

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Samuel Ryan McClain (CRD No. 1555602),

Respondent.

DISCIPLINARY PROCEEDING
No. 20150455320-02

COMPLAINT

The Department of Enforcement ("Enforcement") alleges:

SUMMARY

1. Samuel Ryan McClain ("McClain"), a former Investment Company Products/Variable Contracts Representative at Northwestern Mutual Investment Services, LLC ("Northwestern" or the "Firm"), a FINRA-registered broker-dealer, was permitted to resign by the Firm for failing to make three required disclosures on his Uniform Application for Securities Industry Registration or Transfer ("Form U4").

2. Enforcement initiated an investigation into potential misconduct by McClain, including (i) failing to make multiple required disclosures on his Form U4, including that he had over \$1.2 million in judgments entered against him, that a business over which he had exercised control had been the subject of an involuntary bankruptcy proceeding, and that a business over which he exercised control was subject to an investigation by the Commonwealth of Massachusetts; and (ii) participation in multiple undisclosed outside business activities.

3. On multiple occasions, pursuant to Rule 8210, Enforcement requested that McClain appear and provide testimony. McClain failed to comply with those requests in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

4. McClain entered the securities industry with Northwestern, a FINRA regulated broker-dealer, on July 23, 2014.

5. McClain received his Series 6 license on January 12, 2015 and his Series 63 license on April 30, 2015. McClain was registered with the Firm as an Investment Company Products/Variable Contracts Representative.

6. On July 8, 2015, the Firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") stating that McClain's employment with the Firm had terminated on July 6, 2015. The Form U5 stated McClain was permitted to resign while under internal review for failure to disclose (i) a prior judgment against him; (ii) an involuntary bankruptcy of a business over which he exercised control; and (iii) that a business over which he exercised control was subject to an investigation by the Commonwealth of Massachusetts.

7. Although Respondent 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 the Firm, namely, July 8, 2015, and (2) the Complaint charges McClain 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 Respond to Enforcement's Requests to Appear and Provide Testimony) Violation of FINRA Rules 8210 and 2010

8. The Department realleges and incorporates by reference paragraphs 1 to 7 above.

9. FINRA Rule 8210(a) (1) requires a "member, person associated with a member, or any other person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically . . . and to testify at a location specified by FINRA staff . . . with respect to any matter involved in the investigation, complaint, examination, or proceeding . . ."

10. FINRA Rule 2010 states that a member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

11. A violation of FINRA Rule 8210 is a violation of FINRA Rule 2010.

12. On July 6, 2015, the Firm filed a Form U5 for McClain, stating that he was permitted to resign while under internal review for failure to disclose on his Form U4 "[i] a prior judgment against him; [ii] an involuntary bankruptcy of a business over which he exercised control; and[] [iii] that a business over which he exercised control was subject to an investigation by the [Commonwealth] of Massachusetts."

13. On September 15, 2015, the Firm filed an Amended Form U5 for McClain (the "Amended Form U5"). The Amended Form U5 stated that, following McClain's termination, the Firm had "discovered that [he], while registered with [the] [F]irm, had entered into multiple 'Sponsor Agreements'" with [PC], Inc., agreeing to pay [PC] in excess of \$400,000 for 'marketing opportunities.'" The Firm stated McClain had "never disclosed these Agreements" and lacked authority to enter into them.

14. FINRA commenced an investigation into McClain's conduct.

15. On December 21, 2015, Enforcement sent a letter to McClain (the "December 21 Letter") requesting, pursuant to FINRA Rule 8210, that he appear to provide sworn testimony at FINRA's New York office on January 15, 2016. The December 21 Letter was sent by Certified Mail Return Receipt requested ("CMRR") and first class mail to McClain's address of record in the Central Registration Depository ("CRD"), located in Reading, MA (the "CRD Address"). Both copies of the December 21 Letter were returned unclaimed to Enforcement on December 30, 2015 with notations stating "FORWARD TIME EXP RTN TO SEND," and indicating a forwarding address located in North Reading, MA (the "Forwarding Address").

16. On January 6, 2016, Enforcement sent another letter to McClain (the "January 6 Letter") again requesting, pursuant to FINRA Rule 8210, that he appear to provide sworn testimony at FINRA's New York office on January 15, 2016. The January 6 Letter was sent by CMRR and first class mail to McClain's Forwarding Address. Both copies of the January 6 Letter were returned unclaimed to Enforcement on January 25, 2016 by the U.S. Postal Service with notations stating: "RETURN TO SENDER[,] NOT DELIVERABLE AS ADDRESSED[,] UNABLE TO FORWARD."

17. On January 12, 2016, staff telephoned McClain to inquire about his current address. During that call, McClain provided his current address in Beverly, MA (the "Current Address"). McClain also provided staff with his e-mail address.

18. On January 13, 2016, staff sent a letter to McClain (the "January 13 Letter") requesting, pursuant to FINRA Rule 8210, that he appear to provide sworn testimony at FINRA's New York office on February 17, 2016. The January 13 Letter was sent by CMRR and first class mail to McClain's CRD Address and his Current Address. In addition, staff sent a copy of the January 13 Letter to McClain via the e-mail address he had provided. The CMRR

receipt for the January 13 Letter sent to the Current Address was signed on January 19, 2016 and returned to Enforcement on January 21, 2016. The copy of the January 13 Letter sent via U.S. Mail to the Current Address was not returned.

19. The copy of the January 13 Letter sent to the CRD Address via CMRR was returned to Enforcement on February 22, 2016 by the U.S. Postal Service with notations stating: "RETURN TO SENDER[,] UNCLAIMED[,] [UNABLE TO FORWARD[,] RETURN TO SENDER[.]" The copy of the January 13 Letter sent to the CRD Address via first class mail was not returned.

20. On January 30, 2016, McClain e-mailed staff to request that the testimony requested in the January 13 Letter, scheduled for February 17, 2016, be adjourned.

21. On February 1, 2016, staff e-mailed McClain and agreed to adjourn his on-the-record testimony until March 2, 2016 at 10:00 a.m. in FINRA's New York office. The same day, McClain responded: "I respectfully thank you for the extension. I appreciate your cooperation and understanding."

22. McClain failed to appear and provide testimony on March 2, 2016.

23. On March 2, 2016, staff sent a letter to McClain (the "March 2 Letter") requesting, pursuant to FINRA Rule 8210, that he appear to provide sworn testimony at FINRA's New York office on March 10, 2016. The March 2 Letter was sent by CMRR and first class mail to McClain's CRD Address and his Current Address. In addition, staff sent a copy of the March 2 Letter to McClain via e-mail, at the same address he had previously provided. The CMRR receipt for the March 2 Letter sent to the Current Address was signed on March 11, 2016

and returned to Enforcement thereafter, and the copy of the March 2 Letter sent via U.S. Mail to the Current Address was not returned.

24. The copy of the March 2 Letter sent to the CRD Address via CMRR was delivered on March 19, 2016, and the copy of the March 2 Letter sent to the CRD Address via first class mail was not returned. McClain did not respond to the e-mail.

25. McClain failed to appear and provide testimony on March 10, 2016.

26. Enforcement has sent multiple requests for McClain to appear and provide testimony pursuant to FINRA Rule 8210 to his CRD Address, Forwarding Address, and Current Address, as described above. To date, McClain has failed to appear and provide sworn testimony to Enforcement as requested.

27. By failing to cooperate with FINRA's investigation, McClain violated FINRA Rules 8210 and 2010.

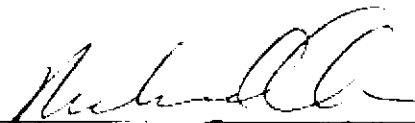
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) 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 Respondent(s) 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: August 10, 2016



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