

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Darrell W. Mikulencak (CRD No. 2661351),

Respondent.

DISCIPLINARY PROCEEDING
No. 20130379509

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In 2013, while registered with First Brokerage America, Mikulencak made unauthorized use of a notary public's seal and forged the notary's signature on various documents associated with broker-dealer accounts. This conduct violated FINRA Rule 2010.
2. On February 12, 2014 and March 4, 2014, FINRA staff sent Mikulencak letters requesting his appearance, pursuant to FINRA Rule 8210, for on-the-record ("OTR") interviews scheduled for February 27, 2014 and March 10, 2104, respectively, in the Kansas City District Office. FINRA served Mikulencak with these letters according to the requirements of FINRA Rule 8210. Mikulencak failed to appear for both OTRs. This conduct violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Mikulencak entered the securities industry in February 2001 as a registered representative of a FINRA broker-dealer. From December 2012 until August 9, 2013, he was registered with First Brokerage America, L.L.C., as a general securities representative. Since then, Mikulencak has not been registered with any FINRA member.
4. Although Mikulencak 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 Respondent's registration with FirstBrokerage America, L.L.C. ("FBA") – namely, August 12, 2013 – and because (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to appear for OTRs 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

Forgery

(FINRA Rule 2010)

5. The Department realleges and incorporates by reference paragraphs 1 through 4 above.
6. In the summer of 2013, two of Mikulencak's customers had possession of stock certificates that needed to be re-registered following the death of the certificates' previous owners. Effectuating re-registration required each customer to complete paperwork. In some cases, this paperwork included an "Affidavit of Domicile"

regarding the state in which the deceased resided at the time of his or her death. Other customers had to complete and submit paperwork concerning their appointment as Attorney-in-Fact for the deceased.

7. On or about June 20, 2013, while working from a bank branch in Owensville, Missouri, Mikulencak forged the signature of EF, a bank employee and a notary public, on an Affidavit of Domicile for JM, a brokerage customer. Mikulencak also placed EF's notary seal onto the same document. Mikulencak used the document to assist JM in re-registering stock certificates following the death of the certificates' previous owner.
8. On or about July 26, 2013, in an effort to assist DV, a brokerage customer, in re-registering stock certificates following the death of the certificates' previous owner, Mikulencak forged EF's signature and placed EF's notary seal on an affidavit concerning DV's durable Power of Attorney concerning the decedent. On or about July 27, 2013, Mikulencak placed EF's notary seal on an Affidavit of Domicile for DV.
9. At no time did Mikulencak obtain permission or have the authority either to sign EF's name or to use EF's notary seal in connection with the above documents or for any other purpose.
10. By forging a notary's signature and making unauthorized use of a notary public's seal, Mikulencak violated FINRA Rule 2010.

SECOND CAUSE OF ACTION
Failure to appear for testimony
(FINRA Rules 8210 and 2010)

11. The Department realleges and incorporates by reference paragraphs 1 through 10 above.
12. On or about February 12, 2014, and pursuant to FINRA Rule 8210, FINRA staff sent a letter to Mikulencak requiring him to appear and to testify at an OTR scheduled for February 27, 2014, in FINRA's Kansas City District Office. The staff requested the OTR as part of its investigation into allegations of forgery by Mikulencak. The letter was sent by Certified Mail and First-Class U.S. Mail to the residential address then listed for Mikulencak in the Central Registration Depository (CRD). On February 26, 2014, Mikulencak emailed Bryan Varvel, an examiner in FINRA's Kansas City District Office, and stated that he was unable to appear for the OTR scheduled for February 27, 2014. Mikulencak did not appear for the scheduled OTR.
13. On or about March 4, 2014, FINRA staff again sent a letter to Mikulencak requiring him to appear and to testify at an OTR rescheduled for March 10, 2014 in FINRA's Kansas City District Office. Pursuant to FINRA Rule 8210, the letter was sent to the residential address then listed for Mikulencak in the Central Registration Depository (CRD) and was sent by both Certified Mail and First-Class U.S. Mail. On March 8, 2014, Mikulencak emailed Bryan Varvel and stated that he had decided against appearing for the March 10, 2014 OTR. Mikulencak did not, in fact, appear for the OTR on March 10, 2014.

14. By failing to appear for the OTRs, Mikulencak 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 Mikulencak 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 Mikulencak 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: Sept. 15, 2014


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