

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JAMES G. McKINNEY
(CRD No. 2100850),

Respondent.

Disciplinary Proceeding
No. 2018057829001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In March 2018, FINRA commenced an investigation of respondent James G. McKinney for possible violations of FINRA rules. During that investigation, McKinney failed to comply with multiple FINRA requests, all made pursuant to FINRA Rule 8210, to provide information and documents and to appear for testimony. As a result of his multiple failures to comply with these requests, McKinney violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. McKinney entered the securities industry in September 1990. From September 2012 until August 1, 2019, McKinney was associated with member firm Cetera Advisors LLC and registered with FINRA as an investment company and variable contracts products representative, a general securities representative, and a corporate securities representative.

3. Although McKinney 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 August 1, 2019, which was the effective date of termination of McKinney's registration with Cetera Advisors, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to respond to FINRA requests for information and to appear for on-the-record testimony during the two-year period after the date on which he ceased to be registered or associated with a FINRA member.

CAUSE OF ACTION
Failure to Comply with FINRA Requests for
Information, Documents, and Testimony
(FINRA Rules 8210 and 2010)

4. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 3 above.

5. 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."

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

7. FINRA Rule 8210(d) specifies that "notice under this Rule shall be deemed received by the . . . currently or formerly registered person to whom it is directed by mailing or otherwise transmitting the notice to . . . the last known residential address of the person as reflected in the Central Registration Depository."

8. FINRA Rule 2010 requires FINRA members and their associated persons to "observe high standards of commercial honor and just and equitable principles of trade" in the

conduct of their business. A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.

9. In March 2018, FINRA commenced an investigation into possible FINRA rule violations by McKinney.

***McKinney Fails to Comply with FINRA's
Requests for Information and Documents***

10. As part of that investigation, in March and April 2019, FINRA sent two letters to McKinney requesting that he provide information and documents pursuant to FINRA Rule 8210. FINRA sent both letters to McKinney's last known residential address as reflected in the Central Registration Depository ("McKinney's CRD Address"). In response to these letters, McKinney provided information and documents to FINRA.

11. On July 12, 2019, FINRA sent a letter to McKinney requesting that he provide additional information and documents relevant to its investigation pursuant to FINRA Rule 8210 by July 22, 2019 (the "July Rule 8210 Request"). FINRA sent this letter to McKinney's CRD Address by first class and certified mail.

12. McKinney failed to provide any of the information and documents requested in the July Rule 8210 Request.

13. On August 15, 2019, FINRA sent another letter to McKinney pursuant to FINRA Rule 8210 (the "August Rule 8210 Request"). In this letter, FINRA noted that McKinney had previously failed to respond to the July Rule 8210 Request and asked him again to provide the information and documents requested in the July Rule 8210 Request by August 23, 2019. FINRA sent this letter to McKinney's CRD Address by first class and certified mail.

14. McKinney failed to provide any of the information and documents requested in the August Rule 8210 Request.

***McKinney Fails to Comply with FINRA's
Requests for Testimony***

15. On July 26, 2019, FINRA sent McKinney a letter requesting that he appear and provide testimony at FINRA's Denver, Colorado office on August 29, 2019, pursuant to FINRA Rule 8210 (the "Second July Rule 8210 Request"). FINRA sent this letter to McKinney's CRD Address by first class and certified mail and by FedEx overnight delivery.

16. McKinney failed to appear and provide testimony on August 29, 2019, as requested in the Second July Rule 8210 Request.

17. On September 9, 2019, FINRA sent another letter to McKinney at McKinney's CRD Address by first class and certified mail and by FedEx overnight delivery (the "September Rule 8210 Request"). In this letter, FINRA noted that McKinney failed to appear and provide testimony on August 29, 2019, and requested that he appear and provide testimony at FINRA's Denver, Colorado office on September 18, 2019, pursuant to FINRA Rule 8210.

18. McKinney failed to appear and provide testimony on September 18, 2019, as requested in the September Rule 8210 Request.

19. To date, McKinney has not provided the information and documents requested in the July Rule 8210 Request and the August Rule 8210 Request and has not appeared and provided testimony in connection with the investigation of this matter.

20. As a result of McKinney's failure to comply with multiple requests for information, documents, and testimony issued pursuant to FINRA Rule 8210, McKinney has impeded FINRA's investigation into potential violations of FINRA rules by him.

21. By failing to comply with multiple FINRA requests made pursuant to FINRA Rule 8210, McKinney 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 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 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 5, 2019



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