

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

Department of Enforcement,

Complainant,

v.

Robert Juan Escobio
(CRD No. 703813),

Respondent.

DISCIPLINARY PROCEEDING
No. 2018059545201

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From March 2019 to the present, Respondent Robert Juan Escobio has repeatedly failed to provide information and documents requested by FINRA Staff pursuant to FINRA Rule 8210 in an investigation involving whether Escobio continued to associate with a FINRA member firm while he was statutorily disqualified. Moreover, Escobio also failed to appear and provide sworn testimony to FINRA Staff on five separate occasions, as requested pursuant to FINRA Rule 8210. As a result, Escobio violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Escobio entered the securities industry in 1980. From June 2000 until July 2017, Escobio was registered with FINRA-member firm Southern Trust Securities, Inc. (Southern Trust), as a General Securities Principal and General Securities Representative. From

June 2000 to April 2014, Escobio also served as Southern Trust's Chief Executive Officer.

3. On July 29, 2017, FINRA filed a Uniform Disciplinary Action Reporting Form ("Form U6") and an Administrative Uniform Termination Notice for Securities Industry Registration for Escobio. The Form U6 disclosed that Escobio was statutorily disqualified from associating with a FINRA member as a result of a final judgment entered by the U.S. District Court for the Southern District of Florida in an action brought by the U.S. Commodity Futures Trading Commission ("CFTC"), which, among other things, permanently enjoined Escobio from engaging in a number of activities governed by the Commodity Exchange Act ("CEA").
4. On August 7, 2017, Southern Trust filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of Escobio stating that he had voluntarily terminated his association with the firm on July 27, 2017. On June 28, 2019, Southern Trust filed two Form U5 amendments on behalf of Escobio, which together modified his reported termination date to June 30, 2017.
5. Escobio is not currently registered with FINRA; however, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint: (1) was filed within two years after the effective date of termination of Escobio's registration with Southern Trust; and (2) charges him with failing to respond to FINRA's requests for information and documents and with failing to appear for on-the-record testimony ("OTR") during the two-year period after Escobio ceased to be registered with a FINRA member firm.

FACTS

The CFTC Action and Final Judgment

6. In July 2014, the CFTC filed a complaint in the U.S. District Court for the Southern District of Florida against Escobio alleging violations of the antifraud provisions of the CEA and accompanying regulations (hereinafter, “CFTC Action”).
7. On August 29, 2016, the court in the CFTC Action entered a final judgment in favor of the CFTC. The court found that Escobio engaged in a fraudulent commodities scheme between July 2011 and April 2013, and the final judgment permanently enjoined Escobio from engaging in various activities governed by the CEA. The final judgment also permanently enjoined Escobio from applying for registration or engaging in any activity requiring registration under the CEA. The court also issued an award of restitution and imposed civil monetary penalties against Escobio.
8. On September 7, 2016, FINRA notified Southern Trust and Escobio in writing that Escobio was deemed statutorily disqualified as a result of the permanent injunction entered by the court in the CFTC Action and was therefore no longer qualified to register as an associated person with a FINRA member firm.
9. On September 23, 2016, in accordance with Article III, Section 3(d) of FINRA’s By-Laws of the Corporation, Southern Trust filed an MC-400 Membership Continuance Application (the “MC-400 Application”) requesting permission to continue its membership while employing Escobio as a General Securities Representative, General Securities Principal, and options principal, notwithstanding his statutory disqualification.
10. On July 27, 2017, the National Adjudicatory Counsel (“NAC”) denied the MC-400 Application. The NAC’s denial was affirmed by the SEC on July 22, 2018.

FINRA's Investigation

11. In August 2018, FINRA began investigating whether Escobio continued to associate with Southern Trust, despite his statutory disqualification, after the NAC denied the MC-400 Application. Specifically, in connection with a cycle examination of Southern Trust, FINRA Staff discovered that Escobio may have accessed and utilized Southern Trust's email system and communicated with Southern Trust customers regarding securities business after the NAC's denial of the MC-400 Application on July 27, 2017.
12. At all relevant times, Escobio maintained the same residential address listed in FINRA's Central Registration Depository ("CRD") in Coral Gables, Florida (the "CRD Address").
13. On or about April 3, 2019, FINRA Staff became aware that Escobio was incarcerated beginning on approximately April 1, 2019 at the Federal Detention Center in Miami, Florida ("FDC Miami") as a result of a court order finding Escobio in contempt for failing to pay more than \$1.5 million in restitution as ordered in the CFTC Action.
14. At all relevant times, the FDC Miami address for inmate mail was a post office box in Miami, Florida (the "FDC Miami P.O. Box Address") and a physical address in Miami, Florida (the "FDC Miami Mailing Address").
15. According to the Federal Bureau of Prisons, Escobio was released from FDC Miami on April 26, 2019.

Escobio's Repeated Failures to Produce Information and Documents

16. On March 26, 2019, FINRA Staff sent Escobio a letter, pursuant to FINRA Rule 8210, requesting information and documents concerning his potential ongoing association with Southern Trust, despite his statutory disqualification, after the NAC's denial of the MC-400 Application (the "First Request for Information and Documents"). FINRA Staff sent

the First Request for Information and Documents by certified mail and Federal Express Overnight ("FedEx") to Escobio at his CRD Address.

17. On or about March 27, 2019, FedEx confirmed the delivery of the First Request for Information and Documents according to the tracking information on FedEx's website.
18. On or about June 29, 2019, the United States Postal Service ("USPS") marked the First Request for Information and Documents sent by certified mail as "Unclaimed/Being Returned to Sender," according to the tracking information on USPS's website.
19. Escobio's response to the First Request for Information and Documents was due on or before April 8, 2019. Escobio has not provided the requested information and documents and has not requested an extension of time to respond to the request.
20. On April 10, 2019, FINRA Staff sent a second letter to Escobio, pursuant to FINRA Rule 8210, requesting the same information and documents requested in the March 26, 2019 letter (the "Second Request for Information and Documents"). FINRA Staff mailed the Second Request for Information and Documents by both certified and first class mail to Escobio's CRD Address, as well as by first class mail to the FDC Miami P.O. Box Address and certified mail to the FDC Miami Mailing Address.
21. The first class mailing of the Second Request for Information and Documents sent to Escobio's CRD Address was not returned to FINRA Staff.
22. On or about April 16, 2019, the USPS confirmed delivery of the Second Request for Information and Documents sent by certified mail to the FDC Miami Mailing Address according to the USPS's electronic return receipt, which was signed "Williams."
23. On or about May 7, 2019, the USPS returned to FINRA Staff the Second Request for Information and Documents sent by first class mail to the FDC Miami P.O. Box Address,

noting “Return to Sender – Not at This Address – Package Authorization Not on File Unidentifiable Name or Register Number.”

24. On or about June 29, 2019, the USPS marked the Second Request for Information and Documents sent to Escobio’s CRD Address as “Unclaimed/Being Returned to Sender,” according to the tracking information on USPS’s website.
25. Escobio’s response to the Second Request for Information and Documents was due on or before April 17, 2019. Escobio has not provided the requested information and documents and has not requested an extension of time to respond to the request.
26. On May 2, 2019, FINRA Staff sent a third letter to Escobio, pursuant to FINRA Rule 8210, requesting the same information and documents requested in the First and Second Requests for Information and Documents (the “Third Request for Information and Documents”), as well as an additional request for information and documents, pursuant to FINRA Rule 8210 (“First Request for Additional Information and Documents”). FINRA Staff mailed together the Third Request for Information and Documents and the First Request for Additional Information and Documents to Escobio’s CRD Address by certified mail, first class mail, and FedEx.
27. On or about May 3, 2019, FedEx confirmed the delivery of the Third Request for Information and Documents and the First Request for Additional Information and Documents according to the tracking information on FedEx’s website.
28. On or about May 31, 2019, the USPS returned the Third Request for Information and Documents and the First Request for Additional Information and Documents sent by certified mail to FINRA Staff as undelivered. To date, the USPS has not returned the

Third Request for Information and Documents or the First Request for Additional Information and Documents sent to Escobio's CRD Address by first class mail.

29. Escobio's responses to The Third Request for Information and Documents and the First Request for Additional Information and Documents were due on or before May 16, 2019. Escobio has not provided the requested information and documents and has not requested an extension of time to respond to the requests.
30. On May 20, 2019, FINRA Staff received an email identifying RA as counsel for Escobio with respect to FINRA's investigation.
31. On June 5, 2019, counsel for Escobio, RA, sent a letter to FINRA Staff acknowledging FINRA's requests for information and documents. Counsel's June 5, 2019 letter indicated that Escobio did not intend to comply with the requests.
32. On June 6, 2019, FINRA Staff sent Escobio a letter, pursuant to FINRA Rule 8210, requesting the same information and documents that were requested in the First Request for Additional Information and Documents dated May 2, 2019 (the "Second Request for Additional Information and Documents"). FINRA Staff mailed the Second Request for Additional Information and Documents by both certified and first class mail to Escobio's CRD Address, and by certified mail and email to Escobio's counsel, RA.
33. On or about June 10, 2019, the USPS delivered the Second Request for Additional Information and Documents to Escobio's counsel by certified mail according to the electronic return receipt, which contains an illegible recipient signature.
34. On or about June 11, 2019, the USPS delivered the Second Request for Additional Information and Documents to Escobio's CRD Address by certified mail according to the USPS electronic return receipt, which was signed "Housekeeper."

35. Escobio's response to the Second Additional Request for Information and Documents was due on or before June 12, 2019. Escobio has not provided the requested information and documents and has not requested an extension of time to respond to the request.

Escobio's Failure to Comply with Five Requests for Testimony

36. On March 29, 2019, FINRA Staff sent a letter to Escobio, pursuant to FINRA Rule 8210, requesting that he appear for an OTR testimony at 9:30 a.m. on April 18, 2019 at FINRA's Boca Raton, Florida office (the "First OTR Request"). FINRA staff mailed the First OTR Request to the CRD Address by certified mail, first class mail, and FedEx.
37. FINRA Staff sent the First OTR Request so that it could obtain Escobio's testimony regarding his potential ongoing association with Southern Trust, despite his statutory disqualification, after the NAC's denial of the MC-400 Application.
38. On or about April 1, 2019, FedEx confirmed delivery of the First OTR Request according to the tracking information on FedEx's website.
39. On April 9, 2019, through counsel (MF), Escobio acknowledged receipt of the First OTR Request. Specifically, on that date, MF sent FINRA Staff a letter, stating "Escobio is incarcerated and unable to appear for the requested oral examination."¹ FINRA Staff subsequently offered to arrange to take Escobio's OTR testimony at FDC Miami, but counsel informed FINRA staff that Escobio may "elect not to participate based on advice of [separate] counsel" in the CFTC Action.
40. On April 18, 2019, Escobio did not appear for his OTR testimony as requested by FINRA staff and pursuant to FINRA Rule 8210.

¹ In a phone call on April 10, 2019, MF advised FINRA Staff that he only represented Escobio in a limited capacity, namely to respond to the First OTR Request.

41. On or around April 27, 2019, the USPS returned the First OTR Request sent by certified mail, marking it “return to sender, not deliverable as addressed.” The USPS did not return the First OTR Request sent to Escobio’s CRD address by first class mail.
42. On May 2, 2019, FINRA Staff sent a letter to Escobio, pursuant to FINRA Rule 8210, requesting that he appear for an OTR testimony at 9:30 a.m. on May 20, 2019 at FINRA’s Boca Raton, Florida office (the “Second OTR Request”). FINRA staff sent the Second OTR Request by certified mail, first class mail and FedEx to Escobio’s CRD Address.
43. On or about May 3, 2019, FedEx confirmed the delivery of the Second OTR Request according to the tracking information on FedEx’s website.
44. The USPS returned the Second OTR Request sent by certified mail to FINRA Staff as undelivered. To date, the USPS has not returned the Second OTR Request sent by first class mail to Escobio’s CRD Address.
45. On May 20, 2019, Escobio failed to appear for OTR testimony, as requested by FINRA staff, pursuant to the Second OTR Request. FINRA Staff did not receive any request from Escobio to adjourn his testimony prior to its scheduled date and time.
46. On May 20, 2019, at 5:44 p.m., Escobio’s new counsel, RA, emailed a letter to FINRA Staff acknowledging Escobio’s receipt of the Second OTR Request and stating that “based upon advice of counsel, Mr. Robert Escobio will not be able to participate in the On-The-Record (OTR) testimony at this time.”
47. On May 21, 2019, FINRA Staff sent a letter to Escobio, pursuant to FINRA Rule 8210, requesting that Escobio appear for OTR testimony at 9:30 a.m. on May 29, 2019 at FINRA’s Boca Raton, Florida office (the “Third OTR Request”). FINRA Staff sent the

Third OTR Request by certified and first class mail to Escobio's CRD Address and to Escobio's counsel, RA, by certified mail and email. The Third OTR Request also advised Escobio and his counsel that "advice of counsel does not obviate Escobio's obligation under FINRA Rule 8210 to appear for testimony."

48. On or about May 22, 2019, the USPS delivered the Third OTR Request to Escobio and to Escobio's counsel, RA, by certified mail according to the electronic return receipts, which contain illegible recipient signatures.
49. To date, the USPS has not returned the Third OTR Request sent by first class mail to Escobio's CRD Address.
50. On May 28, 2019, at 4:13 p.m., the day before Escobio's scheduled May 29, 2019 OTR testimony, his counsel, RA, emailed FINRA Staff acknowledging receipt of the Third OTR Request and requesting a postponement of Escobio's OTR testimony until July 2019. The only reason provided for the requested postponement was that her office was working with Escobio on responding to certain matters in the CFTC Action. RA offered the week of July 1, 2019 as an alternative date for Escobio's OTR testimony.
51. On May 28, 2019, at 5:07 p.m., FINRA Staff responded by email to Escobio's counsel, RA, explaining that his OTR would not be postponed and should he fail to appear, it would be noted on the record. FINRA Staff further stated that should Escobio decide to appear for testimony at a later date, that we request dates of availability before July given a nearing jurisdictional deadline.
52. Escobio failed to appear for his May 29, 2019 OTR testimony.
53. On June 25, 2019, FINRA Staff sent a letter to Escobio, pursuant to FINRA Rule 8210, requesting that Escobio appear for OTR testimony at 9:30 a.m. on July 2, 2019 at

- FINRA's Boca Raton, Florida office (the "Fourth OTR Request"). FINRA staff sent the Fourth OTR Request by certified and first class mail to Escobio's CRD Address and to Escobio's counsel, RA, by certified mail, first class mail, FedEx and email.
54. On or about June 26, 2019, FedEx confirmed the delivery of the Fourth OTR Request to RA according to the tracking information on FedEx's website.
 55. On June 28, 2019, RA called FINRA Staff to inform them that Escobio would not be appearing for OTR testimony on July 2, 2019, as requested in the Fourth OTR Request.
 56. On or about June 28, 2019, USPS marked the Fourth OTR Request sent by certified mail to Escobio's CRD Address as "Notice Left, (No Authorized Recipient Available)," according to the tracking information on USPS's website. The USPS has not delivered to FINRA Staff a "return receipt" for this certified letter.
 57. On or about July 1, 2019, the USPS confirmed delivery of the Fourth OTR Request sent by certified mail to RA's address according to the USPS's electronic return receipt, which contains an illegible signature.
 58. To date, the USPS has not returned the Fourth OTR Request sent by first class mail to Escobio's CRD Address and to RA.
 59. On July 2, 2019, Escobio failed to appear for OTR testimony, as requested by FINRA Staff, pursuant to the Fourth OTR Request.
 60. At approximately 4:30 pm on July 2, 2019, RA called FINRA Staff and stated Escobio was available for his OTR testimony to be held on July 8, 2019.
 61. On July 3, 2019, FINRA Staff sent a letter to Escobio, pursuant to FINRA Rule 8210, requesting that Escobio appear for OTR testimony at 9:30 a.m. on July 8, 2019 at FINRA's Boca Raton, Florida office (the "Fifth OTR Request"). FINRA Staff sent the

- Fifth OTR Request by certified and first class mail to Escobio's CRD Address and to Escobio's counsel, RA, by certified mail, first class mail, FedEx and email.
62. On or about July 5, 2019, FedEx confirmed the delivery of the Fifth OTR Request to RA according to the tracking information on FedEx's website.
63. On or about July 5, 2019, the USPS confirmed delivery of the Fifth OTR Request sent by certified mail to RA's address according to the USPS's electronic return receipt, which contains an illegible signature.
64. On or about July 6, 2019, USPS marked the Fifth OTR Request sent by certified mail to Escobio's CRD Address as "Notice Left, (No Authorized Recipient Available)," according to the tracking information on USPS's website. The USPS has not delivered to FINRA Staff a "return receipt" for this certified letter.
65. To date, the USPS has not returned the Fifth OTR Request sent by first class mail to Escobio's CRD Address and to RA.
66. On July 5, 2019, RA sent a letter via email to FINRA Staff stating, among other things, that Escobio was no longer available on July 8, 2019.
67. On July 8, 2019, Escobio failed to appear for OTR testimony, as requested by FINRA Staff, pursuant to the Fifth OTR Request.

FIRST CAUSE OF ACTION
Failure To Respond To Information And Document Requests
(FINRA Rules 8210 and 2010)

68. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 67 above.
69. 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 (if the requested information is, or is required to be, maintained in electronic form).”

70. FINRA Rule 8210(c) provides that “[n]o member or person shall fail to provide information ... pursuant to this Rule.”
71. FINRA Rule 8210(d) specifies that notice under Rule 8210 shall be deemed received by a current or former registered representative to whom it is directed by mailing or otherwise transmitting the notice to the last known resident address of the registered representative as reflected in the CRD.
72. FINRA Rule 2010 requires member firms and associated persons to observe high standards of commercial honor and just and equitable principles of trade. Failing to comply with Rule 8210 is conduct that is inconsistent with the high standards of commercial honor and just and equitable principles of trade and, thus, violates Rule 2010.
73. The information and documents requested by FINRA Staff in the First, Second, and Third Requests for Information and Documents, as well as the First and Second Requests for Additional Information and Documents (collectively, the “Information and Documents Requests”) were material to FINRA’s investigation of potential rule violations by Escobio and Southern Trust related to whether Escobio continued to associate with the firm, despite his statutory disqualification, after the NAC denied the MC-400 application.
74. Each of the Information and Documents Requests to Escobio were made pursuant FINRA Rule 8210.

75. Each of the Information and Documents Requests stated that a failure to produce the requested information and documents could expose Escobio to sanctions, including a permanent bar from the securities industry.
76. Escobio's failures to produce the requested information and documents sought in each of the Information and Documents Requests constitutes separate and distinct violations of FINRA Rules 8210 and 2010 by Escobio.

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

77. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 76 above.
78. FINRA Rule 8210(a)(1) requires "a member, person associated with a member, or any other person subject to FINRA's jurisdiction . . . to testify at a location specified by FINRA Staff under oath or affirmation administered by a court reporter or notary public if requested, with respect to any matter involved in the investigation, complaint, examination or proceeding."
79. FINRA Rule 8210(c) provide that "[n]o member or person shall fail to provide . . . testimony . . . pursuant to this Rule."
80. FINRA requested that Escobio appear for OTR testimony on five separate occasions, pursuant to FINRA Rule 8210, and Escobio failed to appear each time.
81. FINRA requested Escobio's OTR testimony because it was material to FINRA's investigation of potential rule violations by Escobio and Southern Trust related to whether Escobio continued to associate with the firm, despite his statutory disqualification, after the NAC denied the MC-400 application, and was necessary for

FINRA to complete its regulatory mandate to fully investigate such potential rule violations.

82. The First OTR Request, Second OTR Request, Third OTR Request, Fourth OTR Request, and Fifth OTR Request were made pursuant to FINRA Rule 8210.
83. Each of the five OTR requests sent to Escobio stated that he was obligated to appear for his OTR testimony and that any failure to answer FINRA Staff's questions could expose Escobio to sanctions, including a permanent bar from the securities industry.
84. Escobio's failures to appear and testify on April 18, 2019, May 20, 2019, May 29, 2019, July 2, 2019, and July 8, 2019 as requested pursuant to FINRA Rule 8210, constitute separate and distinct violations of FINRA Rule 8210 and 2010 by Escobio.

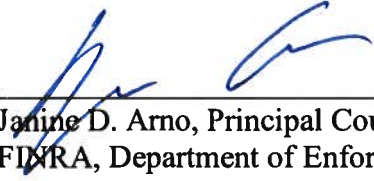
RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Escobio 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 Escobio 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: 7-17-19



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