

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JASON A. WILK  
(CRD No. 6072438),

Respondent.

Disciplinary Proceeding  
No. 2019060753502

Hearing Officer–BEK

**DEFAULT DECISION**

March 3, 2022

**Respondent is barred from associating with any FINRA member firm in any capacity for failing to provide testimony during an investigation.**

*Appearances*

For the Complainant: David Monachino, Esq., Michael Dorfman-Gonzalez, Esq., and Matthew Minerva, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

**DECISION**

**I. Introduction**

The Department of Enforcement properly served Respondent Jason A. Wilk with the First and Second Notices of Complaint and the Complaint. The Complaint alleges that Wilk violated FINRA Rules 8210 and 2010 by failing to appear for on-the-record testimony. Wilk did not file an Answer. As a result, on January 18, 2022, Enforcement filed a motion for entry of default decision and request for imposition of sanctions (“Default Motion”). This motion is supported by the declaration of Enforcement counsel Michael Dorfman-Gonzalez (“Dorfman-Gonzalez Decl.”) and 14 supporting exhibits (CX-1 through CX-14). Wilk did not respond to the Default Motion.

For the reasons set forth below, I find Wilk 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**

Wilk entered the securities industry when he associated with a FINRA member firm in June 2012. Over the ensuing years, he was registered as a general securities representative (“GSR”) with other FINRA member firms. From October 20, 2017, through April 17, 2019, Wilk was registered with Worden Capital Management LLC (“Worden”) as a GSR. On April 17, 2019, Worden filed a Uniform Termination Notice for Securities Industry Registration (Form U5) stating that Wilk voluntarily terminated his registration with Worden. On November 26, 2019, Worden filed an amended Form U5 to disclose that Wilk’s customer filed an arbitration claim in August 2019.<sup>1</sup>

### **B. FINRA’s Jurisdiction**

Although Wilk 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 November 26, 2019, the date of the amendment to Wilk’s Form U5, and (2) the Complaint charges him with failing to appear for testimony during the two-year period after the November 26, 2019 U5 amendment.

### **C. Origin of the Investigation**

In 2019, FINRA began an investigation to determine whether Wilk excessively traded a customer’s account. According to Enforcement, Wilk’s trading in the account between May 2018 and March 2019 resulted in a high cost-to-equity ratio and a turnover rate that indicate excessive trading had occurred. Wilk failed to appear for sworn testimony, leading to this disciplinary proceeding.<sup>2</sup>

### **D. Respondent’s Default**

Enforcement served Wilk with the First Notice of Complaint and the Complaint on October 27, 2021, and a Second Notice of Complaint and the Complaint on November 26, 2021. In each case, Enforcement served Wilk by first-class certified mail, return receipt requested, at his last known residential address as reflected in the Central Registration Depository (“CRD Address”) and a potential address FINRA staff identified for Wilk (“Second Address”).

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<sup>1</sup> Complaint (“Compl.”) ¶ 3; Complainant’s Exhibit (“CX-\_\_\_”) 3, at 4-6; CX-4, at 1; CX-6, at 1, 4-7.

<sup>2</sup> Compl. ¶¶ 1-2; Dorfman-Gonzalez Decl. ¶¶ 4-7.

Enforcement also emailed the First and Second Notices of Complaint and Complaint to Wilk using two personal email addresses.<sup>3</sup>

Pursuant to FINRA Rule 9215, Wilk was required to file an Answer or otherwise respond to the Complaint by December 13, 2021. He has not done so. I thus find that he 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.<sup>4</sup>

#### **E. Wilk Failed to Provide Testimony**

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.”<sup>5</sup> Because FINRA lacks subpoena power, it relies on Rule 8210 to obtain information necessary to carry out “its investigations and fulfill its regulatory mandate.”<sup>6</sup> The failure to provide testimony violates FINRA Rules 8210 and 2010.<sup>7</sup>

The single cause of action in the Complaint alleges that Wilk failed to provide testimony in response to Rule 8210 requests. On July 13, 2021, FINRA staff sent Wilk a written request to provide testimony on July 27. When he did not appear, the staff sent another letter on August 31 requesting that he appear on September 14, 2021, to provide testimony. FINRA staff sent both requests by first-class certified mail, return receipt requested, to Wilk’s CRD Address and the Second Address. The staff also emailed copies of the requests to Wilk’s personal email addresses.<sup>8</sup>

Wilk was required to appear and provide testimony, but he failed to do so.<sup>9</sup> Wilk contacted FINRA staff on September 22, 2021, to discuss FINRA’s 8210 requests that he appear for testimony. Wilk said that he would appear for testimony, although no date was set. On

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<sup>3</sup> Dorfman-Gonzalez Decl. ¶¶ 18-19, 21, 27; CX-5, at 1; CX-7, at 1-2; CX-10, at 1; CX-11, at 1-2. In accordance with FINRA Rule 9215(f), the Second Notice of Complaint informed Wilk that his failure to answer the Complaint 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.

<sup>4</sup> Wilk may move to set aside the default pursuant to FINRA Rule 9269(c) upon a showing of good cause.

<sup>5</sup> *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).

<sup>6</sup> *CMG Inst’l Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at \*15 (Jan. 30, 2009).

<sup>7</sup> *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.”).

<sup>8</sup> Compl. ¶¶ 10-11, 15-16; CX-1, at 1; CX-2, at 1.

<sup>9</sup> Compl. ¶¶ 14, 19.

October 1, 2021, FINRA staff requested that Wilk provide dates he would be available to testify. Wilk, however, did not provide any dates or otherwise respond to FINRA's request.<sup>10</sup>

Because Wilk failed to provide testimony, I find that he has violated FINRA Rules 8210 and 2010.

### III. Sanctions


FINRA's Sanction Guidelines ("Guidelines") recommend that, if an individual does not respond in any manner to Rule 8210 requests, a bar in all capacities should be standard.<sup>11</sup> A major factor when considering the appropriate sanction is the importance of the requested information "as viewed from FINRA's perspective."<sup>12</sup>

Here, FINRA staff sought Wilk's testimony to investigate possible excessive trading by Wilk in a customer's account. The information sought was material to the investigation and necessary to complete FINRA's regulatory mandate to fully investigate potential rule violations and to protect the investing public.<sup>13</sup> There are no mitigating factors. I thus find that a bar in all capacities is appropriate.

### IV. Order

Respondent Jason A. Wilk is barred from associating with any FINRA member firm in any capacity for failing to provide testimony, in violation of FINRA Rules 8210 and 2010, as alleged in the sole cause of the Complaint.

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

  
Bruce E. Kasold  
Hearing Officer

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<sup>10</sup> *Id.* ¶ 20; CX-14, at 1.

<sup>11</sup> Guidelines at 33 (2021), <http://www.finra.org/sanctionguidelines>. 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. *Id.* at 10. Here, there is no assertion in the Complaint that a customer sustained a loss. Because I impose a bar for Wilk's violations of Rules 8210 and 2010, I do not impose a fine.

<sup>12</sup> *Id.* at 33.

<sup>13</sup> *Dep't of Enforcement v. Davidofsky*, No. 2008015934801, 2013 FINRA Discip. LEXIS 7, at \*40 n.27 (NAC Apr. 26, 2013) (noting that excessive trading violates the responsibility for fair dealing with customers) (citations omitted).

Copies to:

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