

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

Department of Enforcement,

Complainant,

v.

Dale David Twardowski,
CRD No. 4056379,

Respondent.

Disciplinary Proceeding
No. 2009020936801

Hearing Officer: SNB

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 1, 2011

INTRODUCTION

Disciplinary Proceeding No. 2009020936801 was filed on May 31, 2011, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA"). Respondent Dale David Twardowski ("Twardowski") submitted an Offer of Settlement ("Offer") to FINRA dated August 29, 2011. Pursuant to FINRA Rule 9270(e), the FINRA and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by FINRA and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of

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the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Twardowski entered the securities industry in October 1989 when he became associated with a FINRA member. Between April 2003 and June 2010, Twardowski was associated with former FINRA member Gemstone Securities, LLC ("Gemstone").¹ Twardowski has not been associated with any FINRA member since Gemstone filed form BDW. Twardowski holds Series 7, 24, 27 and 66 licenses. Under Article V, Section 4 of FINRA's By-Laws, FINRA retains jurisdiction over Twardowski until May 9, 2012, two years after he was last associated with Gemstone.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

1. In order to investigate Twardowski's involvement in potential misappropriation of customer funds in a Regulation D private placement offering, on February 28, 2011, the staff sent a letter to Twardowski, pursuant to FINRA Rule 8210, requesting that he provide various documents and information ("First Request").

2. The First Request was sent by first class and certified mail to Twardowski's residential address reflected in FINRA's Central Registration Depository ("CRD Address") and required his response on or before March 14, 2011.

¹ Gemstone filed Form BDW on May 10, 2010. On June 11, 2010, FINRA cancelled Gemstone's membership for failure to pay fees.

3. The First Request sought Twardowski to provide the staff with copies of his personal tax returns for tax years 2005, 2006, 2007, 2008 and 2009.

4. The first class mailing of the First Request was not returned to FINRA and the certified mailing receipt card was returned to the staff by the United States Postal Service reflecting that the First Request was delivered to the CRD Address and signed for by "P. Twardowski."

5. On May 2, 2010, Twardowski's counsel informed the staff both on the telephone and in email correspondence that Twardowski would not provide the staff with his personal tax returns.

6. To date, Twardowski has not responded to the First Request.

7. Twardowski's personal tax returns were critical documents to the staff's investigation and the failure to provide them impeded the staff's investigation.

8. By failing to respond to the First Request, Twardowski violated FINRA Rules 8210 and 2010.

9. On March 1, 2011, the staff sent a letter to Twardowski wherein the staff requested that Twardowski appear in the Florida District Office on March 29, 2011 and provide investigative testimony.

10. Twardowski contacted the staff by telephone on March 22, 2011 and stated that he could not attend investigative testimony on March 29, 2011. Twardowski further indicated that he had retained counsel and that all scheduling should be conducted through his counsel.

11. On May 2, 2010, Twardowski's counsel informed the staff both on the telephone and in email correspondence that Twardowski would not appear for investigative testimony.

12. On May 5, 2011, the staff sent a letter to Twardowski's counsel by email, first class and certified mail, wherein the staff requested that Twardowski appear in the Florida District Office on May 12, 2011 and provide investigative testimony.

13. In accordance with counsel's representation that Twardowski would not appear for investigative testimony, Twardowski in fact did not appear for the scheduled testimony.

14. Twardowski's investigative testimony was critical to the staff's investigation and his refusal to testify impeded the staff's investigation.

15. By failing to appear for testimony on May 12, 2011 and by refusing to provide testimony, Twardowski violated FINRA Rules 8210 and 2010.

Based on the foregoing, Respondent violated FINRA Rules 8210 and 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be barred from associating with any member firm in any capacity.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA
Signed on behalf of the
Director of ODA, by delegated authority

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