

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ALON ZAK
(CRD No. 5734529),

Respondent.

Disciplinary Proceeding
No. 2020065349803

Hearing Officer–BEK

DEFAULT DECISION

January 31, 2022

Respondent is barred from associating with any FINRA member firm in any capacity for falsifying and forging life insurance policy applications and for failing to provide sworn testimony to FINRA staff. In light of the bars, no additional sanctions are imposed for Respondent’s failing to timely respond to written requests for information and documents.

Appearances

For the Complainant: Chandana Kolavala, Esq., and Carolyn Craig, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

DECISION

I. Introduction

The Department of Enforcement properly served Respondent Alon Zak with a First and Second Notice of Complaint and the Complaint alleging that he falsified and forged life insurance policy applications, did not timely respond to requests for information and documents, and failed to provide sworn testimony. Zak did not file an Answer.

On December 7, 2021, Enforcement filed a motion for entry of default decision and request for imposition of sanctions (“Default Motion”). The Default Motion is supported by the declaration of Enforcement counsel Chandana Kolavala (“Kolavala Decl.”) and 18 exhibits. Zak did not respond to the Default Motion.

For the reasons below, I find Zak in default, deem the allegations in the Complaint admitted, and grant Enforcement’s Default Motion.

II. Findings of Fact and Conclusions of Law

A. Respondent's Background

Zak first entered the securities industry in 2009 when he became associated with a FINRA member firm. He later associated with two other FINRA member firms before associating with Pruco Securities, LLC ("Pruco Securities" or the "Firm") in June 2018, when he became registered with FINRA as an Investment Company and Variable Contracts Products Representative. While registered with Pruco Securities, Zak also worked as an insurance agent for the Firm's insurance affiliate, The Prudential Insurance Co. of America ("Prudential Insurance").¹

On January 22, 2020, Pruco Securities filed a Uniform Termination Notice for Securities Industry Registration (Form U5) terminating Zak's registration. According to the Form U5, Zak (1) submitted fictitious and forged life insurance policy applications for customers; (2) used personal email accounts to conduct company business; and (3) used an unauthorized electronic signature application.² Zak has not been registered or associated with a FINRA member firm since Pruco Securities terminated him.³

B. FINRA's Jurisdiction

Although Zak is no longer registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Section 4(a) of FINRA's By-Laws. This is because (1) the Complaint was filed within two years after January 22, 2020, the effective date of termination of Zak's registration, and (2) the Complaint charges Zak with (a) misconduct committed when he was registered or associated with a FINRA member firm and (b) failing to respond to requests for documents and information or to appear for on-the-record ("OTR") testimony during the two-year period after January 22, 2020.

C. Origin of the Investigation

FINRA opened an investigation in January 2020 when it began to review life insurance policy applications Zak submitted to Prudential Insurance.⁴

D. Respondent's Default

Enforcement served Zak with the First and Second Notices of Complaint and the Complaint on August 19 and September 17, 2021. Enforcement served these by first-class mail

¹ Complaint ("Compl.") ¶¶ 5-6; Complainant's Exhibit ("CX-") 2, at 4-10.

² Compl. ¶ 7; CX-1, at 1.

³ Compl. ¶ 8; CX-2, at 4.

⁴ Kolavala Decl. ¶ 5.

and certified mail, return receipt requested, at his last known residential address as reflected in the Central Registration Depository (“CRD Address”).⁵ Upon learning that the U.S. Postal Service may not have delivered the two Notices of Complaint and the Complaint, Enforcement properly served him again on October 22 and November 19, 2021.⁶ On these two occasions, Enforcement served Zak via first-class mail, priority mail express, and FedEx.⁷ Enforcement also sent copies of all the Notices and the Complaint to Zak’s email address.⁸

Pursuant to FINRA Rule 9215, Zak was required to file an Answer or otherwise respond to the Complaint by December 6, 2021.⁹ He has not done so. I thus find that Zak has defaulted. Pursuant to FINRA Rules 9215(f) and 9269(a)(2), I grant the Default Motion and deem the allegations in the Complaint admitted.¹⁰

E. Zak Falsified and Forged Life Insurance Policy Applications (Cause One)

Cause one of the Complaint alleges that, in violation of FINRA Rule 2010, Zak falsified and forged signatures on four life insurance policy applications and submitted them for processing without the customers’ knowledge or consent. FINRA Rule 2010 requires a registered person, in the conduct of his business, to observe high standards of commercial honor and just and equitable principles of trade. “The principal consideration [in determining if the Rule is violated] is whether the misconduct reflects on an associated person’s ability to comply with regulatory requirements necessary to the proper functioning of the securities industry and protection of the public.”¹¹ Falsifying and forging business documents is inconsistent with just and equitable principles of trade and a violation of FINRA Rule 2010.¹²

⁵ Kolavala Decl. ¶¶ 14, 16, 25; CX-4; CX-6. In accordance with FINRA Rule 9215(f), the Second Notice of Complaint informed Zak that a failure to timely file an Answer would allow the Hearing Officer, in the exercise of his discretion, to treat as admitted the Complaint’s allegations and to enter a default decision against him.

⁶ Kolavala Decl. ¶¶ 34-37, 45; CX-10; CX-14. Although Enforcement properly served the First and Second Notices of Complaint and the Complaint on Zak, Enforcement reviewed the tracking information on the U.S. Postal Service website, which reflected that the Notices may not have been delivered. Kolavala Decl. ¶¶ 34-35. The Notice of Complaint served on November 19, 2021 repeated the statement from the Second Notice of Complaint that a failure to timely file an Answer would allow the Hearing Officer, in the exercise of his discretion, to treat as admitted the Complaint’s allegations and to enter a default decision against him.

⁷ Kolavala Decl. ¶¶ 37, 45; CX-10; CX-14.

⁸ Kolavala Decl. ¶¶ 15, 18, 27, 39, 47; CX-5; CX-7; CX-11; CX-15.

⁹ Pursuant to the Second Notice of Complaint served on September 17, 2021, Zak was required to file his Answer by October 4. After Enforcement served Zak two additional times, the Answer was due on December 6, 2021.

¹⁰ Zak may move to set aside the default pursuant to FINRA Rule 9269(c) upon a showing of good cause.

¹¹ *Dep’t of Enforcement v. Taylor*, No. C8A050027, 2007 NASD Discip. LEXIS 11, at *22 (NAC Feb. 27, 2007) (citing *James A. Goetz*, Exchange Act Release No. 39796, 1998 SEC LEXIS 499, at *11 (Mar. 25, 1998)).

¹² *Taylor*, 2007 NASD Discip. LEXIS 11, at *22-23 (finding that “[f]alsifying documents is a prime example of misconduct” that violates predecessor to FINRA Rule 2010); *Thomas E. Jackson*, Exchange Act Release No. 11476,

On July 19, 2019, Zak submitted to Prudential Insurance an insurance policy application he electronically signed in customer AP's name.¹³ On April 5 and again on August 21, 2019, Zak completed, electronically signed in customer BM's name, and submitted a life insurance policy application to Prudential Insurance on behalf of BM.¹⁴ And, on August 23, 2019, Zak completed, electronically signed, and submitted another life insurance policy application to Prudential Insurance, this time in customer CM's name.¹⁵

Although AP had discussed with Zak the possibility of purchasing a life insurance policy, she never authorized him to electronically sign or submit an application on her behalf.¹⁶ As to BM and CM, Zak completed the applications without meeting with them, and neither customer authorized Zak to electronically sign or submit the applications.¹⁷

Prudential Insurance rejected AP's and BM's insurance policy applications because it could not obtain additional information necessary to complete the application process, and Zak ultimately withdrew CM's application.¹⁸ Although none of these applications were approved, Zak earned express commissions of approximately \$11,200 for the applications submitted in the names of AP and BM.¹⁹

I find that Zak's conduct is inconsistent with just and equitable principles of trade and violates FINRA Rule 2010.

F. Zak Failed to Timely Respond to Written Requests for Information and Documents and Failed to Provide Testimony (Causes Two and Three)

FINRA Rule 8210 requires anyone subject to FINRA's jurisdiction to provide the information and testimony requested by FINRA staff and "is at the heart of the self-regulatory system for the securities industry."²⁰ Because FINRA lacks subpoena power, it relies on Rule 8210 to obtain information necessary to conduct "its investigations and fulfill its regulatory

1975 SEC LEXIS 1404 (June 16, 1975) (finding that respondent's falsification of insurance applications to earn commissions violates predecessor to FINRA Rule 2010).

¹³ Compl. ¶¶ 33-35.

¹⁴ *Id.* ¶¶ 13, 15, 18, 21.

¹⁵ *Id.* ¶¶ 26, 29.

¹⁶ *Id.* ¶ 34.

¹⁷ *Id.* ¶¶ 20-21, 27-29. Along with completing the applications for BM and CM, Zak also completed an agent's report falsely stating that the applications were completed in person. *Id.* ¶¶ 18, 26.

¹⁸ *Id.* ¶¶ 17, 22, 30, 36.

¹⁹ Kolavala Decl. ¶ 56; CX-18, at 1.

²⁰ *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008), *petition for review denied*, 347 F. App'x 692 (2d Cir. 2009).

mandate.”²¹ Failing to provide testimony violates FINRA Rules 8210 and 2010.²² Failing to timely respond to information requests also violates FINRA Rules 8210 and 2010.²³

1. Zak Failed to Timely Respond to Written Requests for Information and Documents (Cause Two)

Cause two of the Complaint alleges that Zak failed to timely respond to Rule 8210 requests. On September 29 and October 14, 2020, pursuant to FINRA Rule 8210, FINRA staff requested that Zak provide account statements for his bank, brokerage, and credit card accounts, as well as his 2019 tax returns.²⁴ FINRA sent the requests by first-class mail and certified mail to Zak’s CRD Address.²⁵ Zak was required to respond to the requests by October 13 and 28, 2020, respectively, but he did not do so.²⁶

On November 18, 2020, FINRA staff sent Zak a Notice of Suspension pursuant to FINRA Rule 9552. The Notice of Suspension informed him that he would be suspended from associating with any FINRA member firm in any capacity on December 14, 2020, unless he provided FINRA the requested information and documents.²⁷ On December 14 and 17, 2020, Zak provided partial responses to the information and document requests.²⁸

Because Zak provided partial responses to the requests, FINRA stayed the effective date of Zak’s suspension until December 23, 2020, to allow Zak to supplement his responses.²⁹ Zak did not do so, however, and on December 23, FINRA suspended him from associating with any FINRA member in any capacity.³⁰ Finally, on January 3, 2021, Zak provided the missing information and documents, and FINRA terminated Zak’s suspension on January 11, 2021.³¹

²¹ *CMG Inst’l Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *15 (Jan. 30, 2009).

²² *Dep’t of Enforcement v. Sciascia*, No. CMS040069, 2006 NASD Discip. LEXIS 22, at *12 (NAC Aug. 7, 2006) (“Failure to attend an [on-the-record interview] falls squarely within the scope of conduct that violates Rule 8210.”).

²³ *Dep’t of Enforcement v. Evansen*, No. 2010023724601, 2014 FINRA Discip. LEXIS 10, at *24 (NAC June 3, 2014), *aff’d*, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080 (July 27, 2015).

²⁴ Compl. ¶¶ 42, 46.

²⁵ *Id.* ¶¶ 43, 46.

²⁶ *Id.* ¶¶ 45, 48.

²⁷ *Id.* ¶ 49.

²⁸ *Id.* ¶ 52.

²⁹ *Id.* ¶ 53.

³⁰ *Id.* ¶¶ 53-54.

³¹ *Id.* ¶ 55.

Although Zak ultimately provided the requested information, his responses to the Rule 8210 requests for information and documents were untimely. Zak therefore violated FINRA Rules 8210 and 2010.

2. Zak Failed to Provide On-The-Record Testimony (Cause Three)

Cause three alleges that Zak failed to appear for and provide testimony. On March 12, 2021, pursuant to FINRA Rule 8210, FINRA Staff sent him a notice requiring him to appear for testimony on March 26. Because he failed to appear, FINRA Staff sent him another notice on March 29, requesting that he provide testimony on April 5, 2021. FINRA sent the notices by first-class mail and certified mail, return receipt requested, to Zak's CRD Address. FINRA also sent them to his email address.³²

Zak failed to respond to either notice and failed to appear and provide testimony.³³ By failing to provide testimony as requested, Zak violated FINRA Rules 8210 and 2010.

III. Sanctions

For the reasons stated below, I find that bars are appropriate for Zak's falsification and forgery of insurance policy applications, in violation of FINRA Rule 2010, and his failure to appear for OTR testimony, in violation of FINRA Rules 8210 and 2010. I also find that a suspension and fine are appropriate for Zak's failure to timely respond to FINRA's request for information and documents, in violation of FINRA Rules 8210 and 2010, but I do not impose these sanctions because of the bars I impose for the other violations.

A. Falsifying and Forging Life Insurance Policy Applications (Cause One)

When a respondent affixes a signature to or falsifies a document without authorization or ratification and there is no customer harm or other violation, FINRA's Sanction Guidelines ("Guidelines") recommend suspending the respondent for a period of two months to two years and imposing a fine ranging from \$5,000 to \$155,000. When there are significant aggravating factors, a bar is standard. Specific considerations are (1) the nature of the document(s) signed or falsified; (2) whether the respondent had a good-faith belief of express or implied authority; (3) whether the customer affirmed the signature; (4) if the transaction was agreed to by an authorized person; and (5) whether the customer ratified the signature.³⁴

Here, the falsified and forged documents were significant. They were intended to begin insurance coverage for several customers, ultimately at a cost to the customers. Although no customers were harmed—because the applications were withdrawn or canceled before any further action was taken—Zak knew that he was not authorized to complete and submit them.

³² *Id.* ¶¶ 57-58, 60-61.

³³ *Id.* ¶¶ 59, 63, 81, 83.

³⁴ FINRA Sanction Guidelines at 37 (2021), <http://www.finra.org/sanctionguidelines>.

Indeed, the documents and signatures were not affirmed or ratified by the customers or anyone else who might have had authority to do so.

Zak's actions were intentional, repeated over four months, and earned him approximately \$11,200 in commissions—all aggravating factors.³⁵ Enforcement is not aware of any mitigating factors,³⁶ and I perceive none from the record.³⁷ Thus, because of the aggravating factors, I find a bar in all capacities is appropriate to protect investors and discourage others from falsifying and forging insurance applications and other documents.

B. Failing to Provide Testimony and Untimely Production of Information and Documents (Causes Two and Three)

I address Zak's failure to provide testimony first because it involves more serious misconduct for which a bar is the appropriate sanction.

1. Failing to Provide On-The-Record Testimony (Cause Three)

For failing to appear and provide testimony, the Guidelines recommend a bar where the individual fails to respond. The major factor when considering the appropriate sanction is the importance of the requested information as viewed from FINRA's perspective.³⁸

Here, FINRA's request that Zak provide testimony at an OTR was in furtherance of its investigation into his submission of fraudulent insurance policy applications, whether he earned additional commissions, and whether he was truthful when he denied that he had submitted additional applications.³⁹ Zak's testimony would have been material to FINRA's investigation, and his failure to appear and provide testimony impeded that investigation.

³⁵ Guidelines at 7-8 (Principal Considerations Nos. 8 (whether respondent engaged in numerous acts and/or a pattern of misconduct), 9 (whether respondent engaged in repeated misconduct over an extended period), 13 (whether respondent's misconduct was the result of an intentional act, recklessness or negligence), 16 (whether respondent's misconduct resulted in the potential for monetary or other gain)).

³⁶ Kolavala Decl. ¶ 54.

³⁷ Zak's commissions were recovered by Prudential Insurance when it rejected the applications, , not because Zak voluntarily returned the money. CX-18, at 1. I therefore do not find it mitigating that Prudential Insurance did not lose money. Guidelines at 7 (Principal Considerations Nos. 2 (whether an individual accepted responsibility for or acknowledged the misconduct before detection), 4 (whether respondent voluntarily and reasonably attempted to pay restitution or remedy the misconduct before detection)).

³⁸ Guidelines at 33. The Guidelines also suggest a monetary fine from \$25,000 to \$77,000. *Id.* Fines, however, generally are not appropriate when a bar is imposed and there is no customer loss. Guidelines at 10. Here, the Complaint does not allege that a customer sustained a loss. Because I am imposing a bar for Zak's violation of Rules 8210 and 2010 as alleged in cause three, I am not imposing a fine for the violations alleged in cause two.

³⁹ Compl. ¶ 84.

Enforcement is not aware of any mitigating factors,⁴⁰ and I perceive none from the record. I thus find that a bar in all capacities is appropriate to protect investors and discourage others from impeding FINRA investigations.

2. Failing to Timely Respond to Written Requests for Information and Documents (Cause Two)

When a person does not respond timely to Rule 8210 requests, the Guidelines recommend considering a suspension for up to two years and a fine of \$2,500 to \$39,000. The major factors when considering the appropriate sanction are (1) the importance of the requested information as viewed from FINRA's perspective; (2) the number of requests made and the degree of regulatory pressure required to obtain a response; and (3) the time to respond.⁴¹

The information requested of Zak was material to FINRA's investigation into whether Zak submitted additional fraudulent insurance applications on behalf of other customers, and whether Zak earned additional commissions from such applications.⁴² Although Zak ultimately provided the requested information and documents, his failure to timely respond to two requests for information caused FINRA to initiate an expedited proceeding under the Rule 9550 series. Zak's delaying tactics impeded FINRA's investigation for over three months.

Accordingly, to protect investors and discourage others from impeding FINRA investigations, I find that a six-month suspension in all capacities and a \$5,000 fine are appropriate. However, because I impose bars for Zak's other violations, I do not impose these sanctions.

IV. Order

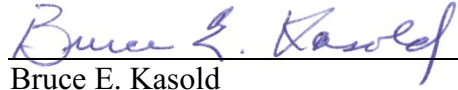
Respondent Alon Zak is barred from associating with any FINRA member firm in any capacity for falsification and forgery of life insurance policy applications, in violation of FINRA Rule 2010, and for failing to appear and provide on-the-record testimony, in violation of FINRA Rules 8210 and 2010, as alleged in causes one and three. Because of these bars, I impose no other sanctions for Zak's failure to timely provide information and documents, in violation of FINRA Rules 8210 and 2010, as alleged in cause two.

⁴⁰ Kolavala Decl. ¶ 64.

⁴¹ Guidelines at 33.

⁴² Kolavala Decl. ¶ 59.

The bars shall become effective immediately if this Default Decision becomes FINRA's final disciplinary action.


Bruce E. Kasold
Hearing Officer

Copies to:

Alon Zak (via email, overnight courier, and first-class mail)
Chandana Kolavala, Esq. (via email)
Carolyn Craig, Esq. (via email)
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