

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

LEE ROBERT SOBEL
(CRD No. 2232865),

Respondent.

Disciplinary Proceeding
No. 2014038991402

Hearing Officer—RES

DEFAULT DECISION

December 14, 2015

Respondent is barred from associating with any FINRA member firm in any capacity for failing to appear and provide sworn testimony.

Soo H. Im, Esq., for FINRA’s Department of Enforcement.

No appearance by or on behalf of Lee Robert Sobel, Respondent.

DECISION

I. Introduction

Lee Robert Sobel was registered with member firm Equinox Securities, Inc. (“Equinox” or the “Firm”) as a Direct Participation Programs Representative from February to August 2013. Sobel was one of several registered representatives who sold interests in a private placement of Opportunity Drilling & Acquisition Fund, LLC (“ODAF”) to firm customers. The Complaint charges Sobel with failing to appear and provide sworn testimony in connection with an Enforcement investigation of the private placement.

Sobel did not answer or otherwise respond to the Complaint. Accordingly, Enforcement filed a motion for entry of default decision (“Default Motion”), together with counsel’s declaration (“Decl.”) in support of the motion, and supporting exhibits. Respondent did not respond to the motion.

For the reasons set forth below, I find Respondent in default and grant Enforcement’s Default Motion.

II. Findings of Fact and Conclusions of Law

A. Respondent's Background

Sobel first entered the securities industry in 1992.¹ From that time until August 2013, Sobel was associated with several FINRA member firms where, at various times, he was registered as a Direct Participation Programs Representative, a Direct Participation Programs Principal, an Investment Company and Variable Contracts Products Representative, and an Investment Company and Variable Contracts Products Principal.² From February through August 2013, Sobel was associated with Equinox as a Direct Participation Programs Representative.³ Sobel has not been associated with a FINRA member since his registration was terminated on August 16, 2013.⁴

B. FINRA's Jurisdiction

FINRA retains jurisdiction over Respondent pursuant to Article V, Section 4(a) of FINRA's By-Laws. Enforcement filed the Complaint within two years after the effective date of termination of his FINRA registration, and the Complaint charges him with failing to respond to requests for information during the two-year period after the termination of his registration.

C. Origin of the Investigation

This proceeding arose out of the 2014 cycle examination of Equinox.⁵ Enforcement began investigating the Firm's sales of interests in ODAF from approximately April through August 2013.⁶ Sobel, along with several other Equinox registered representatives, sold interests in the ODAF private placement to Equinox customers.⁷ Enforcement's investigation included an inquiry into whether Sobel violated NASD Rules, FINRA Rules, or the federal securities laws in connection with the offer and sale of interests in ODAF.⁸

D. Respondent's Default

On or about July 20, 2015, Enforcement served Sobel with the Notice of Complaint and Complaint by certified mail sent to his residential address recorded in the Central Registration

¹ CX-1 (CRD Composite Information), at 3-4.

² Decl. ¶ 7; *see* CX-1, at 3-4.

³ Decl. ¶ 8; *see* CX-1, at 3.

⁴ Decl. ¶ 9; *see* CX-2 (August 16, 2013 Form U5 filing).

⁵ Decl. ¶ 6.

⁶ Complaint ("Compl.") ¶ 5.

⁷ *Id.*

⁸ *Id.*

Depository (the “CRD Address”)⁹ and an additional address in Torrance, California, which Enforcement obtained through LEXIS (the “Torrance Address”).¹⁰ The United States Postal Service (“USPS”) delivered the certified mailing to the Torrance Address, and Sobel signed for it.¹¹

Sobel did not respond to the first Notice of Complaint, so on or about August 18, 2015, Enforcement served the Second Notice of Complaint and Complaint on Sobel by certified mail at his CRD Address and the Torrance Address.¹²

Sobel did not file an answer or otherwise respond to the Complaint. Accordingly, I find that Sobel defaulted.¹³

E. Respondent Failed to Appear and Provide Sworn Testimony.

The Complaint alleges that Sobel did not appear and provide sworn testimony as requested by FINRA pursuant to FINRA Rule 8210. FINRA Rule 8210(a) authorizes FINRA staff, for purposes of an investigation, examination, or proceeding, to require a person subject to FINRA’s jurisdiction to testify at a location specified by FINRA staff, under oath, with respect to any matter involved in the investigation, examination, or proceeding. FINRA Rule 8210(d) provides that notice shall be deemed received by a formerly registered person by mailing it to the last known residential address of the person as reflected in CRD. Rule 8210(d) further provides that, if FINRA staff is aware that a CRD Address is out of date or incorrect, FINRA staff shall mail or otherwise transmit a copy of its request to any other current address known to the staff. For the reasons stated below, I find that Enforcement complied with the requirements of FINRA Rule 8210, and Sobel failed to appear and testify.

On or about April 6, 2015, Enforcement sent Sobel a written request that he appear and testify on the record on May 1, 2015, at FINRA’s Los Angeles, California office.¹⁴ Enforcement sent the request via certified mail to Sobel’s CRD Address.¹⁵ Sobel did not appear to testify on May 1, 2015.¹⁶

⁹ Decl. ¶ 12; *see* CX-4 (Returned Mailing Pertaining to First Notice to CRD Address).

¹⁰ Decl. ¶ 12; *see* CX-5 (Printout from the United States Postal Service).

¹¹ Decl. ¶ 14; *see* CX-5.

¹² Decl. ¶ 16; *see* CX-6 (Second Notice of Complaint).

¹³ Respondent is notified that he may move to set aside the default pursuant to Rule 9269(c) upon a showing of good cause.

¹⁴ Compl. ¶ 7.

¹⁵ *Id.* ¶ 8.

¹⁶ *Id.* ¶ 12.

On or about May 19, 2015, Enforcement sent Sobel a second request that he appear and testify on the record on June 2, 2015, at FINRA’s Los Angeles office.¹⁷ Enforcement sent the request via first-class mail and certified mail to Sobel’s CRD Address and to the Torrance Address.¹⁸ The USPS Tracking and Information System confirmed that the certified mailing of the second request to the Torrance Address was delivered on May 21, 2015, and signed for by Sobel.¹⁹

In addition to these written requests, on April 16, 2015, Enforcement sent an email to Sobel at an email address Enforcement obtained through a search.²⁰ In the email, Enforcement wrote: “I am reaching out to you since I did not hear back regarding your OTR appearance on May 1st. Please call or email me at the number below to discuss your testimony.”²¹ On May 26, 2015, Enforcement spoke with Sobel on the telephone, using a number obtained from a search.²² Sobel confirmed his identity.²³ When Enforcement asked whether he intended to appear for testimony on June 2, 2015, Sobel responded, “no comment.”²⁴ Sobel did not appear to testify on June 2, 2015.²⁵

Enforcement properly served Sobel with two separate requests for testimony, and Sobel failed to appear and testify. By doing so, Sobel violated FINRA Rule 8210.²⁶ A violation of Rule 8210 constitutes conduct inconsistent with just and equitable principles of trade and therefore violates Rule 2010.²⁷

III. Sanctions

FINRA’s Sanction Guidelines (“Guidelines”) recommend that, if an individual did not respond in any manner, a bar in all capacities should be standard.²⁸ The conduct under investigation was serious; Sobel’s failure to testify materially impeded Enforcement’s

¹⁷ *Id.* ¶ 13.

¹⁸ *Id.* ¶ 14.

¹⁹ *Id.* ¶ 17.

²⁰ *Id.* ¶ 10.

²¹ *Id.*

²² *Id.* ¶ 18.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* ¶ 19.

²⁶ See *Dep’t of Enforcement v. Reichman*, No. 200801201960, 2011 FINRA Discip. LEXIS 18, at *28-29 (NAC July 21, 2011) (finding violation of FINRA Rules 8210 and 2110 by failing to appear for on-the-record testimony); *Joseph Ricupero*, Exchange Act Release No. 62891, 2010 SEC LEXIS 2988, at *9-13 (Sept. 10, 2010) (finding violation of FINRA Rules 8210 and 2110 by failing to respond to several requests for information).


²⁷ See *CMG Inst. Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *30 (Jan. 30, 2009).

²⁸ Guidelines at 33.

investigation of several critical matters, including whether Sobel violated NASD Rules, FINRA Rules, and federal securities laws in connection with the offer and sale of interests in ODAF. Moreover, there are no mitigating factors present in this case. Thus, I conclude that the appropriate sanction is a bar in all capacities.

IV. Order

Lee Robert Sobel is barred from associating with any member firm in any capacity for failure to respond to FINRA requests that he appear and testify on the record, in violation of FINRA Rules 8210 and 2010, as alleged in the Complaint. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Richard E. Simpson
Hearing Officer

Copies to:

Lee Robert Sobel (via first-class mail)
Soo H. Im, Esq. (via email and first-class mail)
Aimee Williams-Ramey, Esq. (via email)
Jeffrey D. Pariser, Esq. (via email)