

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

Department of Enforcement,

Complainant,

v.

Gustavo Trujillo Franco (CRD No. 6793684),

Respondent.

Disciplinary Proceeding No. 2019064884501

COMPLAINT

Department of Enforcement alleges:

SUMMARY

1. On November 18, 2019, and December 16, 2019, Gustavo Trujillo Franco failed to appear for testimony under oath that FINRA’s Department of Member Supervision (“Member Supervision”) had requested pursuant to FINRA Rule 8210. By failing to appear for that on-the-record testimony, Franco violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. From May 2017 to March 2018, Franco was registered with FINRA as a foreign associate and was associated with Global Strategic Investments, LLC (CRD No. 117028), which subsequently changed its name first to Gentem Capital LLC and then to LevelX Capital LLC.

3. Although Franco is no longer registered or associated with a member of FINRA, he remains subject to FINRA’s jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA’s By-Laws, because this complaint (1) was filed within two years after March 15, 2018, which was the effective date of the termination of Franco’s registration with Global Strategic Investments, LLC, and (2) charges him with failing 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.

FACTS

4. In August 2018, Member Supervision began a cause examination of a certain broker-dealer (“Broker-Dealer”) with which Trujillo had dealings. That examination addressed, among other subjects, Broker-Dealer’s allegedly fraudulent wire transfers of customers’ funds to a certain shell company (“Shell Company”) with which Franco was affiliated, and Broker-Dealer’s dealings with two investment advisors with which Franco was affiliated that allegedly falsified customers’ documents and engaged in suspicious trading activity.

5. For the purpose of that examination, and pursuant to FINRA Rule 8210, in October 2019 Member Supervision directed Franco, via a written notice, to appear for testimony under oath at FINRA’s office in Boca Raton, Florida on November 18, 2019.

6. Member Supervision served that notice by Federal Express and first-class mail to Franco’s last known address as reflected in the Central Registration Depository (“CRD”), which was in Guayaquil, Ecuador.

7. Although Member Supervision’s examiners who sent the notice did not have actual knowledge that Franco’s address of record in CRD was out of date or inaccurate, in an abundance of caution they conducted a search via LEXIS for other addresses for Franco. That search yielded an address in Weston, Florida that LEXIS characterized as current. Member Supervision served the notice by certified mail and first-class mail to that Weston, Florida address.

8. Additionally, before serving that notice, Member Supervision contacted an attorney who was representing Franco in a pending federal criminal case (but who was not

representing Franco with respect to the examination that led to this disciplinary proceeding). That attorney refused to accept service of the notice for Franco or to divulge any information about Franco's whereabouts.

9. Franco failed to appear for testimony on November 18, 2019.

10. After Franco failed to appear for testimony as requested, Member Supervision—again for the purpose of its examination and pursuant to FINRA Rule 8210—sent a second written notice to Franco directing him to appear for testimony under oath at FINRA's office in Boca Raton, Florida on December 16, 2019.

11. Member Supervision served that second notice by Federal Express to Franco's last known address as reflected in CRD, which was the same address in Guayaquil, Ecuador as before.

12. Member Supervision's examiners who were responsible for mailing the second notice conducted a second search via LEXIS for other addresses for Franco. That search indicated that the Weston, Florida address was associated with Franco, but LEXIS no longer characterized that address as current. Member Supervision served the second notice by certified mail and first-class mail to that Weston, Florida address.

13. Franco failed to appear for testimony on December 16, 2019.

14. Franco did not respond in any way to the notices requesting his testimony pursuant to FINRA Rule 8210.

FIRST CAUSE OF ACTION
(FINRA Rules 8210 and 2010)

15. Department of Enforcement incorporates by reference all of the preceding paragraphs.

16. FINRA Rule 8210 requires persons who are subject to FINRA's jurisdiction to testify at a specified location upon FINRA's request with respect to any subject of a FINRA examination.

17. A violation of FINRA Rule 8210 also constitutes a violation of FINRA Rule 2010, which requires all associated persons to observe high standards of commercial honor and just and equitable principles of trade.

18. While subject to FINRA's jurisdiction, Franco failed to appear for testimony in November and December 2019 at FINRA's office in Boca Raton, Florida as twice requested under FINRA Rule 8210.

19. Therefore, Franco violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Franco committed the violation that is charged and alleged in this complaint;
- B. order the imposition of one or more of the sanctions that FINRA Rule 8310(a) provides, including monetary sanctions; and
- C. order Franco to bear such costs of this proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

Date: February 26, 2020

Respectfully submitted,

DEPARTMENT OF ENFORCEMENT



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