

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Vito J. Balsamo (CRD No. 2084901),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013036704401

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Vito J. Balsamo engaged in private securities transactions without first receiving written approval from his member firm. He further failed to provide testimony requested by FINRA staff.

RESPONDENT AND JURISDICTION

2. Balsamo entered the securities industry in July 1990 by applying for registration with a FINRA member firm. He first became registered as a General Securities Representative in June 1991.
3. From on or about April 30, 2008, through on or about February 16, 2012, Balsamo was registered at FINRA member National Securities Corporation (the Firm) as a General Securities Representative.

4. On or about February 16, 2012, the Firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on Balsamo's behalf, thereby terminating his registration. He has not since become associated with or registered at any other FINRA member.
5. On or about April 23, 2013, the Firm filed an amendment to Balsamo's Form U5 to report a customer complaint alleging misrepresentation.
6. Although Balsamo 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:
 - a. the Complaint was filed within two years after the filing of an amendment to Balsamo's Form U5, namely April 23, 2013;
 - b. the amendment disclosed that Balsamo may have engaged in conduct actionable under FINRA rules;
 - c. the amendment was filed within two years after the effective date of termination of Balsamo's registration with the Firm, namely, February 16, 2012; and
 - d. the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to appear for On-the-Record testimony (OTR) during the two-year period after the filing of the amendment to his Form U5.

FIRST CAUSE OF ACTION
Private Securities Transactions (NASD Rule 3040 and FINRA Rule 2010)

7. The Department re-alleges and incorporates by reference paragraphs 1 through 6 above.
8. From on or about June 21, 2010, through on or about September 15, 2010, Balsamo solicited purchases of securities from three investors, each of whom was his customer at

the Firm. The securities in question consisted of ownership interests in a limited liability company called V.W. Industries, LLC (VWI).

9. Each of the above-described purchases occurred outside the regular course and scope of Balsamo's employment with the Firm.
10. Based on his ability to raise capital for VWI, Balsamo received an ownership interest in VWI.
11. The total amount of funds invested in VWI by the three customers was approximately \$475,000.00.
12. With respect to each of the purchases described above, Balsamo failed to obtain prior written approval from the Firm.
13. By participating in private securities transaction without first obtaining written approval from his firm, Balsamo violated NASD Rule 3040 and FINRA Rule 2010.

SECOND CAUSE OF ACTION
Misrepresentations to Member Firm (FINRA Rule 2010)

14. The Department re-alleges and incorporates by reference paragraphs 1 through 13 above.
15. On or about August 17, 2010, Balsamo completed a compliance questionnaire administered by the Firm. With respect to that questionnaire:
 - a. In response to the question, "Have you personally taken part in/participated or been involved in any capacity in any private securities transaction during this quarter?" Balsamo falsely answered, "No"; and
 - b. In response to the question, "Have you been involved in any capacity in the purchase or sale of a security not conducted through your Broker Dealer?" Balsamo falsely answered, "No."

16. By making misrepresentations to his member firm in connection with his private securities transactions, Balsamo violated FINRA Rule 2010.

THIRD CAUSE OF ACTION
Failure to Provide Testimony (FINRA Rules 8210 and 2010)

17. The Department re-alleges and incorporates by reference paragraphs 1 through 16 above.

18. On or about December 10, 2014, FINRA staff sent Balsamo a letter (the First Request), pursuant to FINRA Rule 8210, requesting that he appear at FINRA's Seattle District Office on January 6, 2015, at 9:00 a.m. Pacific Time, for the purpose of providing testimony in an OTR.

19. The First Request was sent by first class and certified mail to Balsamo's last known residential address as reflected in the Central Registration Depository (CRD).

20. The first class mailing was not returned.

21. FINRA staff obtained confirmation from the U.S. Postal Service that the certified mailing was successfully delivered on or about December 13, 2014.

22. On or about December 16, 2014, Balsamo contacted FINRA staff by telephone. During the call, he stated his intention to consult an attorney for the purpose of requesting a change to the date and location of the OTR. He further stated that he no longer lived at the CRD address, and provided a new address (the Brooklyn address).

23. The staff did not receive any further communications from Balsamo or anyone else on his behalf.

24. Balsamo never provided the testimony requested in the First Request.

25. On or about January 7, 2015, FINRA staff sent Balsamo a letter (the Second Request), pursuant to FINRA Rule 8210, requesting that he appear at FINRA's Seattle District

Office on January 22, 2015, at 9:00 a.m. Pacific Time, for the purpose of providing testimony in an OTR.

26. The Second Request was sent by first class and certified mail to the CRD address and to the Brooklyn address.
27. Neither of the first class mailings was returned.
28. FINRA staff obtained confirmation from the U.S. Postal Service that the certified mailings to the CRD address and the Brooklyn address were each successfully delivered on or about January 12, 2015.
29. Balsamo never provided the testimony requested in the Second Request.
30. By failing to provide testimony requested by FINRA staff, Balsamo violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

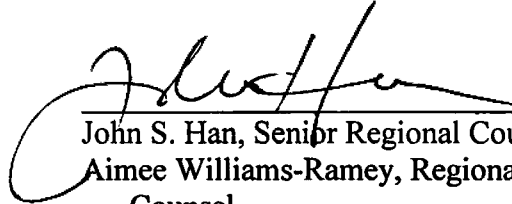
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Balsamo 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 Balsamo 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: April 14, 2015



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