

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

DEPARTMENT OF MARKET
REGULATION,

Complainant,

v.

PETER J. SERMABEIKIAN
(CRD No. 3084958),

Respondent.

Disciplinary Proceeding
No. 20110296614-02

Hearing Officer – Andrew H. Perkins

DEFAULT DECISION

October 2, 2013

Respondent is barred from associating with any FINRA registered firm in any capacity for his failure to respond in a timely manner to FINRA's requests for information, in violation of FINRA Rules 8210 and 2010. The charge that Respondent testified untruthfully at an on-the-record interview is dismissed.

Appearances

For the Department of Market Regulation, Complainant: Lora W. Alexander and James J. Nixon, Rockville, Maryland.

Respondent Peter J. Sermabeikian did not appear.

DECISION

Peter J. Sermabeikian is a former securities broker. In October 2011, FINRA's Office of Fraud Detection and Market Intelligence received a tip that Sermabeikian may have solicited another registered representative to violate FINRA's conduct rules regarding sales practices. In response to the tip, FINRA opened an investigation into Sermabeikian's alleged misconduct. In the course of the investigation, Sermabeikian responded untimely to FINRA staff's requests for

information and provided false information to FINRA about his compliance with the requests for information and documents, which led Market Regulation to initiate this disciplinary proceeding.

Market Regulation filed a Complaint with the Office of Hearing Officers, charging Sermabeikian with violations of FINRA Rules 8210 and 2010. The Complaint contains two causes of action. The first charges that Sermabeikian violated FINRA Rules 8210 and 2010 by not responding timely to FINRA's requests for information. The second charges that he violated FINRA Rules 8210 and 2010 by testifying falsely that he had sent a response to FINRA's requests for information when he had not. Sermabeikian did not answer or otherwise respond to the Complaint.

This disciplinary proceeding is now before the Hearing Officer on Market Regulation's motion for entry of a default decision. The motion is supported by the sworn declaration of Lora W. Alexander, Esq., and three attached exhibits. Sermabeikian did not respond to the motion.

For the reasons discussed below, the Hearing Officer finds Sermabeikian in default, grants Market Regulation's motion for entry of a default decision, and permanently bars Sermabeikian from associating with any FINRA member firm in any capacity.

I. Jurisdiction

FINRA has jurisdiction over this disciplinary proceeding pursuant to Article V, Section 4 of FINRA's By-Laws.¹ Market Regulation filed the Complaint with the Office of Hearing Officers within two years after Sermabeikian's last registrations with FINRA terminated,² and the Complaint charges Sermabeikian with misconduct committed while he was associated with a

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 Sermabeikian was last registered with Global Arena Capital Corp. as a General Securities Principal and a General Securities Representative from December 7, 2011, to April 12, 2012. See Alexander Decl. ¶¶ 3-4, 6; CX-1, at 2.

FINRA member firm and with providing untimely and false information to FINRA during the two-year period after the date his registrations terminated.

II. Procedural History And Entry Of Default

Enforcement filed the attached Complaint with the Office of Hearing Officers on May 8, 2013, and the same day served Sermabeikian with a copy of the Complaint and a Notice of Complaint by first-class certified mail (return receipt requested) and FedEx overnight delivery at his residential address recorded in the Central Registration Depository ("CRD"). Market Regulation also served Sermabeikian with duplicate copies of the Complaint and Notice of Complaint at an address he provided FINRA staff at his on-the-record interview conducted on July 11, 2012. FedEx and the United States Postal Service delivered the mailings to both addresses, but Sermabeikian did not answer the Complaint by the requisite deadline.³

On June 13, 2013, Market Regulation served Sermabeikian with a copy of the Complaint and a Second Notice of Complaint by first-class certified mail (return receipt requested) and FedEx overnight delivery at his CRD address and the more current residential address Sermabeikian had provided FINRA staff. FedEx delivered the mailing to both addresses.⁴ The mailings sent by first-class certified mail were not delivered. Sermabeikian did not answer the Complaint or otherwise respond to the Second Notice of Complaint.⁵

On August 14, 2013, Market Regulation filed a motion for entry of default decision with the Office of Hearing Officers. Sermabeikian did not respond to the motion.

The Hearing Officer finds Sermabeikian in default. Sermabeikian received valid constructive notice of this proceeding in accordance with the provisions of FINRA Rule

³ Alexander Decl. ¶¶ 7-13; CX-2.

⁴ Alexander Decl. ¶¶ 14-15; CX-3.

⁵ Alexander Decl. ¶¶ 16-19; CX-3. The returned mailing sent to Sermabeikian's CRD address is marked as undeliverable. The other mailing was returned because it was unclaimed.

9134(a)(2) and (b)(1), but he did not file an answer or make any other filing or request related to the Complaint within the time required by Rule 9215(f).

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. Peter J. Sermabeikian

Sermabeikian entered the securities industry in 1999. Between 1999 and April 2012, he was associated with six different FINRA member firms. Most recently, he was registered with Global Arena Capital Corp. as a General Securities Principal and a General Securities Representative from December 7, 2011, to April 12, 2012.⁶ Sermabeikian has not been registered or associated with a FINRA member firm since April 12, 2012.

B. Sermabeikian Failed To Respond Timely To Requests For Information And Documents

FINRA staff took Sermabeikian's testimony on January 30, 2012, in connection with FINRA's investigation into alleged sales practices violations. FINRA staff opened the investigation after FINRA's Office of Fraud Detection and Market Intelligence received a tip that Sermabeikian may have solicited another registered representative to violate FINRA's conduct rules.⁷

During the on-the-record interview, FINRA staff asked Sermabeikian about several deposits to his checking account. Sermabeikian testified that the deposits represented rental income from properties that he owned with his mother.⁸

⁶ Alexander Decl. ¶¶ 3-4, 6; CX-1.

⁷ Compl. ¶¶ 5, 6.

⁸ *Id.* ¶ 8.

To investigate further, on February 8, 2012, FINRA staff sent Sermabeikian a document and information request, pursuant to FINRA Rule 8210, requesting all account statements in which he had a financial interest, including bank statements and documents to support his testimony that the questioned deposits represented rental income. Sermabeikian replied by email on February 13, 2012, stating that he would provide the requested documents and information, and on February 17, 2012, Sermabeikian confirmed by email that he had sent the response that day.⁹ Despite Sermabeikian's representations, FINRA staff did not receive a response to the February 8 Rule 8210 request.

FINRA staff was unsuccessful in following up with Sermabeikian on February 24 and 27. The staff left a voicemail message and sent him an email regarding the status of his response. Sermabeikian did not return the telephone call or respond to the email. Accordingly, on February 28, 2012, FINRA staff sent Sermabeikian a follow-up Rule 8210 request for the same information and documents it had requested in the original request. On March 8, 2012, Sermabeikian contacted FINRA staff and promised that he would he would send the requested information once he received additional information from his bank.

Once again, FINRA staff did not receive Sermabeikian's promised response. The staff then contacted Sermabeikian several times during March 2012 to get further information about when he would supply the requested information and documents. In response to these inquiries, Sermabeikian made the following misstatements:¹⁰

- On March 15, 2012, Sermabeikian falsely told FINRA staff that a colleague of his, MD, had sent the response by FedEx on February 17.
- On March 19, 2012, Sermabeikian provided a FedEx tracking number, which he claimed was for the package MD sent on February 17. The tracking number was

⁹ Compl. ¶¶ 9-12.

¹⁰ *Id.* ¶¶ 17-22.

invalid. Neither Sermabeikian nor MD had sent a FedEx package to FINRA on February 17, 2012.

- On March 26, 2012, Sermabeikian told the staff that he was sending the required response that day by FedEx, and he gave the staff a new tracking number. Sermabeikian did not send the package, and the FedEx tracking number was invalid.
- On March 28, 2012, Sermabeikian falsely claimed that one of the FedEx numbers he gave FINRA staff was not recognized by FedEx's tracking system because FedEx had failed to pick up the package. In fact, Sermabeikian had not prepared a response to the Rule 8210 requests.

On April 30, 2012, FINRA staff sent Sermabeikian a notice of suspension pursuant to FINRA Rule 9552.¹¹ The notice of suspension advised Sermabeikian that he would be suspended from associating with any FINRA member firm in any capacity unless he fully complied with the Rule 8210 requests on or before May 24, 2012.¹² On May 23, 2012, the day before the deadline, Sermabeikian submitted a partial response to the Rule 8210 requests.¹³

FINRA staff then contacted Sermabeikian and told him that his response was deficient. FINRA staff gave Sermabeikian until May 31, 2012, to fully comply with the Rule 8210 requests, which he did by the new deadline.¹⁴

C. Sermabeikian's Testimony At His July 11, 2012 On-The Record Interview

On July 11, 2012, Market Regulation conducted an on-the-record interview to question Sermabeikian about his misrepresentations to FINRA staff during the investigation. The second cause of action alleges that Sermabeikian first "repeated what he had told FINRA staff earlier,"¹⁵ but then went on in the same on-the-record interview to unconditionally recant that testimony.

¹¹ Compl. ¶ 24.

¹² *Id.* ¶ 24.

¹³ *Id.* ¶ 25.

¹⁴ *Id.* ¶¶ 25-26.

¹⁵ *Id.* ¶ 30.

The second cause of action alleges that Sermabeikian truthfully and fully testified at the on-the-record interview about the false misrepresentations he had made to FINRA staff. Specifically, he admitted that: (1) he had given FINRA staff an invalid FedEx tracking number (873773229452) to convince the staff that he had sent a FedEx package to FINRA on February 17, 2012, when in fact he had not;¹⁶ (2) he had not used a second FedEx tracking number (873773229496) to respond to the staff's information requests;¹⁷ and (3) he knew that he had provided false information to FINRA staff during the investigation.¹⁸

IV. Conclusions of Law

FINRA Rule 8210 requires FINRA members and their associated persons "to provide information orally, in writing, or electronically" in connection with any investigation. This rule is crucial to FINRA's ability to oversee and regulate broker-dealers because FINRA does not have subpoena power.¹⁹ Instead, FINRA must depend on member firms and their associated persons to cooperate fully and promptly with requests for information pursuant to Rule 8210.²⁰ A failure to respond promptly and completely to such information requests frustrates FINRA's ability to

¹⁶ *Id.* ¶ 32.

¹⁷ *Id.* ¶ 33.

¹⁸ *Id.* ¶ 34.

¹⁹ 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); *Joseph G. Chiulli*, 54 S.E.C. 515, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for FINRA to effectively conduct its investigations, and emphasizing that FINRA members and associated persons must fully cooperate with requests for information). See also *Morton Bruce Erenstein*, 316 F. App'x 865, 871, 2008 U.S. App. LEXIS 19746, at *13 (11th Cir. 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."); *Robert Fitzpatrick*, 55 S.E.C. 419, 2001 SEC LEXIS 2185, at *11-12 (Oct. 19, 2001).

²⁰ *PAZ Sec., Inc.*, Exchange Act Rel. No. 57656, 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. 2009).

detect misconduct and protect investors and markets. It is well established that a violation of the duty to cooperate and provide information pursuant to Rule 8210 violates Rule 2010.²¹

A. Untimely Response—Cause One

The Hearing Officer concludes that Sermabeikian violated FINRA Rules 8210 and 2010 by failing to respond in a timely manner to the Rule 8210 requests dated February 8 and 28, 2012, as alleged in the first cause of action.²² Sermabeikian did not provide a complete response until May 31, 2012, more than three months after the original due date. In addition, Sermabeikian did not respond at all until after FINRA sent him a notice of suspension pursuant to Rule 9552.

B. False Testimony—Cause Two

The Hearing Officer concludes that the allegations in the second cause of action are insufficient to support a violation of Rule 8210 and a determination of an appropriate sanction. In addition, the Hearing Officer has taken Sermabeikian's untruthfulness during the investigation into consideration in concluding that a bar is the appropriate remedial sanction for his failure to substantially comply with the Rule 8210 requests, as alleged in the first cause of action. For these reasons, and as more fully discussed below, the Hearing Officer dismisses the second cause of action.

To establish a violation of Rule 8210 for giving false statements under oath, Enforcement must show by a preponderance of the evidence that the respondent's testimony was given in connection with "an investigation, complaint, examination, or proceeding authorized by the FINRA By-Laws or rules,"²³ and that respondent's answer to the questioner's inquiry was false.

²¹ See *CMG Inst. Trading, LLC*, Exchange Act Rel. No. 59325, 2009 SEC LEXIS 215, at *29-30 (Jan. 30, 2009); *Stephen J. Gluckman*, 54 S.E.C. 175, 1999 SEC LEXIS 1395, at *22 (July 20, 1999).

²² *CMG Inst. Trading*, 2009 SEC LEXIS 215, at *29-30, n.36.

²³ Rule 8210(a).

Although Enforcement must prove the alleged falsehood, it need not establish that respondent made the false statement with the intent to deceive. Scienter is not an element of the violation.²⁴

The fact allegations in the Complaint are too vague to support a violation of Rule 8210. Unlike the typical case where a witness is charged with giving plainly false testimony regarding material issues, here Market Regulation alleges that overall Sermabeikian testified truthfully. The Complaint alleges that Sermabeikian admitted to each of the false representations he made to FINRA staff during the investigation. He admitted that he had not sent responses to the staff's Rule 8210 requests by FedEx in March 2012, and Market Regulation does not dispute the accuracy of his admissions. Nor does the Complaint allege that Sermabeikian refused to answer any questions. Thus, to the extent that it can be assumed that this information was in some way material²⁵ to Market Regulation's investigation, Market Regulation obtained complete and truthful answers to all of its questions on this topic.²⁶

Despite the fact that Sermabeikian testified fully and truthfully regarding his representations to FINRA staff, the Complaint charges that Sermabeikian testified untruthfully at one point during the interview when he "repeated what he had told FINRA staff earlier."²⁷ Such an allegation—coupled with evidence that the respondent recanted the alleged false testimony—

²⁴ *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141, at *39 (Nov. 14, 2008) (citing *Richard J. Rouse*, 51 S.E.C. 581 (1993) (rejecting view that scienter is a requirement for a violation of the predecessor of FINRA Rule 8210)).

²⁵ *Cf. United States v. Berardi*, 629 F.2d 723, 728 (2d Cir. 1980), *cert. denied*, 449 U.S. 995 (1980) (holding in a perjury prosecution that "[m]ateriality is ... demonstrated if the question posed is such that a truthful answer could help the inquiry, or a false response hinder it, and these effects are weighed in terms of potentiality rather than probability.").

²⁶ Because the factual allegations in the Complaint do not support the charge, the Hearing Officer does not reach the legal question of whether a person can be found to have violated Rule 8210 for falsely testifying to information that is not a material issue in FINRA's investigation. *Cf. Brown v. United States*, 245 F.2d 549, 555 (8th Cir. 1957) (quoting *United States v. Icardi*, 140 F. Supp. 383, 388 (D.D.C. 1956) ("extracting testimony with a view to a perjury prosecution (is not) a valid legislative purpose")); *United States v. Koonce*, 485 F.2d 374, 380 (8th Cir. 1973) ("It is established that a perjury conviction may not be based upon testimony not material to any proper inquiry of a grand jury.").

²⁷ Compl. ¶ 30.

is insufficient to prove a violation of Rule 8210.²⁸ “At a minimum, to support a finding that an individual testified falsely, the evidence must show that the Department asked clear questions and followed up on vague responses.²⁹ Here the Complaint does neither. The Complaint neither sets forth the questions Market Regulation asked nor the answers Sermabeikian provided. In addition, the Complaint does not address the timing and reasons for his recantation. Under these circumstances and because Market Regulation bears the burden of proof, the resulting ambiguity must be resolved in Sermabeikian’s favor. A charge of providing false testimony under oath during a Rule 8210 interview is extremely grave. Not only can it lead to his expulsion from the securities industry, but also it can lead to criminal liability.³⁰ Therefore, the charge is dismissed.

V. Sanctions

The FINRA Sanction Guidelines provide that adjudicators should consider a suspension for up to two years where a response to a Rule 8210 request is untimely.³¹ The Sanction Guidelines further provide that adjudicators should apply a presumption that a response made after FINRA files a complaint constitutes a complete failure to respond for which a bar should be standard.³²

²⁸ *Cf. United States v. Wiggan*, 700 F.3d 1204, 1216 (9th Cir. 2012) (holding that by recanting a witness effectively renounces and withdraws the prior statement, which operates as a bar to future prosecution for perjury under 18 U.S.C. § 1623(d)).

²⁹ *Dep’t of Enforcement v. Respondent*, OHO Redacted Decision CMS000157 (Apr. 2, 2002), available at <http://www.finra.org/web/groups/industry/@ip/@enf/@adj.documents/ohodecisions/p006577.pdf>. (citing *Bronston v. United States*, 409 U.S. 352, 360 (1973) (holding that for perjury it is the burden of the questioner to pin the witness down to the specific object of the questioner’s inquiry). *Cf. also United States v. DeZarn*, 157 F.3d 1042, 1049 (6th Cir. 1998) (holding that an ambiguous question can never form a basis for a perjury conviction).

³⁰ *See New York v. Cohen*, 718 N.Y.S. 2d 147, 2000 N.Y. Misc. LEXIS 472, at *20 (Nov. 16, 2000) (holding that New York State perjury statute prohibits perjury committed during an NASD on-the-record interview conducted within the State of New York), *cert. denied*, 543 U.S. 927 (2004).

³¹ FINRA Sanction Guidelines 33 (2011), available at www.finra.org/sanctionguidelines.

³² *Id.* 33, n.1.

Additionally, the Sanction Guidelines list a number of principal considerations for adjudicators to assess in determining appropriate sanctions for an untimely response: (1) the importance of the information requested as viewed from FINRA's perspective; (2) the number of requests made and the degree of regulatory pressure required obtaining a response; and (3) the length of time taken to respond.³³

Applying the foregoing principles to this case, the Hearing Officer concludes that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction. From Enforcement's perspective, the information sought, but not timely provided, was important. FINRA was investigating alleged sales practice violations and Sermabeikian's alleged efforts to induce another to violate FINRA's rules. Second, FINRA staff was required to exert substantial regulatory pressure to obtain the requested information. The staff sent him two Rule 8210 requests and a Rule 9552 notice of suspension before he provided a complete response. Third, Sermabeikian impeded FINRA's investigation. Not only did he delay providing the requested information, but he misled the staff about his compliance by falsely representing that he had sent responses by FedEx when he had not done so.

Finally, the record does not disclose any mitigating factors that would warrant permitting Sermabeikian to remain in the securities industry. Accordingly, the Hearing Officer concludes that a bar from associating with any FINRA member firm in all capacities is the appropriate sanction.

VI. Order

Peter J. Sermabeikian is barred from associating with any member firm in any capacity for his failure to respond to the Rule 8210 requests in a timely manner, in violation of Rules

³³ *Id.* 33.

8210 and 2010. The bar shall become effective immediately if this Default Decision becomes FINRA's final action in this disciplinary proceeding.

For the reasons discussed above, the Hearing Officer dismisses the second cause of action.

A handwritten signature in black ink, consisting of two large, overlapping loops followed by a series of smaller, more intricate strokes.

Andrew H. Perkins
Hearing Officer

Copies to:

Peter J. Sermabeikian (*via overnight courier and first-class mail*)
Lora W. Alexander, Esq. (*via electronic and first-class mail*)
James J. Nixon, Esq. (*via electronic mail*)

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

Department of Market Regulation,

Complainant,

v.

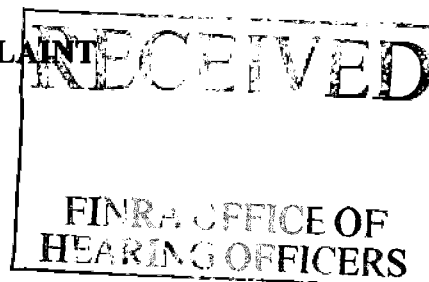
Peter J. Sermabeikian (CRD 3084958),

Respondent.

Disciplinary Proceeding
No. 20110296614-02

Hearing Officer:

COMPLAINT



The Department of Market Regulation alleges:

Summary

1. Respondent Peter J. Sermabeikian ("Sermabeikian") failed to timely respond to FINRA staff's requests for documents and information, as required pursuant to FINRA Rule 8210, in connection with FINRA's investigation into certain allegations of violations of FINRA Rules regarding sales practices, in violation of FINRA Rules 8210 and 2010.

2. In addition, Sermabeikian made several misrepresentations and provided false information to FINRA staff to intentionally deceive the staff into believing that he had sent, or made arrangements to send, documents and information in response to the FINRA Rule 8210 requests, when in fact he had not done so. More specifically, Sermabeikian falsely told FINRA staff that he had forwarded, or caused to be forwarded, to the staff responsive documents and information, and, on two separate occasions, provided a FedEx tracking number to support his false assertions that the materials had been sent to the staff. In fact, Sermabeikian had not forwarded, or caused to be forwarded any documents or information to FINRA staff, and the

FedEx tracking numbers provided by Sermabeikian were not related to his purported production of the requested materials. As a result of his actions, Sermabeikian provided false information to FINRA staff, in violation of Rule FINRA 8210, and failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

The Respondent

3. Sermabeikian was registered with FINRA member firms from June 1998 until April 2012. Sermabeikian was registered with his most recent employer until April 12, 2012, when the firm filed a Form U5 terminating his registration. Although Sermabeikian has not been associated with a FINRA member firm since April 12, 2012, 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 date upon which he ceased to be associated with a FINRA member; (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member; and (3) the Complaint charges him with providing false information in response to a FINRA request for information during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

CAUSE ONE

Sermabeikian Failed to Timely Respond to FINRA Requests for Information and Documents (Violations of FINRA Rules 8210 and 2010)

4. Market Regulation re-alleges and incorporates by reference all preceding paragraphs.

5. In or around October 2011, FINRA staff received a tip that Sermabeikian may have solicited another registered representative to violate FINRA Rules regarding sales practices.

6. FINRA staff took Sermabeikian's testimony on January 30, 2012, as part of the investigation into the alleged sales practices violations.

7. During his testimony, Sermabeikian denied committing sales practices violations and denied soliciting another registered representative to commit sales practices violations.

8. In reviewing documents and information obtained in connection with the investigation, FINRA staff identified several small deposits made in Sermabeikian's checking account ranging from approximately \$300 to \$1,450. Sermabeikian testified that the deposits represented rental income from properties that he owned with his mother.

9. On February 8, 2012, FINRA staff sent Sermabeikian a document and information request, pursuant to FINRA Rule 8210, requesting all account statements in which he had a financial interest, including bank statements and documents to support his testimony that the deposits identified by FINRA staff in his checking account represented rental income.

10. The FINRA Rule 8210 request was sent by first class mail to Sermabeikian at his Central Registry Directory ("CRD") residential address and via electronic mail to Sermabeikian at the email address provided to him by his FINRA employer-member firm. The FINRA Rule 8210 request required Sermabeikian to respond by February 17, 2012, and informed him of his responsibility to fully respond to the document and information request, pursuant to FINRA Rule 8210, and the potential sanctions, including a permanent bar from the securities industry, for failing to comply.

11. On February 13, 2012, Sermabeikian sent FINRA staff an email confirming his receipt of the FINRA Rule 8210 request and stated that he would provide FINRA staff the documents and information that had been requested.

12. On February 17, 2012, after the deadline for his response, Sermabeikian sent FINRA staff an email stating that he "posted you today the follow-up details from your office in regards to FINRA matter 20110296614."

13. On February 24, 2012, when his response had not been received, FINRA staff called Sermabeikian, leaving a voicemail message, inquiring about the status of his response. Sermabeikian did not return the staff's call.

14. On February 27, 2012, when his response had not been received and he had not returned FINRA staff's telephone call, FINRA staff sent an email to Sermabeikian's work email address asking him to contact FINRA staff before the close of business that day. Sermabeikian did not respond to the email.

15. On February 28, 2012, when his response had not been received, FINRA staff sent Sermabeikian a follow-up FINRA Rule 8210 request via certified and first class mail to his residential CRD address and via electronic mail to his work email address.

16. On March 8, 2012, Sermabeikian contacted FINRA staff and acknowledged receipt of the follow-up FINRA Rule 8210 request and said that he would send his response when he received additional information from his bank.

17. On March 15, 2012, when his response had not been received, FINRA staff again called Sermabeikian to inquire about the status of his response. Sermabeikian told FINRA staff that his office colleague, MD, had sent his response via FedEx on February 17, 2012. Sermabeikian said that he believed that the FedEx package was addressed to LA of Market Regulation, Legal Section, and that he would email the FedEx tracking number to FINRA staff.

18. On March 16, 2012, when his response had still not been received, staff sent an email to Sermabeikian's work email address reminding him to send the FedEx tracking number for the package containing his FINRA Rule 8210 response but Sermabeikian did not respond.

19. On March 19, 2012, FINRA staff sent a follow-up email to Sermabeikian's work email address again requesting the FedEx tracking information. Later that day, Sermabeikian responded via email to FINRA staff and provided FedEx tracking number 873773229452. FINRA staff attempted to verify FedEx tracking number 873773229452 on the FedEx document tracking website but the number was not recognized by FedEx as a tracking number that had been used for any FedEx shipment.

20. On March 26, 2012, when his response had not been received, FINRA staff called Sermabeikian and, once again, informed him of the consequences of failing to respond to FINRA Rule 8210 requests. At that time, Sermabeikian said that he was sending the documents via FedEx immediately and provided a second FedEx tracking number, number 873773229496.

21. On March 27, 2012, when his response had not been received, FINRA staff attempted to verify FedEx tracking number 873773229496 on the FedEx document tracking website but the number was not recognized by FedEx as a tracking number that had been used for any FedEx shipment.

22. On March 28, 2012, Sermabeikian called FINRA staff and said that the FedEx delivery person must not have picked up the package containing his response to the FINRA Rule 8210 request.

23. On April 30, 2012, more than one month later, when his response had still not been received, FINRA staff initiated a FINRA Rule 9552 proceeding against Sermabeikian for

failing to respond to repeated FINRA Rule 8210 requests. The Notice of Suspension was sent via FedEx and first class mail to Sermabeikian's CRD address.

24. The Notice of Suspension letter included, among other things, notice that Sermabeikian would be suspended from associating with any FINRA member in any capacity unless he fully complied with the FINRA Rule 8210 requests on or before May 24, 2012.

25. On May 23, 2012, the day before he was to be suspended, Sermabeikian submitted an incomplete response to the FINRA Rule 8210 request. FINRA staff contacted Sermabeikian and told him that his response was incomplete and identified the specific documents and information that had not been submitted. FINRA staff gave Sermabeikian another week, until May 31, 2012, to fully comply with the FINRA Rule 8210 requests.

26. On May 31, 2012, Sermabeikian submitted additional documents and information. The totality of Sermabeikian's responses constituted full compliance with the FINRA Rule 8210 requests.

27. By failing to timely respond to the FINRA Rule 8210 requests, Sermabeikian violated FINRA Rules 8210 and 2010.

CAUSE TWO

Sermabeikian Provided False Information to FINRA (Violations of FINRA Rules 8210 and 2010)

28. Market Regulation re-alleges and incorporates by reference all preceding paragraphs.

29. On July 11, 2012, FINRA staff took Sermabeikian's testimony to question him about his prior representations concerning his production of the requested materials, including the FedEx tracking numbers that he provided to FINRA staff.

30. In his sworn testimony, Sermabeikian repeated what he had told FINRA staff earlier, that he had given the FedEx package to MD to complete a FedEx airbill and to put in a FedEx drop box. He also testified that he obtained FedEx tracking number 873773229452 from a list of FedEx tracking numbers made available in his FINRA employer-member firm's FedEx account.

31. MD, however, submitted an affidavit to FINRA on October 23, 2012, attesting that Sermabeikian had not given him a FedEx package to mail to FINRA staff. MD further stated that he had not completed a FedEx airbill for a FedEx package to send to FINRA on Sermabeikian's behalf and had not dropped off a FedEx package to send to FINRA for Sermabeikian.

32. In his July 11, 2012 testimony, Sermabeikian admitted that he provided FINRA staff with FedEx tracking number 873773229452 to convince FINRA staff that he had sent a FedEx package to FINRA on February 17, 2012, when he in fact had not.

33. Sermabeikian also admitted that he obtained FedEx tracking number 873773229496 from the list of FedEx tracking numbers made available in his FINRA employer-member firm's FedEx account. Sermabeikian admitted that he had not used FedEx tracking number 873773229496 to send his response to the FINRA Rule 8210 request.

34. Sermabeikian testified that he knew that he had provided false information to FINRA staff by giving staff two FedEx tracking numbers in support of his misrepresentations that he had sent his response to FINRA Rule 8210 requests when he had not done so.

35. By making false statements and representations to FINRA staff concerning his purported production of the requested materials, including but not limited to, falsely representing that the information was sent via FedEx with the tracking numbers he provided, Sermabeikian

violated FINRA Rule 8210, and failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

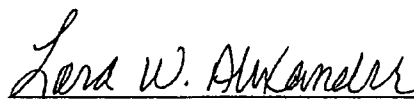
Prayer for Relief

WHEREFORE, the Department of Market Regulation respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent Peter J. Sermabeikian committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Procedural Rule 8310 be imposed;
- C. order that Respondent bear such costs of any proceeding as are deemed fair and appropriate under the circumstances, in accordance with FINRA Procedural Rule 8330; and
- E. grant all further relief, legal or equitable, that is warranted under the circumstances.

Dated: 5/8/13

FINRA Department of Market Regulation



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