

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Raymond T. Clark (CRD No. 3120696),

Respondent.

DISCIPLINARY PROCEEDING
No. 2014040349001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Raymond T. Clark (“Clark”) failed to appear and provide investigative testimony on three occasions, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Clark entered the securities industry in 1998, when he associated with a member firm. Thereafter, Clark was associated with several member firms and registered at various times as a Corporate Securities Representative (“CS”), General Securities Principal (“GSP”), a General Securities Representative (“GSR”), and an Investment Banking Representative (“IB”). Most recently, from July 2010 to August 2014, Clark was associated with FINRA member Dynasty Capital Partners, Inc. (“Dynasty” or the “Firm”), where he was registered as a CS, a GSP, a GSR, and an IB.

3. On August 7, 2014, Dynasty filed a Form U5 for Clark, terminating his association with the Firm the same day.

4. Clark has not been registered or associated with a FINRA member firm since he was terminated on August 7, 2014.

5. Although Clark is no longer registered or associated with a FINRA member firm, 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 Clark's registration with Dynasty, namely, August 7, 2014; and (2) the Complaint charges him 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
(Failure to Appear for On-The-Record Testimony)
(FINRA Rules 8210 and 2010)**

6. The Department realleges and incorporates by reference paragraphs 1 through 5 above.

7. In or about April 2014, FINRA staff began investigating whether Clark executed excessive and/or unauthorized trades in customer accounts, exercised discretion without authority in customer accounts, and accepted trade instructions from an individual who was not authorized to exercise trading authority in a customer account.

8. As part of its investigation, FINRA staff requested Clark's on-the-record testimony on several occasions, as detailed below.

First Request for Testimony

9. On or about August 14, 2014, FINRA staff sent a letter to Clark, pursuant to FINRA Rule 8210, in connection with its investigation of the misconduct described in Paragraph 7 (the “First Request”). The First Request requested that Clark appear for on-the-record testimony on September 4 and 5, 2014 at FINRA’s offices at 4600 S. Syracuse St., Suite 1400, Denver, Colorado at 9:00 a.m.

10. The First Request was sent by first class and certified mail to Clark’s residential address in Buffalo, New York, as listed in the Central Registration Depository (the “CRD Address”). The First Request was also sent to two electronic mail (“email”) addresses used by Clark: clarkbuffalo@gmail.com and rlark@dynastycapitalpartners.com.

11. The first class mailing of the First Request was not returned.

12. FINRA staff confirmed through the United States Postal Service (“USPS”) Tracking and Information System that the certified mailing of the First Request was delivered to Clark’s CRD Address on August 18, 2014, and signed by “Louise Clark.”

13. On September 4, 2014, Clark informed FINRA staff telephonically that he would not appear for the OTR on September 4 and 5, 2014.

14. Clark did not appear for, or provide, on-the-record testimony on September 4 or 5, 2014.

Second Request for Testimony

15. On or about September 29, 2014, FINRA staff sent a second letter to Clark, pursuant to FINRA Rule 8210, that again requested Clark’s appearance for on-the-record testimony in connection with the misconduct described in Paragraph 7 (the “Second Request”).

The Second Request requested that Clark appear for on-the-record testimony on October 16 and 17, 2014 at FINRA's offices at 4600 S. Syracuse St., Suite 1400, Denver, Colorado at 9:00 a.m.

16. The Second Request was sent by first class and certified mail to Clark's CRD Address and to Clark's business address also located in Buffalo, NY (the "Business Address"). The Second Request was also sent to Clark's email address, clarkbuffalo@gmail.com. The Second Request for Clark's testimony was not sent to the email address, rclark@dynastycapitalpartners.com, because he had terminated his association with Dynasty.

17. The first class mailing of the Second Request sent to the CRD Address was not returned.

18. The certified mailing of the Second Request sent to the CRD Address was returned to FINRA by the USPS on November 6, 2014. It was marked, "Return to Sender/Unclaimed/Unable to Forward."

19. The first class mailing of the Second Request sent to the Business Address was not returned.

20. FINRA staff confirmed through the USPS Tracking and Information System that the certified mailing of the Second Request sent to the Business Address was delivered on October 3, 2014, and signed by "Steven C. Pehta."

21. On October 14, 2014, Clark sent an email to FINRA staff, stating that he would not attend the on-the-record testimony scheduled for October 16 and 17, 2014, he was no longer registered with a FINRA member firm, and he did not wish to be registered with a broker-dealer.

22. By email dated October 15, 2014, FINRA staff acknowledged receipt of Clark's email and notified him that his failure to appear for testimony would be deemed a violation of FINRA Rule 8210.

23. Clark did not appear for, or provide, on-the-record testimony on October 16 or 17, 2014.

Subsequent Communications with Clark

24. Subsequently, Clark and FINRA staff exchanged several email communications wherein Clark reiterated that he did not wish to be associated with a member firm in the future. However, he also indicated that he was now willing to appear for testimony, but that it would have to be scheduled after January 2015.

25. In response, by letter dated October 23, 2014, FINRA staff advised Clark that: (1) he had already failed to appear for testimony on two prior occasions; (2) the staff had been seeking his testimony since August and therefore delaying his OTR until after January 2015 was unacceptable; (3) the staff would allow him to choose among certain dates in November, including Saturdays, for his testimony, and that as a final accommodation, the testimony would be scheduled in FINRA's New York office; and (4) he had to advise the staff by October 28, of the dates of his choosing, and if he failed to do so, the staff would select dates in November for his testimony.

26. Clark did not respond to the October 23 letter and, consequently, FINRA staff requested his testimony for a third time, as described below.

Third Request for Testimony

27. On or about October 30, 2014, FINRA staff sent a third letter to Clark, pursuant to FINRA Rule 8210, that again requested Clark's appearance for on-the-record testimony in connection with the misconduct described in Paragraph 7 (the "Third Request"). The Third Request requested that Clark appear for on-the-record testimony on November 13 and 14, 2014 at FINRA's offices at 200 Liberty Street, 12th Floor, New York, New York, at 9:00 a.m.

28. The Third Request was sent by first class and certified mail to Clark's CRD Address and Business Address. The Third Request was also sent to Clark's email address, clarkbuffalo@gmail.com.

29. The first class mailing of the Third Request sent to the CRD Address was not returned.

30. The certified mailing of the Third Request sent to the CRD Address was not returned to the staff. FINRA staff confirmed through the USPS Tracking and Information System that a notice of the certified mailing was left on November 6, 2014.

31. The first class mailing of the Third Request sent to the Business Address was not returned.

32. FINRA staff confirmed through the USPS Tracking and Information System that the certified mailing of the Third Request sent to the Business Address was delivered on November 4, 2014. It was signed by an illegible signature.

33. On November 12, 2014, the day before his scheduled testimony, Clark emailed FINRA staff and stated that he wanted to reschedule his on-the-record testimony. By email dated the same day, FINRA staff acknowledged receipt of Clark's email and notified him that if

he did not appear for his testimony on the scheduled date, it would be deemed a violation of FINRA Rule 8210.

34. Clark did not appear for, or provide, on-the-record testimony on November 13 or 14, 2014.

35. Clark received proper notice of the First Request, Second Request and Third Request.

36. Clark's failure to provide the requested testimony materially impeded FINRA staff's investigation of several critical matters, including whether Clark excessively traded and/or engaged in unauthorized transactions in multiple customer accounts, exercised discretion without authorization, and accepted trading instructions from an individual who was not authorized to exercise trading authority in a customer account.

37. By reason of the facts alleged above, Clark's failure to provide on-the-record testimony scheduled pursuant to FINRA Rule 8210 on three occasions, Clark 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 Clark 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 Clark 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: November 24, 2014



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