

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

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

EDDIE BASORA, JR.,
(CRD No. 4388378),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2014040809501

HEARING OFFICER:

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Eddie Basora, Jr. willfully failed to timely update his Form U4 (Uniform Application for Securities Industry Registration or Transfer) to disclose a felony charge and nolo contendere plea, in violation of Article V, Section 2(c) of the NASD and FINRA By-Laws, NASD IM-1000-1 (with respect to conduct occurring before August 17, 2009) and FINRA Rules 1122 (with respect to conduct occurring on or after August 17, 2009) and 2010. Additionally, on three occasions, Basora failed to appear for testimony that he was obligated to attend pursuant to FINRA Rule 8210. As a result, Basora violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. At various times since 2001, Basora was associated with several FINRA member firms. During this time period, Basora obtained the Series 7 (General Securities Representative) FINRA license.

3. From April 9, 2008 through November 7, 2014, Basora was registered with FINRA through member firm Merrimac Corporate Securities, Inc. (Merrimac). From August 11, 2014 through February 26, 2015, Basora was registered with FINRA through member firm Freedom Investors Corporation (Freedom).
4. On January 23, 2015, FINRA notified Freedom that Basora was statutorily disqualified because he had been convicted of a felony. On February 26, 2015, Freedom filed a Uniform Termination Notice for Securities Industry Registration (Form U5) with FINRA on behalf of Basora, stating that Basora was terminated due to “inability to meet registration requirements.”
5. Although Basora 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 Freedom, February 26, 2015; and (2) 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 pursuant to FINRA Rule 8210 during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

FACTUAL BACKGROUND

Failure to Timely Amend Form U4

6. On or about March 25, 2008, Basora completed a Form U4 to become associated with Merrimac. At that time, and during all other times relevant to this Complaint, Form U4 included the questions: “Have you ever: (a) been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?”; and

“Have you ever: (b) been charged with any felony?” Respondent responded “no” to each of these questions.

7. On May 7, 2009, Basora was charged with felony possession of a controlled substance.¹ On November 8, 2010, Basora entered a plea of nolo contendere to the charge.
8. Basora willfully failed to timely amend his Form U4 to disclose either the charge or the nolo contendere plea until March 27, 2014, despite having notice of both at the time they occurred.

Failure to Appear for Testimony

9. On July 21, 2016, FINRA staff sent Basora a letter requesting that he appear in the Atlanta District Office of FINRA, pursuant to FINRA Rule 8210, for on-the-record testimony at 2 p.m. on August 11, 2016 for the purpose of an investigation into his alleged failure to disclose reportable events² on his Form U4 (First Request Letter).
10. The First Request Letter informed Basora that he was obligated to appear for testimony pursuant to FINRA Rule 8210. The First Request Letter advised Basora that “Failure to answer any questions completely and truthfully, or failure to provide any information requested by the staff, could violate Rule 8210 and could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry, suspension, censure and/or fine.”
11. The First Request Letter was sent pursuant to Rule 8210 by both First Class Mail and Certified Mail³ to Basora’s address of record as reflected in the Central Registration Depository, which is located in Orlando, Florida (CRD Address).

¹ *State of Florida v. Eddie Basora*, Case No. 2009-CF-006736-A-O (Orange County, Florida).

² In addition to the felony charge and nolo contendere plea, Basora also allegedly failed to timely update his Form U4 to disclose a federal tax lien and three bankruptcy petitions.

³ Certified Mail No. 7001 1140 0001 7867 1684.

12. According to the United States Postal Service (USPS), the First Request Letter sent by Certified Mail to Basora's CRD Address was delivered on July 25, 2016, signed for by "Fabien Basora."
13. The First Request Letter sent by First Class Mail to Basora's CRD address was not returned to FINRA staff by the USPS.
14. On August 11, 2016, Basora did not appear for the scheduled on-the-record testimony.
15. On August 12, 2016, FINRA staff sent Basora a second letter requesting that he appear in the Atlanta District Office of FINRA for on-the-record testimony, pursuant to FINRA Rule 8210, at 2 p.m. on September 1, 2016 (Second Request Letter).
16. The Second Request Letter informed Basora that he was obligated to appear for testimony pursuant to FINRA Rule 8210. The Second Request Letter advised Basora that "Failure to answer any questions completely and truthfully, or failure to provide any information requested by the staff, could violate Rule 8210 and could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry, suspension, censure and/or fine."
17. The Second Request Letter was sent pursuant to Rule 8210 by both First Class Mail and Certified Mail⁴ to Basora's CRD Address.
18. The Second Request Letter sent by Certified Mail to Basora's CRD Address was delivered on August 16, 2016, signed for by "E. Basora, Jr."
19. The Second Request Letter sent by First Class Mail to Basora's CRD address was not returned to FINRA staff by the USPS.

⁴ Certified Mail No. 7001 1140 0001 7867 1691.

20. On August 30, 2016, Basora notified FINRA by telephone that his mother had died the previous week and that her memorial service was scheduled for September 2, 2016. FINRA staff agreed to reschedule the September 1, 2016 testimony.
21. On September 27, 2016, FINRA staff sent Basora a letter requesting that he appear in Orlando, Florida, pursuant to FINRA Rule 8210, for on-the-record testimony at 10 a.m. on October 13, 2016 for the purpose of an investigation (Third Request Letter).
22. The Third Request Letter informed Basora that he was obligated to appear for testimony pursuant to FINRA Rule 8210. The Third Request Letter advised Basora that “Failure to answer any questions completely and truthfully, or failure to provide any information requested by the staff, could violate Rule 8210 and could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry, suspension, censure and/or fine.”
23. The Third Request Letter was sent pursuant to Rule 8210 by both First Class Mail and Certified Mail⁵ to Basora’s CRD Address.
24. According to the USPS, the Third Request Letter sent by Certified Mail to Basora’s CRD Address was delivered on October 1, 2016. The signature was illegible.
25. The Third Request Letter sent by First Class Mail to Basora’s CRD address was not returned to FINRA staff by the USPS.
26. On October 13, 2016, Basora failed to appear for the scheduled on-the-record testimony.
27. Later in the day on October 13, 2016, Basora called FINRA staff and apologized for missing the scheduled testimony. When asked by FINRA staff for a date on which he would be available for testimony, Basora stated that he would appear at 10:30 a.m. on

⁵ Certified Mail No. 7001 1140 0001 7867 1769.

October 21, 2016 for on-the-record testimony. Basora also provided FINRA staff with his current email address.

28. On October 14, 2016, FINRA staff sent Basora a letter requesting that he appear in Orlando, Florida, pursuant to FINRA Rule 8210, for on-the-record testimony at 10:30 a.m. on October 21, 2016 for the purpose of an investigation (Fourth Request Letter).
29. The Fourth Request Letter informed Basora that he was obligated to appear for testimony pursuant to FINRA Rule 8210. The Fourth Request Letter advised Basora that “Failure to answer any questions completely and truthfully, or failure to provide any information requested by the staff, could violate Rule 8210 and could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry, suspension, censure and/or fine.”
30. The Fourth Request Letter was sent pursuant to Rule 8210 by both First Class Mail and Certified Mail⁶ to Basora’s CRD Address, and also by email.
31. According to the USPS, it left a notice of certified mail at Basora’s CRD Address on October 18, 2016 regarding delivery of the Fourth Request Letter sent by Certified Mail to Basora’s CRD Address.
32. The Fourth Request Letter sent by First Class Mail to Basora’s CRD address was not returned by the USPS.
33. On October 21, 2016, Basora called FINRA approximately five minutes before the on-the-record testimony was scheduled to begin, stated that he would be delayed, and claimed that his dog had been hit by a car, the dog’s leg was bleeding and he could not put weight on it. FINRA agreed to reschedule the testimony so Basora could take the dog to a veterinarian. Basora agreed to appear at 9 a.m. on October 25, 2016 for the on-the-record testimony.

⁶ Certified Mail No. 7014 2120 0000 4241 7346.

34. On October 21, 2016, FINRA staff sent Basora a letter requesting that he appear in Orlando, Florida, pursuant to FINRA Rule 8210, for on-the-record testimony at 9 a.m. on October 25, 2016 for the purpose of an investigation (Fifth Request Letter).
35. The Fifth Request Letter informed Basora that he was obligated to appear for testimony pursuant to FINRA Rule 8210. The Fifth Request Letter advised Basora that “Failure to answer any questions completely and truthfully, or failure to provide any information requested by the staff, could violate Rule 8210 and could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry, suspension, censure and/or fine.”
36. The Fifth Request Letter was sent pursuant to Rule 8210 by both First Class Mail and Certified Mail⁷ to Basora’s CRD Address, as well as by email.
37. According to the USPS, the Fifth Request Letter sent by Certified Mail to Basora’s CRD Address was delivered to that address on October 24, 2016. The signature is illegible.
38. The Fifth Request Letter sent by First Class Mail to Basora’s CRD address was not returned to FINRA staff by the USPS.
39. On October 25, 2016, Basora failed to appear for the scheduled on-the-record testimony.

FIRST CAUSE OF ACTION
Willful Failure to Timely Amend Form U4
(Article V, Section 2(c) of NASD and FINRA By-Laws,
NASD IM-1000-1, and FINRA Rules 1122 and 2010)

40. The Department realleges and incorporates by reference Paragraphs 1 through 39 above.
41. Article V, Section 2 of the NASD and FINRA By-Laws requires that associated persons who apply for registration must provide “such . . . reasonable information with respect to the applicant as [NASD or FINRA] may require” and further that such applications “shall be kept current at all times by supplementary amendment . . . filed . . . not later than 30

⁷ Certified Mail No. 7001 2510 0001 2822 4139.

days after learning of the facts or circumstances giving rise to the amendment. If such amendment involves a statutory disqualification . . . such amendment shall be filed not later than ten days after such disqualification.”⁸

42. NASD IM-1000-1 and its successor, FINRA Rule 1122 (effective August 17, 2009), prohibit associated persons from filing or failing to correct registration information that is incomplete or inaccurate so as to be misleading.
43. FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade.
44. Question 14A (1) of the Form U4 asks, “Have you ever: (a) been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?” If an affirmative answer is given to Question 14A (1) (a), the associated person is required to provide details about the conviction.
45. Question 14A (1) of the Form U4 asks, “Have you ever: (b) been charged with any felony?” If an affirmative answer is given to Question 14A (1) (b), the associated person is required to provide details about the charge.
46. Basora willfully failed to timely amend his Form U4 to disclose material information.
47. Specifically, while associated with Merrimac, Basora willfully failed to timely amend his Form U4 to disclose either the felony charge on May 7, 2009, or the nolo contendere plea to a felony on November 8, 2010, until March 27, 2014, despite having notice of both at the time they occurred.
48. By willfully failing to amend his Form U4 in a timely manner to disclose the felony charge and felony nolo contendere plea, Basora violated Article V, Section 2(c) of the NASD and FINRA By-Laws, FINRA Rule 2010, FINRA Rule 1122 (with respect to conduct occurring

⁸ Basora’s nolo contendere plea to a felony charge resulted in a statutory disqualification.

on or after August 17, 2009), and NASD IM-1000-1 (with respect to conduct occurring before August 17, 2009).

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

49. The Department realleges and incorporates by reference paragraphs 1 through 48 above.
50. FINRA Rule 8210 provides, in relevant part, that FINRA staff “shall have the right to require a member, person associated with a member, or any other person subject to FINRA’s jurisdiction to provide information ... and to testify at a location specified by FINRA staff ... with respect to any matter involved in [an] investigation, complaint, examination, or proceeding.”
51. FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade. A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.
52. On three occasions, August 11, 2016, October 13, 2016, and October 25, 2016, Basora failed to appear for on-the-record testimony requested pursuant to FINRA Rule 8210 without having been excused by FINRA, and to date has not contacted FINRA staff to reschedule the testimony.
53. The testimony of Basora requested by FINRA was material to FINRA’s investigation of potential rule violations and was necessary for FINRA to complete its regulatory mandate to fully investigate potential rule violations.
54. Basora’s failure to appear and testify as requested impeded FINRA’s investigation and prevented FINRA from completing its regulatory responsibility to fully investigate potential rule violations, including those for failing to timely update his Form U4 to disclose a federal tax lien and three bankruptcies.

55. Basora's failures to appear in response to the August 11, 2016, October 13, 2016, and October 25, 2016 requests to appear for testimony constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Basora.

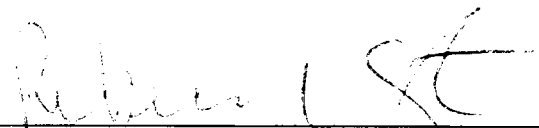
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Respondent 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;
- C. Order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. Make specific findings that Respondent's conduct, as alleged in the First Cause of Action, was willful; the omitted information was material; and the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: December 6, 2016



Rebecca L. Segrest, Senior Regional Counsel
FINRA Department of Enforcement
3490 Piedmont Road, N.E., Suite 500
Atlanta, Georgia 30305
Phone: (404) 239-6125; Fax: (404) 264-1586
rebecca.segrest@finra.org
and teresa.reich@finra.org (senior paralegal)

David Klafter, Regional Chief Counsel
Authorized House Counsel
Member NY and NJ Bars
FINRA Department of Enforcement
5200 Town Center Circle, Tower 1, Suite 200
Boca Raton, FL 33486
Phone: (561) 443-8110; Fax: (202) 721-6556
david.klafter@finra.org