

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOHN MAZZARELLA
(CRD No. 1175843),

Respondent.

Disciplinary Proceeding
No. 2010024021202

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

January 25, 2013

Respondent is barred from associating with any FINRA member firm in any capacity for failing to provide testimony and documents, in violation of FINRA Rules 8210 and 2010.

Appearances

For the Department of Enforcement, Complainant: Soo H. Im, Esq.

For John Mazzarella, Respondent: no appearance.

DECISION

John Mazzarella was formerly registered with FINRA and associated as an Investment Company and Variable Contracts Products Representative and a General Securities Representative with Cambridge Investment Research, Inc. Cambridge Investment Research discharged Mazzarella in August 2010. After FINRA received the Uniform Termination Notice for Securities Industry Registration (Form U5) that Cambridge Investment Research filed on Mazzarella's behalf, FINRA Staff began an investigation into his outside business activities and loans he received from two of his customers. In the course of the investigation, FINRA Staff sent Mazzarella three requests for information pursuant to Rule 8210. He failed to respond to any of the requests.

Enforcement filed a complaint with the Office of Hearing Officers, charging Mazzarella with violating FINRA Rules 8210 and 2010. FINRA Rule 8210 grants FINRA staff the right to require a person subject to FINRA's jurisdiction to provide information with respect to any matter involved in an investigation, complaint, examination, or proceeding. FINRA Rule 2010 requires persons associated with FINRA member firms to observe high standards of commercial honor and just and equitable principles of trade.

Mazzarella did not answer or otherwise respond to the Complaint. Accordingly, Enforcement filed a motion for entry of a default decision. The motion is supported by the Declaration of Soo H. Im and 12 exhibits.

For the reasons discussed below, the Hearing Officer grants Enforcement's motion.

I. Jurisdiction

FINRA has jurisdiction over this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws¹ because (1) the Complaint was filed within two years after Mazzarella's last registration with FINRA terminated,² and (2) the Complaint charges him with failing to respond to requests for information that FINRA staff issued during the two-year period following the termination of his FINRA registration.

II. Enforcement's Motion For Entry Of A Default Decision Is Granted

Enforcement filed the attached Complaint with the Office of Hearing Officers on July 24, 2012, and the same day served Mazzarella with a copy of the Complaint and Notice of Complaint by first-class certified mail (return receipt requested) at his residential address recorded in the Central Registration Depository ("CRD").³ The certified mailing was returned to

¹ 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").

² FINRA terminated his last registration effective August 20, 2010. Ex. 1, at 5.

³ Declaration of Soo H. Im ("Decl.") ¶ 10.

Enforcement.⁴ Enforcement also sent copies of the Complaint and Notice of Complaint to three additional addresses Enforcement had obtained for Mazzarella. He did not answer the Complaint by August 21, 2012, the deadline set in the Notice of Complaint.⁵

On August 29, 2012, Enforcement served Mazzarella with a copy of the Complaint and Amended Second Notice of Complaint by first-class certified mail (return receipt requested) at his CRD address.⁶ The certified mailing was returned to Enforcement.⁷ Enforcement also sent copies of the Complaint and Second Notice of Complaint to the three alternate addresses. The Amended Second Notice of Complaint required Mazzarella to file an Answer with the Office of Hearing Officers on or before September 10, 2012.⁸ To date, Mazzarella has not answered or otherwise responded to the Complaint.⁹

On October 18, 2012, Enforcement filed a motion for entry of default decision with the Office of Hearing Officers. Mazzarella did not respond to the motion.

The Hearing Officer concludes that Mazzarella received valid constructive service of this proceeding in accordance with the provisions of FINRA Rules 9134(a)(2) and (b)(1), and he therefore defaulted by failing to answer the Complaint. Accordingly, the Hearing Officer grants Enforcement's motion for entry of a default decision.

⁴ Decl. ¶ 11.

⁵ *Id.* ¶¶ 10, 15.

⁶ *Id.* ¶ 16. Enforcement sent an Amended Second Notice of Complaint to Mazzarella to correct the deadline for filing an answer. The original Second Notice of Complaint, sent on August 23, had set the deadline for a Sunday. The Amended Second Notice of Complaint reflected the correct date—Monday, September 10, 2012. (Ex. 8.)

⁷ *Id.* ¶ 17.

⁸ *Id.* at 4 n.1.

⁹ *Id.* ¶ 21.

III. Findings Of Fact

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

A. John Mazzarella

Mazzarella began his career in the securities industry in 1997. He joined Cambridge Investment Research in February 2004.¹⁰ Cambridge Investment Research discharged Mazzarella on August 3, 2010.¹¹ He was registered with FINRA as an Investment Company and Variable Contracts Products Representative and a General Securities Representative from February 23, 2004, until August 20, 2010.¹² Mazzarella is not currently associated with a FINRA-registered firm.¹³

B. Mazzarella's Failure To Provide Information And Documents

FINRA Staff sent Mazzarella a letter dated March 28, 2012, which requested that he appear for an on-the-record interview on April 27, 2012, at FINRA's Philadelphia office.¹⁴ The letter also required that he produce documents relating to FINRA's investigation concerning his outside business activities and payment of any money to customers KM and VB no later than April 16, 2012.¹⁵ FINRA Staff sent the request to his CRD address pursuant to Rule 8210 by first-class certified mail (return receipt requested).¹⁶ The return receipt for the certified mailing to the CRD address was returned with an illegible signature.¹⁷

¹⁰ Ex. 1, at 3.

¹¹ *Id.* at 4.

¹² *Id.* at 5.

¹³ *Id.* at 4.

¹⁴ Compl. ¶ 5.

¹⁵ *Id.* ¶ 6.

¹⁶ FINRA Staff also sent copies of the request letter to two other addresses it had obtained for Mazzarella. *Id.* ¶ 7.

¹⁷ *Id.* ¶ 8.

Mazzarella did not provide any of the requested documents or appear for his on-the-record interview.¹⁸

On April 30, 2012, FINRA Staff issued a second request that Mazzarella appear and provide testimony relating to its ongoing investigation. The letter required that he appear on May 31, 2012, and that he produce the previously requested documents by May 17, 2012. FINRA Staff sent the letter by first-class certified mail (return receipt requested) to his CRD address and the other two addresses.¹⁹ The return receipt for each mailing was returned with the signature of "Sara Mazzarella."²⁰

Mazzarella did not appear for his on-the-record interview on May 31, 2012. He also did not provide the requested documents.²¹

On June 4, 2012, FINRA Staff sent Mazzarella another request that he appear and testify regarding the issues under investigation. The letter required that he appear at FINRA's Los Angeles office on June 18, 2012. The letter further requested that he provide the documents that FINRA Staff had requested previously in the March 28 and April 30 letters. The deadline for producing the documents was June 11, 2012.²²

FINRA Staff sent the June 4 letter by first-class certified mail (return receipt requested) to Mazzarella's CRD address and three additional addresses. The return receipt for the certified mailing to the CRD address and two of the alternate addresses were returned with illegible

¹⁸ *Id.* ¶ 11.

¹⁹ *Id.* ¶ 12.

²⁰ *Id.* ¶¶ 13-15.

²¹ *Id.* ¶ 16.

²² *Id.* ¶ 17.

signatures. The United States Postal Service tracking records for the third certified mailing shows that it was delivered as well.²³

Mazzarella did not appear for his on-the-record interview on June 18, 2012. He also did not provide any of the requested documents.²⁴

IV. Conclusions Of Law

FINRA Rule 8210 requires FINRA members and their associated persons to cooperate with FINRA investigations by providing information when requested by FINRA staff. Pursuant to Rule 8210, FINRA may require an associated person “to provide information orally, in writing, or electronically . . . and to testify at a location specified by FINRA staff, under oath or affirmation” in connection with any investigation. The Rule is crucial to FINRA’s ability to oversee and regulate member firms and associated persons because FINRA does not have subpoena power. Instead, FINRA must depend on member firms and associated persons to cooperate fully and promptly with requests for information.²⁵ A failure to cooperate in an investigation frustrates FINRA’s ability to detect misconduct and protect investors and markets.²⁶

In this case, Enforcement made three attempts to obtain information from Mazzarella pursuant to FINRA Rule 8210. Mazzarella failed to respond to any of the requests.

The Hearing Officer finds that Mazzarella violated FINRA Rule 8210 by his failure to appear for an on-the-record interview and to provide the requested documents pursuant to that

²³ *Id.* ¶¶ 18-22.

²⁴ *Id.* ¶ 23.

²⁵ *See, e.g., Dep’t of Enforcement v. Valentino*, No. FPI010004, 2003 NASD Discip. LEXIS 15, at *12 (NAC May 21, 2003), *aff’d*, 2004 SEC LEXIS 330 (Feb. 13, 2004) (“It is well established that because NASD [FINRA’s predecessor] lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD’s ability to carry out its regulatory mandate.”) (citation omitted). *See also Morton Bruce Erenstein*, 316 Fed. App’x 865, 871, 2008 U.S. App. LEXIS 19746, at *13 (11th Cir. Sept. 16, 2008) (“[I]t is critically important to the self-regulatory system that members and associated persons cooperate with NASD investigations, especially because the NASD lacks subpoena power.”).

²⁶ *PAZ Sec., Inc.*, 2008 SEC LEXIS 820, at *13 (Apr. 11, 2008), *petition for review denied sub nom. Paz Sec. v. SEC*, 566 F.3d 1172, 2009 U.S. App. LEXIS 11500 (D.C. Cir. May 29, 2009).

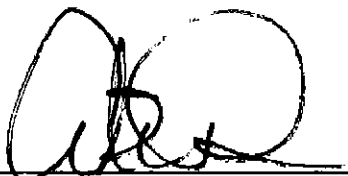
Rule. In addition, the Hearing Officer finds that Mazzarella violated FINRA Rule 2010. It is well established that a violation of the duty to cooperate and provide information pursuant to Rule 8210 is also a violation of Rule 2010.²⁷

V. Sanctions

For failing to respond in any manner to a Rule 8210 request for information, the FINRA Sanction Guidelines provide that a bar should be the standard sanction.²⁸ The record does not disclose any mitigating factors that would warrant permitting Mazzarella to remain in the securities industry. Accordingly, the Hearing Officer finds that a bar is the appropriate sanction for his failure to appear and provide testimony and his failure to provide documents.

VI. Order

John Mazzarella is barred from associating with any member firm in any capacity for failing to provide testimony and documents, in violation of Rules 8210 and 2010. The bar shall become effective immediately if this Default Decision becomes FINRA's final action in this disciplinary proceeding.



Andrew H. Perkins
Hearing Officer

Copies to:

John Mazzarella (*via overnight courier and first-class mail*)
Soo H. Im, Esq. (*via electronic and first-class mail*)
Scott M. Anderson, Esq. (*via electronic mail*)
Jacqueline D. Whelan, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)
Mark P. Dauer, Esq. (*via electronic mail*)

²⁷ See *CMG Inst. Trading, LLC*, Exchange Act Rel. No. 59325, 2009 SEC LEXIS 215, at *30 (Jan. 30, 2009).

²⁸ FINRA SANCTION GUIDELINES 33 (2011), available at www.finra.org/sanctionguidelines.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOHN MAZZARELLA
(CRD No. 1175843),

Respondent.

DISCIPLINARY PROCEEDING
No. 2010024021202

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In connection with an investigation concerning possible outside business activity and loans to John Mazzarella from two customers, KM and VB, the staff requested that Mazzarella appear for his testimony on three separate occasions and to provide documents. On all three occasions he failed to appear for testimony and failed to provide any of the requested documents, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Mazzarella first became registered as an Investment Company Products/Variable Contracts Representative (IR) through his association with a FINRA member firm in August 1983. Subsequently, he was associated with several member firms where he was registered as an IR and a General Securities Representative (GSR). From February 2004 to August 3, 2010, he

was associated with Cambridge Investment Research, Inc. (the Firm) where he was registered as an IR and a GSR. Mazzarella's conduct occurred while he was associated with the Firm.

3. Although Mazzarella 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 was filed within two years after the effective date of termination of Mazzarella's registration with the Firm, namely, August 23, 2010; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to respond to FINRA requests for information and 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
(Failing to Appear for Testimony and Provide Documents)
(FINRA Rules 8210 and 2010)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.

The Request for Appearance on April 27, 2012

5. By letter March 28, 2012, the staff requested, pursuant to FINRA Rule 8210, that Mazzarella appear for an on-the-record interview (OTR) on April 27, 2012 at 11:00 a.m. at FINRA's Philadelphia office.

6. The letter also requested that Mazzarella provide documents evidencing any payment of money to customers KM and VB, and all documents concerning his outside business activity. The documents were to be produced no later than April 16, 2012.

7. The letter was sent by first class and certified mail return receipt requested to Mazzarella' CRD address in Glen Mills, PA (the CRD Address). The letter was also sent to two additional addresses obtained by the staff: an address that was identical to the CRD Address except for an addition of an apartment number (the Alternate Address), and an address located in Phoenixville, PA (the Phoenixville Address).

8. The first class mailing to the CRD Address was not returned. The return receipt card for the certified mailing to the CRD Address was returned with an illegible signature.

9. The first class mailing to the Alternate Address was not returned. The return receipt card for the certified mailing to the Alternate Address was returned with an illegible signature.

10. The first class mailing to the Phoenixville Address was not returned. The certified mailing to the Phoenixville Address was not returned. Records maintained electronically by the United States Postal System (USPS) evidence that delivery of the certified mailing occurred on April 23, 2012.

11. Mazzarella did not provide any of the documents requested in the letter. Mazzarella did not appear for his OTR on April 27, 2012.

The Request for Appearance on May 31, 2012

12. By letter dated April 30, 2012, the staff requested, pursuant to FINRA Rule 8210, that Mazzarella appear and give testimony on May 31, 2012 at 11:00 a.m. at FINRA's Philadelphia office. The letter also requested that Mazzarella provide the documents that were previously requested in the March 28 letter on or before May 17, 2012. The letter was sent by

first class and certified mail return receipt requested to the CRD Address, the Alternate Address, and the Phoenixville Address.

13. The first class mailing to the CRD Address was not returned. The return receipt card for the certified mailing to the CRD Address was returned with the signature of Sara Mazzarella.

14. The first class mailing to the Alternate Address was not returned. The return receipt card for the certified mailing to the Alternate Address was returned with the signature of Sara Mazzarella.

15. The first class mailing to the Phoenixville Address was not returned. The return receipt card for the Phoenixville Address was returned with the signature of Sara Mazzarella.

16. Mazzarella did not provide any of the documents requested in the letter. Mazzarella did not appear for his OTR on May 31, 2012.

The Request for Appearance on June 18, 2012

17. By letter dated June 4, 2012, the staff requested, pursuant to FINRA Rule 8210, that Mazzarella appear and give testimony on June 18, 2012 at 9:30 a.m. at FINRA's Los Angeles office. The letter also requested that Mazzarella provide the documents that were previously requested in the March 28 and April 30 letters on or before June 11, 2012.

18. The letter was sent by first class and certified mail return receipt requested to the CRD Address, the Alternate Address, the Phoenixville Address, and an additional address obtained by the staff in Meza, AZ (the Arizona Address).

19. The first class mailing to the CRD Address was not returned. The return receipt card for the certified mailing to the CRD Address was returned with an illegible signature.

20. The first class mailing to the Alternate Address was not returned. The return receipt card for the certified mailing to the Alternate Address was returned with an illegible signature.

21. The first class mailing to the Phoenixville Address was not returned. The return receipt card for the certified mailing to the Phoenixville Address was returned unsigned. Records maintained electronically by the USPS evidence that delivery of the certified mailing occurred on June 14, 2012.

22. The first class mailing to the Arizona Address was not returned. The return receipt card for the certified mailing to the Arizona Address was returned with an illegible signature.

23. Mazzarella did not provide any of the documents requested in the letter. Mazzarella did not appear for his OTR on June 18, 2012.

24. By reason of his failure to participate in the OTRs scheduled for April 27, May 31, and June 18, 2012, and his failure to provide documents requested on or before the due dates set forth in the requests, as described in paragraphs 5-23 above, Mazzarella 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 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: July 24, 2012



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