

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

ERIC JOSEPH MILLER
(CRD No. 1844951),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2014041724602

HEARING OFFICER:

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In June 2016, Respondent Eric Joseph Miller failed to appear as a witness for a FINRA disciplinary proceeding that he was obligated to attend pursuant to a FINRA Rule 8210 request letter. As a result, Miller violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. At various times since 1988, Miller was associated with several FINRA member firms. During this time period, Miller obtained the Series 7 (General Securities Representative) and Series 63 (Uniform Securities Agent) FINRA licenses.

3. From February 7, 2012 through October 1, 2014 and October 6, 2015 through April 1, 2016, Miller was registered with FINRA through member firm Scottsdale Capital Advisors Corp. ("Scottsdale" or the "Firm").

4. On April 1, 2016, the Firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") with FINRA, stating that Miller's registration was terminated for "unsatisfactory performance."

5. Although Miller 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 Scottsdale, namely, April 1, 2016; 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.

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

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

7. On May 3, 2016, FINRA Enforcement sent Miller a letter requesting his appearance as a witness in an upcoming disciplinary proceeding, pursuant to FINRA Rule 8210 ("Request Letter").

8. The Request Letter informed Miller that he was obligated to testify at the *Department of Enforcement v. Scottsdale Capital Advisors Corp., et al.* disciplinary proceeding, scheduled for June 13–24, 2016 (Discip. Proc. No. 2014041724601; "Scottsdale Hearing"). The Request Letter advised Miller that "[a] failure on your part to satisfy these obligations could expose you to sanctions, including a permanent bar from the securities industry."

9. The Request Letter was sent pursuant to Rule 8210 via both First Class Mail and by Certified Mail to Miller's then-current address of record as reflected in the Central Registration Depository ("CRD Address").

10. The Request Letter sent via Certified Mail was returned by the U.S. Postal Service ("USPS") and the envelope was marked, "Return to Sender — Unclaimed — Unable to Forward."

11. The Request Letter sent via First Class Mail to Miller's CRD address was not returned by the USPS.

12. On May 25, 2016, one of the attorneys representing FINRA in the Scottsdale Hearing, FINRA Senior Litigation Counsel Gregory Firehock, telephoned Miller to discuss the upcoming testimony. During this call, Miller confirmed his receipt of the Request Letter and his awareness of the dates of the Scottsdale Hearing.

13. During the May 25, 2016 telephone call, Miller confirmed that he could be reached at an email address in Enforcement's files, and he provided an additional email address for Enforcement to contact him (collectively, the "Miller email addresses"). Miller also confirmed that he could be reached in the future on the telephone number that Enforcement used to call him.

14. On May 26, 2016, Firehock sent an email to Miller at the Miller email addresses for the purpose of scheduling a meeting in preparation for the upcoming Scottsdale Hearing. Miller did not respond.

15. On June 2, 2016, Firehock left Miller a voice message reminding him of the upcoming Scottsdale Hearing and seeking to arrange a telephone call to discuss his testimony. Miller did not respond.

16. On June 10, 2016, Firehock sent Miller an email reminding him of the upcoming Scottsdale Hearing, attaching a copy of the Request Letter, and seeking to discuss logistical issues related to his testimony. Miller did not respond.

17. On June 14, 2016, after the Scottsdale Hearing had begun, Firehock sent Miller an email noting that Firehock had repeatedly tried to call Miller. The email requested confirmation regarding whether Miller intended to appear for testimony during the Scottsdale Hearing. Miller did not respond.

18. Miller failed to appear as a witness in the Scottsdale Hearing, which went forward on June 13–24, 2016, and has since concluded.

19. By failing to provide testimony with respect to a disciplinary proceeding, Miller violated FINRA rules 8210 and 2010.

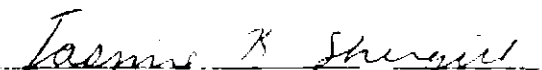
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Miller 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 Miller 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: September 6, 2016


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