

8. On May 3, 2011, the staff served upon Cassano a written request pursuant to FINRA Rule 8210, via Federal Express, which required him to appear for investigative testimony on May 20, 2011 at One Liberty Plaza, New York, New York 10006. Another letter, sent via Federal Express and pursuant to FINRA Rule 8210, was served upon Cassano on May 10, 2011. The May 10, 2011, noticed a change in location of the May 20, 2011 testimony to 14 Wall Street, New York, New York 10005. Both letters were sent to Cassano's current residential CRD address.

9. Cassano failed to appear for his on-the-record interview on May 20, 2011. On that date, the staff opened the record as scheduled and closed the record 42 minutes later. Cassano never appeared for testimony.

10. As a result of Cassano's failure to appear for testimony, the staff was prevented from pursuing certain material areas of its ongoing investigation.

11. By reason of the foregoing, Cassano violated FINRA Rules 2010 and 8210.

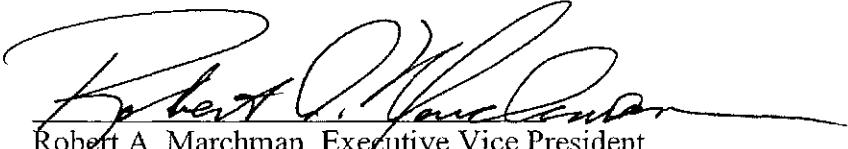
Prayer for Relief

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. An order that one or more sanctions under FINRA Rule 8310(a) be imposed;
- C. An order imposing such costs of any proceeding against Respondent as are deemed fair and appropriate under the circumstances, in accordance with FINRA Rule 8330; and
- D. An order granting all further relief, legal or equitable, that is warranted under the circumstances.

Date: February 14, 2012

FINRA Department of Market Regulation



Robert A. Marchman, Executive Vice President
David E. Rosenstein, Senior Vice President
James J. Nixon, Chief Litigation Counsel

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