

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Sean William Killoran (CRD No. 4591890),

Respondent.

DISCIPLINARY PROCEEDING
No. 20160491970-01

COMPLAINT

The Department of Enforcement (“Enforcement”) alleges:

SUMMARY

1. In 2016, Enforcement opened an investigation into the potential involvement of Sean William Killoran (“Respondent”), a former General Securities Representative and Operations Professional with Scotia Capital (USA) Inc. (the “Firm”), a FINRA-regulated broker-dealer, in the mismarking of certain securities in a proprietary trading portfolio at the Firm. In connection with the investigation, on multiple occasions in May 2018, pursuant to FINRA Rule 8210, Enforcement requested that Respondent appear and provide testimony. Respondent failed to comply with those requests in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Respondent entered the securities industry in September 2002 and has been associated with four FINRA-regulated broker-dealers, including the Firm. Respondent received his Series 7 (General Securities Representative or “GSR”) and Series 63 (Uniform Securities State Law Examination) licenses in February and April of 2006, respectively.

3. In December 2011, Respondent became associated with the Firm. Respondent subsequently became registered as a GSR and an Operations Professional with the Firm in July 2013. On July 18, 2016, the Firm filed a Form U5 stating that Killoran had been terminated on June 20, 2016 for “unsatisfactory performance,” but did not provide additional information.

4. Respondent has not been associated with any FINRA-regulated broker-dealer since the Firm terminated his employment.

5. 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 18, 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.

FIRST CAUSE OF ACTION

(Failure to Respond to Enforcement’s Requests to Appear and Provide Testimony)
Violation of FINRA Rules 8210 and 2010

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

7. 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 . . .” FINRA Rule 8210(c) similarly provides that “[n]o member or person shall fail to provide information or testimony . . . pursuant to this Rule.”

8. FINRA Rule 2010 states that “[a] member, in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade.” A failure to comply with a request for testimony pursuant to FINRA Rule 8210 is also a violation of FINRA Rule 2010.

9. In April, 2016, Enforcement commenced an investigation into Respondent’s potential involvement in the mismarking of certain securities in a proprietary trading portfolio at the Firm.

10. As part of its investigation, on May 1, 2018, Enforcement sent a letter to Respondent (the “May 1 Request”) requesting, pursuant to FINRA Rule 8210, that he appear and provide sworn testimony on May 15, 2018 at FINRA’s offices at 200 Liberty Street, 12th Floor, New York, NY 10281. The May 1 Request was sent by Certified Mail Return Receipt Requested (“CMRR”) and First Class Mail to Respondent’s address of record in the Central Registration Depository (“CRD”), located in New York (the “CRD Address”). Enforcement also sent a copy of the May 1 Request by CMRR and First Class Mail to an address in Florida that Respondent represented to FINRA staff was the location of his current residence (the “Home Address”). The May 1 Request was also sent to Respondent at an e-mail address he had previously used to correspond with FINRA staff (the “Email Address”). The copy of the May 1 Request sent to the CRD Address by CMRR was returned to Enforcement marked “RETURNED TO SENDER” and

“FORWARDING ORDER EXPIRED.” The copy of the May 1 Request sent to the CRD Address by First Class Mail was returned to Enforcement marked “RETURN TO SENDER[,] INSUFFICIENT ADDRESS[,] UNABLE TO FORWARD[.]” The copy of the May 1 Request sent to the Home Address by CMRR was returned to Enforcement marked “RETURN TO SENDER[,] UNCLAIMED[,] UNABLE TO FORWARD[.]” The copy of the May 1 Request sent to the Home Address by First Class Mail was not returned to Enforcement. The copy of the May 1 Request sent to the Email Address also was not returned to Enforcement.

11. On or about May 11, 2018, FINRA staff telephoned Respondent to confirm he intended to appear for testimony as requested. During that call, Respondent orally confirmed that he had received the May 1 Request and further stated that he had retained counsel and intended to appear for testimony on May 15, 2018. When FINRA staff inquired about the name and contact information for Respondent’s counsel, Respondent claimed he could not remember it, and stated that he would forward it to staff via e-mail. Respondent did not send the requested information despite multiple e-mail and voicemail reminders from FINRA staff.

12. Respondent failed to appear and provide testimony on May 15, 2018.

13. On May 15, 2018, Enforcement sent another letter to Respondent (the “May 15 Request”) requesting, pursuant to FINRA Rule 8210, that he appear and provide sworn testimony on May 22, 2018 at FINRA’s offices at 200 Liberty Street, 12th Floor, New York, NY 10281. The May 15 Request was sent by CMRR and First Class Mail to Respondent’s CRD Address and Home Address. The May 15 Request was also sent to Respondent at the Email Address. The copy of the May 15 Request sent to the CRD Address by CMRR was returned to Enforcement marked “RETURNED TO SENDER” and “INSUFFICIENT ADDRESS.” The copy of the May 15 Request sent to the CRD Address by First Class Mail was not returned to

Enforcement. Enforcement did not receive a CMRR delivery receipt for the May 15 Request sent to the Home Address, but neither copy of the May 15 Request sent to the Home Address was returned to Enforcement. The copy of the May 15 Request sent to the Email Address also was not returned to Enforcement.

14. Respondent failed to appear and provide testimony on May 22, 2018.

15. Enforcement has sent multiple requests for Respondent to appear and provide testimony pursuant to FINRA Rule 8210 to his CRD Address, Home Address and Email Address. To date, Respondent has failed to appear and provide testimony to Enforcement as requested.

16. By failing to appear and provide testimony as requested by Enforcement pursuant to FINRA Rule 8210, Respondent violated FINRA Rules 8210 and 2010.

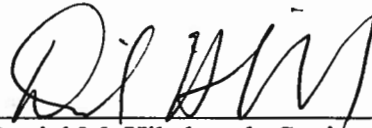
RELIEF REQUESTED

WHEREFORE, the Department of Enforcement 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: June 21, 2018



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