

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

CHRISTOPHER J. PERROTT
(CRD No. 4188299),

Respondent.

Disciplinary Proceeding
No. 2009017496501

Hearing Officer—Andrew H. Perkins

HEARING PANEL DECISION

October 12, 2009

The Respondent violated Procedural Rule 8210 and Conduct Rule 2010 by failing to provide testimony and information to FINRA in connection with FINRA’s investigation of his member firm. For this violation, the Respondent is barred from associating with any member in any capacity.

Appearances

For Complainant: Michael A. Gross, Principal Regional Counsel, and David B. Klawter, Deputy Regional Chief Counsel, FINRA, DEPARTMENT OF ENFORCEMENT, Boca Raton, Florida.

For Respondent: Christopher J. Perrott, pro se.

DECISION

I. Introduction and Procedural History

On April 8, 2009, the Department of Enforcement (“Enforcement”) for the Financial Industry Regulatory Authority (“FINRA”) filed a Complaint with the Office of Hearing Officers alleging that Respondent Christopher J. Perrott (“Perrott”) violated Procedural Rule 8210 and Conduct Rule 2010 by failing to appear for testimony and provide information in response to written requests made pursuant to Rule 8210.

On May 4, 2009, the Office of Hearing Officers received Perrott's Answer, which is in the form of a letter to counsel for Enforcement. In his Answer, Perrott waived his right to a hearing and admitted that he had not complied with the written requests that he appear and give testimony in connection with a FINRA investigation on March 6 and 26, 2009. Perrott also provided his current residential address and requested that future correspondence be sent to him at that address.

By order dated May 6, 2009, the Hearing Officer scheduled the Initial Pre-Hearing Conference in this case for May 21, 2009. Perrott did not appear, and counsel for Enforcement represented that he had not been able to contact Perrott by telephone since the Complaint was filed with the Office of Hearing Officers.

In light of the fact that Perrott had waived his right to a hearing, the Hearing Officer determined that the case would be decided upon the written record. Accordingly, on May 21, 2009, the Hearing Officer issued an order directing Enforcement to file a written submission in support of the allegations in the Complaint and permitting Perrott to file a response on or before July 23, 2009. Enforcement filed its submission on June 8, 2009. Enforcement's submission consists of a Memorandum of Points and Authorities in Support of Complaint and ten exhibits, including affidavits from two FINRA senior examiners, Greg Brown ("Brown") and Daniel N. Gould ("Gould").¹ Perrott did not file a response.

Based upon a careful review of the entire record, including Perrott's admissions in his Answer, the Hearing Panel, which is comprised of the Hearing Officer and two

¹ Enforcement's exhibits are labeled CX-1 through CX-10.

current members of the District 7 Committee, makes the following findings of fact and conclusions of law.

II. Findings of Fact

A. Christopher J. Perrott

Perrott has been registered with FINRA as a General Securities Representative since June 2000. In January 2002, FINRA member firm Perrott, Mather & Gilday, Inc. (“PMGI”), filed a Uniform Application for Securities Industry Registration or Transfer (“Form U4”) on Perrott’s behalf.² At all times relevant to this proceeding, Perrott owned 75 percent of PMGI and held the positions of president and chief compliance officer.³

On March 31, 2009, PMGI filed a Form BDW (Uniform Request for Broker-Dealer Withdrawal) with FINRA.⁴ Perrott has not been associated with PMGI or any other member firm since March 31, 2009.⁵

B. Jurisdiction

FINRA has jurisdiction over Perrott because the Complaint charges him with failing to appear and provide testimony pursuant to information requests issued by FINRA staff while he was associated with PMGI.⁶

² CX-4, at 6. PMGI was formerly known as Income Achievers, Inc.

³ CX-5, at 1, 3.

⁴ CX-5, at 4.

⁵ PMGI has not filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) with FINRA.

⁶ Article V, Section 4(a) of the FINRA By-Laws, *available at* www.finra.org/Rules (then follow “FINRA Manual” hyperlink to “Corporate Organization: Bylaws”).

III. Findings of Fact

A. Perrott's Failure to Comply with FINRA's 8210 Requests

On February 11, 2009, Gould, a FINRA senior examiner in FINRA's Florida District Office, sent a letter to Perrott's attorney requesting that Perrott appear to testify concerning FINRA's investigation of possible securities fraud, sales-practice violations, and membership agreement violations at PMGI.⁷ On February 17, 2009, Perrott's attorney informed Gould that Perrott had a scheduling conflict and would not be able to appear for his on-the-record interview ("OTR") on the date requested. Gould then followed up by letter to Perrott's attorney on February 19, 2009, and requested that he provide at least three alternative dates so that the OTR could be rescheduled.⁸ Neither Perrott nor his attorney provided an alternate date for Perrott's OTR.

On February 24, 2009, Brown, another senior examiner in FINRA's Florida District Office, sent a letter to Perrott, pursuant to Rule 8210, requesting that he appear to testify on March 6, 2009.⁹ On February 27, 2009, Perrott acknowledged during a telephone conversation with Brown and other FINRA staff that he had received the request and stated that he would not appear on March 6 or at any other time to answer the staff's questions.¹⁰ Perrott failed to appear on March 6, 2009.¹¹

On March 19, 2009, Gould sent a second request to Perrott, which required him to appear at FINRA's Florida District Office on March 26 to answer questions concerning

⁷ CX-3 (Gould Decl. ¶ 2); CX-6, at 5.

⁸ CX-6, at 4.

⁹ CX-2 (Brown Decl. ¶ 3); CX-6, at 1. Brown sent the request to Perrott at (1) his residential address recorded in CRD; (2) PMGI's main office address; and (3) PMGI's branch office address where Perrott worked.

¹⁰ CX-2 (Brown Decl. ¶ 5).

¹¹ CX-8.

the staff's investigation of PMGI.¹² Perrott did not appear for his OTR on March 26, 2009, or otherwise respond to the second request.¹³

IV. Conclusions of Law

Procedural Rule 8210 gives FINRA staff authority to compel a person over whom it has jurisdiction to provide information and appear to testify at a location specified by the staff. FINRA lacks subpoena power; it must therefore rely upon Rule 8210 “to police the activities of its members and associated persons.”¹⁴ Rule 8210 “provides a means, in the absence of subpoena power, for [FINRA] to obtain from its members information necessary to conduct investigations.”¹⁵ “The failure to respond to [FINRA] information requests frustrates [FINRA’s] ability to detect misconduct, and such inability in turn threatens investors and markets.”¹⁶ An associated person who refuses to provide requested information in the course of an investigation violates Procedural Rule 8210 and Conduct Rule 2010.¹⁷

In this case, the evidence establishes, and Perrott admits, that he refused to appear and testify in connection with FINRA staff’s investigation into possible wrongdoing at PMGI. Perrott’s assertion in his Answer that he was unable to appear as requested because PMGI “had the SEC present at our offices in Orlando for a lot of the time in

¹² CX-9. Gould sent the second request to Perrott at his CRD address and the PMGI office addresses. CX-3 (Gould Decl. ¶ 4).

¹³ CX-3 (Gould Decl. ¶ 6).

¹⁴ *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008) (quoting *Joseph Patrick Hannan*, 53 S.E.C. 854, 858-59 (1998)).

¹⁵ *PAZ Sec., Inc.*, Exchange Act Release No. 57656, 2008 SEC LEXIS 820, at *12 (Apr. 11, 2008), *petition for review denied sub nom. Paz Sec. v. SEC*, 566 F.3d 1172, 2009 U.S. App. LEXIS 11500 (D.C. Cir. May 29, 2009) (quoting *Richard J. Rouse*, 51 S.E.C. 581, 584 (1993)).

¹⁶ *PAZ Sec.*, 2008 SEC LEXIS 820, at *13.

¹⁷ *Geoffrey Ortiz*, Exchange Act Release No. 58416, 2008 SEC LEXIS 2401, at *23-24 (Aug. 22, 2008); *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, at *21, n. 28 (July 1, 2008).

question and they also required my presence and information” is not a defense.¹⁸ FINRA staff offered to reschedule his OTR, but he never provided the staff with a date when he would be available. Indeed, he advised the staff in a telephone conversation on February 27, 2009, that he would never appear to testify. Accordingly, the Hearing Panel finds that Perrott violated Procedural 8210 and Conduct 2010 by failing to appear and testify as requested by FINRA staff.

V. Sanctions

The FINRA Sanction Guidelines (“Guidelines”) provide that if a person does not respond in any manner to a request for information made pursuant to Rule 8210, a bar should be the standard sanction. If there are mitigating factors present, adjudicators should consider suspending the individual in any or all capacities for up to two years.¹⁹

The Hearing Panel finds that a bar is the appropriate sanction in this case. As the SEC recently noted in its decision in *PAZ Securities*, “A complete failure to respond to a request for information issued pursuant to Rule 8210 renders the violator presumptively unfit for employment in the securities industry because the self-regulatory system of securities regulation cannot function without compliance with Rule 8210 requests.²⁰ ... In addition to protecting investors by barring individuals and firms who have already demonstrated a refusal to be investigated, failures to cooperate should be prevented...by the very real threat of a bar and expulsion. The possibility of receiving a bar for failure to cooperate may have a very specific deterrent effect on all current and future SRO

¹⁸ Ans. ¶ 1.

¹⁹ *FINRA Sanction Guidelines* 35 (2007), <http://www.finra.org/RegulatoryEnforcement/index.htm> (then follow “FINRA Sanction Guidelines” hyperlink).

²⁰ *PAZ Securities*, 2008 SEC LEXIS 820, at *10.

members and associated persons. [FINRA] members and associated persons who know of wrongdoing and are approached by [FINRA] with a request for information as part of an investigation should be deprived of any incentive to fail to cooperate.”²¹

A principal consideration in determining sanctions in a failure to cooperate case is the “nature of the information requested.”²² In this case, FINRA staff had received a tip of serious misconduct at Perrott’s firm, involving securities fraud, sales-practice violations, and membership agreement violations.²³ In addition, his refusal to cooperate was clearly intentional. On the other hand, there are no mitigating factors in this case. Therefore, the Hearing Panel finds that Perrott should be barred from associating with any member firm in any capacity.

VI. Order

For violating Procedural Rule 8210 and Conduct Rule 2010, Respondent Christopher J. Perrott is barred from associating with any member in any capacity. In addition, he is ordered to pay an administrative fee of \$750 as costs of this proceeding. The costs shall be payable on a date set by FINRA, but not less than 30 days after this decision becomes FINRA’s final disciplinary action in this matter. If this decision becomes FINRA’s final disciplinary action, the bar will take effect immediately.²⁴

Andrew H. Perkins
Hearing Officer
For the Hearing Panel

²¹ *PAZ Securities*, 2008 SEC LEXIS 820, *14.

²² Guidelines at 35.

²³ CX-3 (Gould Decl. ¶ 2).

²⁴ The Hearing Panel has considered and rejects without discussion all other arguments of the parties.

Copies to:

Christopher J. Perrott (by electronic and first-class mail)
Michael A. Gross, Esq. (by electronic and first-class mail)
David B. Klafter, Esq. (by electronic and first-class mail)
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