

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SCOTT FITZGERALD WRIGHT
(CRD No. 2087728),

Respondent.

Disciplinary Proceeding
No. 2010024315802

Hearing Officer – LBB

DEFAULT DECISION

April 25, 2013

Respondent 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 FINRA Rules 8210 and 2010.

Appearances

Cynthia A. Kittle, Esq., Los Angeles, California, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement filed the Complaint in this disciplinary proceeding on December 4, 2012, charging Respondent Scott Fitzgerald Wright with failing to appear and testify at an on-the-record interview (OTR), in violation of FINRA Rules 8210 and 2010.

Despite being properly served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Respondent has not filed an answer or otherwise responded to the Complaint.

Enforcement filed a Motion for Entry of Default Decision on April 1, 2013, to which Respondent did not respond. Accordingly, pursuant to FINRA Rules 9215(f) and 9269, the allegations in the Complaint are deemed admitted, and Enforcement's motion is granted.¹

I. Respondent's Default

On January 4, 2013, Enforcement served the First Notice of Complaint and Complaint on Respondent by first-class and certified mail at his residential address, as listed in the Central Registration Depository (CRD). Kittle Decl. ¶ 2.² Enforcement also served Respondent at two alternative addresses obtained by a public records search. Kittle Decl. ¶ 2; CX-3. The Postal Service returned the three certified mailings. The Postal Service did not return the first-class mailings sent to the CRD address and one alternative address, but returned one first-class mailing. Kittle Decl. ¶ 3; CX-4 – CX-6.

On February 4, 2013, Enforcement served the Second Notice of Complaint and Complaint on Respondent by first-class and certified mail at the same three addresses, plus a fourth address identified through a public records search. Kittle Decl. ¶ 5; CX-7. The Postal Service returned all four certified mailings, and two of the first-class mailings. Kittle Decl. ¶ 6; CX-8 – CX-11. On February 22, 2013, Respondent telephoned counsel for Enforcement and informed her that he had received the Notice of Complaint and Complaint. Kittle Decl. ¶ 7.

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion, which includes declarations by Jason Freeman, a FINRA examiner, and Cynthia A. Kittle, counsel for Enforcement, and supporting documentation. The examiner's declaration is cited herein as "Freeman Decl. ¶ ____." Counsel's declaration is cited herein as "Kittle Decl. ¶ ____." The supporting documentation is cited as "CX-__."

² Counsel's declaration states that the First Notice and Complaint were filed and served on January 4, 2013. The Notice and Complaint were filed with the Office of Hearing Officers on December 4, 2012. The Complaint and an amended First Notice of Complaint were filed on January 4, 2013.

Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with FINRA Rule 9134, giving him actual and constructive notice of this proceeding. By failing to respond, he defaulted.

II. Jurisdiction

Respondent was first registered with a FINRA member firm in 1990, and was registered with fifteen firms from 1990 until April 2011. He was registered with member firm ICON Securities Corporation from November 8, 2010, through April 13, 2011, when ICON filed a Uniform Termination Notice for Securities Industry Registration (Form U5) reporting that it had terminated his employment on March 31, 2011. Respondent has not been registered with any member firms since April 13, 2011. Freeman Decl. ¶ 2; CX-1, CX-2.

Although Respondent has not been registered with a member firm since April 2013, he remains subject to FINRA's jurisdiction, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the termination of his registration with a member firm, and it charges him with failure to comply with Rule 8210 requests for testimony that were issued within two years after the termination of his registration with a member firm.

III. Respondent Violated FINRA Rules 8210 and 2010 by Failing to Appear and Testify at an OTR

FINRA began the investigation that led to the filing of the Complaint as a result of an NASD Rule 3070 filing concerning a private securities transaction by a registered representative at a different firm. The Rule 3070 filing related to an offering known as Gulf Coast Oil & Rig. During the examination that resulted from the Rule 3070 filing, FINRA staff learned that Respondent was also involved in the offering, and may have acted as a principal in Gulf Coast Oil & Rig. FINRA staff sought information and documents from Respondent concerning Gulf

Coast Oil & Rig. Respondent complied with the staff's first request for documents and information, issued on March 30, 2011. Freeman Decl. ¶¶ 3-5; Complaint ¶ 5.

On August 16, 2011, pursuant to FINRA Rule 8210, FINRA staff sent a letter to Respondent at his CRD address, requiring him to appear on September 14, 2011, for an OTR concerning the FINRA examination relating to Gulf Coast Oil & Rig. Complaint ¶ 6; Freeman Decl. ¶¶ 6-7. Respondent failed to appear for the OTR. Complaint ¶ 8.

On September 15, 2011, pursuant to FINRA Rule 8210, FINRA staff sent a second letter to Respondent at his CRD address, and two additional potential addresses identified by the staff, requiring him to appear for an OTR on September 29, 2011, to testify concerning matters involved in FINRA's investigation. Respondent failed to appear and testify at the OTR on September 29, 2011. Complaint ¶¶ 9-11.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for testimony at an OTR, in violation of FINRA Rule 8210. A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.³

IV. Sanctions

The FINRA Sanction Guidelines recommend a bar as the standard sanction where a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.⁴ Where mitigation exists, the Guidelines recommend consideration of a suspension in all capacities of up to two years. Respondent did not appear to testify at the OTR. There are no

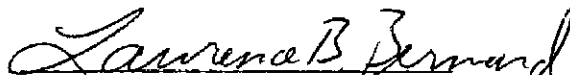
³ *Dep't of Enforcement v. Gallagher*, No. 2008011701203, 2012 FINRA Discip. LEXIS 61, at *12 n.9 (N.A.C. Dec. 12, 2012).

⁴ *FINRA Sanction Guidelines* at 33 (2011) ("Guidelines").

mitigating factors. A bar is the appropriate sanction under the facts and circumstances of this case for Respondent's violation of FINRA Rules 8210 and 2010.

V. Conclusion

Respondent Scott Fitzgerald Wright is barred from associating with any member firm in any capacity for failure to appear and testify at an on-the-record interview, in violation of FINRA Rules 8210 and 2010. The bar will become effective immediately if this decision becomes FINRA's final disciplinary action in this proceeding.


Lawrence B. Bernard
Hearing Officer

Copies to: Scott Fitzgerald Wright (*via FedEx overnight courier and first-class mail*)
Cynthia A. Kittle, Esq. (*via electronic and first-class mail*)
Scott M. Andersen, Esq. (*via electronic mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
Jeffrey Pariser, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Scott Fitzgerald Wright
(CRD No. 2087728),

Respondent.

DISCIPLINARY PROCEEDING
No. 2010024315802

Hearing Officer – LBB

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Scott Fitzgerald Wright failed to appear and testify in an on-the-record interview as required pursuant to FINRA Rules 8210.

RESPONDENT AND JURISDICTION

2. From November 8, 2010 to March 31, 2011, Wright was associated with FINRA member ICON Securities Corp. in the capacity of a General Securities Representative.

3. Although Wright 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 Wright's registration with the Firm, namely, March 31, 2011; and (2) the Complaint charges him with misconduct committed while he was registered or

associated with a FINRA member or 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.

CAUSE OF ACTION
(Failing to Appear for Testimony)
(FINRA Rules 8210 and 2010)

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

5. In or about September 2010, FINRA initiated an examination concerning possible violations of securities laws and FINRA and NASD Rules. In connection with that examination, on March 3, 2011, FINRA requested information and documents from Respondent Wright, pursuant to FINRA Rule 8210. The foregoing request was sent to Wright's residential address of record in the FINRA Central Registration Depository (CRD Address). On April 6, 2011, Wright responded. In his response, Wright confirmed that his CRD Address was his current residential address.

First Request

6. On August 16, 2011, pursuant to FINRA Rule 8210, FINRA staff sent a letter to Respondent Wright at his CRD Address, requiring that he appear for an on-the-record interview and testify regarding matters involved in the FINRA examination on September 14, 2011, at the FINRA District 2 Office in Los Angeles, California (First Request). The First Request was sent to the CRD Address via U.S. Postal Service first class mail and via certified mail, return receipt requested.

7. The envelope in which the First Request was sent via first class mail was not returned by the U.S. Postal Service. The envelope sent via certified mail was returned by the U.S. Postal Service, marked "Return to Sender; Unclaimed; Unable to Forward."

8. On September 14, 2011, Respondent Wright failed to appear for an on-the-record interview.

Second Request

9. On September 15, 2011, pursuant to FINRA Rule 8210, FINRA staff sent a second letter to Respondent Wright at his CRD Address, and two additional potential addresses identified by staff, requiring that he appear for an on-the-record interview and testify regarding matters involved in the FINRA examination on September 29, 2011, at the FINRA District 2 Office in Los Angeles, California (Second Request). The Second Request was sent via U.S. Postal Service first class mail and via certified mail, return receipt requested to the CRD Address, and to each of the two additional potential residential addresses for Respondent.

10. The envelopes in which the staff's Second Request were sent via first class mail were not returned by the U.S. Postal Service. The envelope in which the Second Request was sent via certified mail to the CRD Address was returned and reflects the signature of TW, Respondent's then- spouse. The envelope in which the Second Request was sent via certified mail to the first additional potential address was returned and marked "Return to Sender; Not Deliverable as Addressed; Unable to Forward." The envelope in which the Second Request was sent via certified mail to the second additional potential address was returned and reflects the signature of an individual other than Respondent.

11. On September 29, 2011, Respondent Wright failed to appear for an on-the-record interview.

12. Such acts, practices and conduct constitute a violation of FINRA Rule 8210 and Rule 2010 by Respondent Wright.

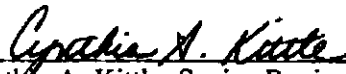
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) 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(s) 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: January 4, 2013


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