

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

GREGORY J. MANCUSO
(CRD No. 5681691),

Respondent.

Disciplinary Proceeding
No. 2020066608501

Hearing Officer—DRS

DEFAULT DECISION

March 31, 2021

For providing false testimony during an on-the-record interview, in violation of FINRA Rules 8210 and 2010, Respondent Gregory J. Mancuso is barred in all capacities from associating with any FINRA member firm.

Appearances

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

For the Respondent: No appearance

DECISION

I. Introduction

The Department of Enforcement filed a Complaint against Respondent Gregory J. Mancuso, formerly a registered representative. The sole cause of action charges Mancuso with providing false testimony during an on-the-record interview (“OTR”) conducted by FINRA staff in connection with an investigation. According to the Complaint, Mancuso handled the brokerage accounts of two senior sisters with disabilities (“Customers 1 and 2”). The Complaint alleges that Mancuso had them transfer a large part of their life savings to a company with which he was affiliated. The Complaint also alleges that Mancuso testified falsely during his OTR to conceal both his involvement in the transfers and actions he took to potentially change Customer 1’s power-of-attorney (“POA”).

Enforcement twice served the Complaint on Mancuso and both times he failed to answer it or otherwise respond. So I ordered Enforcement to file a motion for the entry of a default decision (“Default Motion”).¹ On March 11, 2021, Enforcement filed its Default Motion, supported by the declaration of Enforcement counsel Michael Dorfman-Gonzalez, Esq., and accompanying exhibits. Mancuso did not respond to the Default Motion.² For the reasons explained below, I find Mancuso in default, deem the Complaint’s allegations against him admitted, and grant Enforcement’s Default Motion.

II. Findings of Fact and Conclusions of Law

A. Mancuso’s Background

Mancuso first registered with FINRA as a General Securities Representative (“GSR”) through a member firm in September 2009.³ Between December 2010 and August 2016, he was registered with FINRA through several member firms.⁴ On August 2, 2016, Mancuso registered with FINRA as a GSR through a member firm, where he remained registered until the firm terminated his registration on November 13, 2017.⁵ On December 13, 2019, Mancuso registered with FINRA as a GSR through another member firm.⁶ His registration was terminated by that firm on October 13, 2020.⁷ Since then, Mancuso has not been registered or associated with a FINRA member.⁸

B. FINRA’s Jurisdiction

Although Mancuso is no longer registered or associated with a FINRA member firm, FINRA retains jurisdiction over him under Article V, Section 4(a) of FINRA’s By-Laws. Enforcement filed the Complaint on December 21, 2020, which was within two years after the effective date of termination of his FINRA registration, October 13, 2020, and the Complaint charges him with misconduct committed while he associated with a FINRA member.

C. Origin of the Investigation

The origin of this disciplinary proceeding was an investigation triggered by a phone call to the FINRA Senior Helpline from a family member of Customer 1. The caller, who has a POA

¹ Order Governing Motion for Entry of Default Decision (Feb. 9, 2021).

² Enforcement’s Motion for Entry of Default Decision and Request for Imposition of Sanctions (Mar. 11, 2021).

³ Complaint (“Compl.”) ¶ 3.

⁴ Compl. ¶ 3.

⁵ Compl. ¶ 3; Declaration of Michael Dorfman-Gonzalez in Support of Enforcement’s Motion for Entry of Default (“Decl.”) ¶ 11; Exhibits to Decl. (“Ex.”) 1.

⁶ Compl. ¶ 3; Decl. ¶ 12; Ex. 1.

⁷ Compl. ¶ 3; Decl. ¶ 12; Ex. 1; Ex. 2.

⁸ Compl. ¶¶ 3–4; Decl. ¶ 13; Ex. 1.

over Customer 1’s affairs,⁹ stated that he was worried because he could not locate Customer 1’s assets and had been unable to contact her former broker, Mancuso.¹⁰ The caller also told the FINRA staff that Mancuso may have directed Customer 1, who is elderly and has dementia, to liquidate her variable annuity and wire the proceeds to Company A, a Swiss asset management firm connected to him.¹¹ FINRA staff also learned that Customer 1 entered into a \$50,000 loan agreement with Company B, a Delaware limited partnership, and that the loan agreement referenced Company A.¹²

Based on this regulatory tip, FINRA staff began examining Mancuso’s outside business activities and his involvement with Customer 1’s accounts.¹³ The investigation later expanded to include, among other things, Mancuso’s involvement with Customer 2’s account.¹⁴

D. Mancuso’s Default

On December 21, 2020, Enforcement filed a Complaint against Mancuso. That day, it served him with the Complaint and Notice of Complaint by sending them via first-class certified mail to his residential address, as reflected in the Central Registration Depository (“CRD Address”).¹⁵ Enforcement did not have actual knowledge that the CRD Address was out of date when it served the Complaint and Notice of Complaint.¹⁶ The Notice of Complaint stated that Mancuso was required to answer the Complaint by January 19, 2021.¹⁷ The electronic certified mail receipt reflects that delivery was not made at the CRD Address, but at another address, which Enforcement later identified as a possible second address for Mancuso (“Second Address”).¹⁸

Mancuso failed to answer or otherwise respond to the Complaint by January 19, 2021.¹⁹ So, the next day, Enforcement served Mancuso with the Complaint and Second Notice of

⁹ Decl. ¶ 4.

¹⁰ Decl. ¶ 4.

¹¹ Decl. ¶ 4.

¹² Decl. ¶ 4.

¹³ Decl. ¶ 4.

¹⁴ Decl. ¶¶ 7–8.

¹⁵ Decl. ¶¶ 16, 20; Ex. 1; Ex. 7.

¹⁶ Decl. ¶ 17.

¹⁷ Decl. ¶ 20; Ex. 7.

¹⁸ Decl. ¶ 25; Ex. 8; Ex. 9.

¹⁹ Decl. ¶ 30. On that day, however, the Office of Hearing Officers (“OHO”) received a letter from an attorney purporting to have represented Mancuso during the investigation that led to this disciplinary proceeding. The attorney stated that his firm did not represent Mancuso in this proceeding and was not authorized to receive service of the Complaint on his behalf. He notified OHO that his firm had “learned that Mr. Mancuso does not currently have a permanent address in the United States and is traveling/residing outside of the United States.” He then said that “[u]pon information and believe[sic], Mr. Mancuso will be away from the United States for an extended period

Complaint by sending them via first-class certified mail to the CRD Address and the Second Address.²⁰ The Second Notice of Complaint required Mancuso to file an answer by February 8, 2021.²¹ It also advised him that, under FINRA Rule 9215, his failure to submit an answer to the Complaint by that date would allow the Hearing Officer to: (1) treat the allegations in the Complaint as admitted; and (2) enter a default decision against him under FINRA Rule 9269.²² The Second Notice of Complaint also informed Mancuso that sanctions could be assessed against him without further notice.²³

Mancuso never answered or otherwise responded to the Complaint.²⁴ And on February 9, 2021, I issued an Order Governing Motion for Entry of Default Decision, which directed that Enforcement file a Default Motion against Mancuso by March 11, 2021. Enforcement's service of the Complaint, Notice of Complaint, and Second Notice of Complaint complied with FINRA Rules 9131(b) and 9134(b), which govern the service of complaints. Because Mancuso did not file an answer to the Complaint, I find that he defaulted²⁵ and deem the Complaint's allegations against him admitted.²⁶

E. Mancuso Violated FINRA Rules 8210 and 2010 by Testifying Falsely at His OTR

Enforcement charged Mancuso with violating FINRA Rules 8210 and 2010. FINRA Rule 8210 authorizes FINRA staff, “[f]or the purpose of an investigation,” to require persons “subject to FINRA’s jurisdiction to,” among other things, “testify at a location specified by FINRA staff, under oath or affirmation administered by a court reporter or a notary public if requested with respect to any matter involved in the investigation.”²⁷ “An associated person is prohibited from providing false or misleading information to FINRA in response to [a FINRA] Rule 8210 request

and we do not know when he intends to return to the United States.” The attorney did not provide a mailing address for Mancuso. In the letter, the attorney asserted various legal arguments to the effect that Enforcement had not properly served the Complaint. I did not consider those arguments because the firm does not represent Mancuso in this proceeding. In any event, as explained above, the record shows that service of the Complaint was proper. Upon receiving the letter, OHO forwarded it to Enforcement.

²⁰ Decl. ¶ 31; Ex. 12.

²¹ Decl. ¶ 33.

²² Decl. ¶ 38; Ex. 12.

²³ Decl. ¶ 38; Ex. 12.

²⁴ Decl. ¶ 39.

²⁵ See FINRA Rules 9215(f) and 9269(a)(1).

²⁶ See FINRA Rule 9269(a)(2). Mancuso may move to set aside the default pursuant to FINRA Rule 9269(c) upon a showing of good cause.

²⁷ See FINRA Rule 8210(a)(1).

for information or testimony.”²⁸ FINRA Rule 2010 states that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” This Rule also applies to associated persons.²⁹ “A violation of FINRA Rule 8210 constitutes a violation of FINRA Rule 2010.”³⁰ And, more specifically, providing false testimony to FINRA in an OTR violates FINRA Rules 8210 and 2010.³¹ As discussed below, Mancuso testified falsely at his OTR and therefore violated FINRA Rules 8210 and 2010.

1. Mancuso Served as the Broker for Senior Customers 1 and 2 While Associated with a FINRA Member

While working at a member firm, Mancuso served as the broker for two sisters, Customers 1 and 2.³² Customer 1 is 73 years old and has dementia.³³ Customer 2 is 68 years old and has multiple sclerosis.³⁴ In 2017, while associated with a member firm, Mancuso recommended that Customer 1 use funds from her 401(k) account to purchase a variable annuity offered by Financial Institution W. Customer 1 deposited around \$369,000 into the variable annuity.³⁵ That year, while associated with a member firm, Mancuso also recommended that Customer 2 purchase a variable annuity offered by Financial Institution W. Customer 2 deposited \$87,070 into the variable annuity.³⁶

2. Mancuso Worked as a Consultant for Company A

Mancuso agreed to work as a consultant for Company A, purportedly a Swiss asset management firm in Zug, Switzerland.³⁷ An unsigned consulting agreement, dated as of November 1, 2017, described Mancuso’s consulting services as: (a) advising on corporate structure, capital formation, and vendor selection; (b) advising on marketing, including financial

²⁸ *Dep’t of Enforcement v. Hedge Fund Capital Partners, LLC*, No. 2006004122402, 2012 FINRA Discip. LEXIS 42, at *64 (NAC May 1, 2012); *see also* FINRA Rule 8210(c) (“[n]o member or person shall fail to provide information . . . pursuant to this Rule.”).

²⁹ FINRA Rule 2010 applies to associated persons through FINRA Rule 0140(a), which provides that the rules “shall apply to all members and persons associated with a member” and that “[p]ersons associated with a member shall have the same duties and obligations as a member under the Rules.”

³⁰ *Dep’t of Enforcement v. Merrimac Corp. Sec., Inc.*, No. 2011027666902, 2017 FINRA Discip. LEXIS 16, at *11 (NAC May 26, 2017), *aff’d in part and remanded*, Exchange Act Release No. 86404, 2019 SEC LEXIS 1771 (July 17, 2019), *modified*, No. 2011027666902r, 2020 FINRA Discip. LEXIS 28 (NAC Mar. 27, 2020).

³¹ *Dep’t of Enforcement v. Taddonio*, Nos. 2015044823501 & 2015044823502, 2019 FINRA Discip. LEXIS 3, at *77 (NAC Jan. 29, 2019), *appeal docketed*, No. 3-19012 (SEC Feb. 28, 2019).

³² Compl. ¶ 5; Decl. ¶¶ 4, 7.

³³ Compl. ¶ 6; Decl. ¶ 4.

³⁴ Compl. ¶ 7.

³⁵ Compl. ¶ 8.

³⁶ Compl. ¶ 9.

³⁷ Compl. ¶¶ 10–11.

public relations; (c) developing strategic business alliances with financial institutions; and (d) advising on capital market operations, compliance, and support.³⁸ Mancuso testified that his consulting work for Company A involved compliance and, in particular, reviewing the trading of Company A's clients in low-priced securities in the United States markets.³⁹

3. Mancuso Falsely Denied Any Involvement in Customer 1 and 2's Initial Transfers of Funds to Company A

Customers 1 and 2 each entered into separate loan agreements with Company B, a Delaware limited partnership, dated September 20, 2017.⁴⁰ The loan agreements identified Company A as the general partner of Company B.⁴¹ In the loan agreements, Customers 1 and 2 each agreed to lend \$50,000 to Company B.⁴² On October 2 and 12, 2017, Customers 1 and 2 made wire transfers from their bank, Financial Institution X, to Company A totaling \$105,000 as part of their funding of the loan agreements.⁴³

On July 13, 2020, FINRA staff took Mancuso's OTR under FINRA Rule 8210.⁴⁴ Mancuso testified he did not know that Customer 1 agreed to lend \$50,000 to Company B:

Q. So were you aware that [Customer 1] lent \$50,000 to [Company A] and [Company B]?

A. No, I was not.⁴⁵

This testimony was false.⁴⁶ Mancuso knew about the loan because he acted as the sole connection between Customers 1 and 2 and Company A and Company B.⁴⁷ Additionally, he called Customer 1 seven times on October 1 and 2, 2017—the latter being the date of the first wire transfer to Company A to fund the loan agreement.⁴⁸ The longest call—on October 1—lasted 97 minutes.⁴⁹ Similarly, Mancuso called Customer 1 five times on October 11 and 12,

³⁸ Compl. ¶ 11.

³⁹ Compl. ¶ 12.

⁴⁰ Compl. ¶ 13.

⁴¹ Compl. ¶ 13.

⁴² Compl. ¶ 14; Decl. ¶¶ 4, 7.

⁴³ Compl. ¶ 15.

⁴⁴ Compl. ¶ 16.

⁴⁵ Compl. ¶ 16; Ex. 4, at 70: 8–11.

⁴⁶ Compl. ¶ 17.

⁴⁷ Compl. ¶ 17.

⁴⁸ Compl. ¶ 18.

⁴⁹ Compl. ¶ 18.

2017—the latter being the date of the second wire transfer to Company A to fund the loan agreement.⁵⁰ The longest call—on October 11—lasted 46 minutes.⁵¹

Mancuso also falsely asserted during his OTR testimony that he did not know how Customer 1 became acquainted with Company A. Mancuso testified:

Q. Do you know how [Customer 1] would have come into contact with [Company A] or [Company B]?

A. [Customer 1] and I are close so she knows I worked with [Company A], but I was doing compliance. So, no, I don't know, she probably heard me say the name [Company A] and called them, but I have never seen this [i.e. Customer 1's \$50,000 loan agreement].⁵²

This testimony was false.⁵³ Mancuso facilitated Customer 1's contact with Company A and, as I find above, he knew about the transfers of funds Customers 1 and 2 made to Company A.⁵⁴

4. Mancuso Facilitated the Transfer of More Funds by Customers 1 and 2 to Company A and Falsely Testified About It to FINRA

Customers 1 and 2 continued wiring a significant portion of their life savings to Company A while Mancuso was working as a consultant for Company A.⁵⁵ They made the following wire transfers from Financial Institution X: (1) \$40,000 on March 21, 2018; (2) \$85,000 on March 26, 2018; (3) \$335,000 on April 4, 2018; (4) \$8,000 on July 30, 2018; and (5) \$30,000 on January 14, 2019. All told, from October 2, 2017 to January 14, 2019, Customers 1 and 2 wired \$603,000 from their joint bank accounts at Financial Institution X to Company A.⁵⁶

Throughout his OTR testimony, Mancuso repeatedly denied having any involvement in these transfers or even knowing that they occurred.⁵⁷ Mancuso testified as follows:

Q. Were you aware that [Customer 1] was wiring funds to [Company A]?

⁵⁰ Compl. ¶ 19.

⁵¹ Compl. ¶ 19.

⁵² Compl. ¶ 20; Ex. 4, at 68: 8–15; 70:12–20.

⁵³ Compl. ¶ 21.

⁵⁴ Compl. ¶ 21.

⁵⁵ Compl. ¶ 22.

⁵⁶ Compl. ¶ 24; Decl. ¶ 7.

⁵⁷ Compl. ¶ 25.

A. I was not aware.⁵⁸

He further testified:

Q. And so your testimony is that to this or at least before today, [Customer 1] in the course of any conversations you had with her between 2017 and today never mentioned to you that she had investments with the same firm that you had told her you were doing consulting work for; is that right?

A. That's correct.⁵⁹

Mancuso's testimony was false.⁶⁰ He facilitated at least these three transfers identified above: (1) \$40,000 on March 21, 2018; (2) \$85,000 on March 26, 2018; and (3) \$335,000 on April 4, 2018.⁶¹ Mancuso also had four telephone conversations with Customer 1 on July 30, 2018—the date of the \$8,000 transfer—and one phone call with Customer 1 on each of January 13 and 14, 2019, the latter of which is the date of the \$30,000 transfer.⁶²

In addition, on or about June 5, 2020, Mancuso expressly acknowledged to FINRA staff in a voicemail that he knew that Customer 1 had investments through a “non-U.S. investment firm that [he] was with” that was “regulated through Switzerland.”⁶³ After the staff confronted Mancuso with this statement during his OTR testimony, he falsely asserted that he “can’t remember knowing [Customer 1] had anything at [Company A]” and claimed that he “jumb[ed] [his] words.”⁶⁴

5. Mancuso Falsely Testified That He Was Unaware That Customer 1 Had Liquidated Her Variable Annuity

Mancuso testified at his OTR that he did not know that Customer 1 had liquidated her variable annuity at Financial Institution W.⁶⁵ He testified as follows:

Q. And you were not aware that [Customer 1] liquidated her [Financial Institution W] annuity?

⁵⁸ Compl. ¶ 26; Ex. 4, at 97:17–19.

⁵⁹ Compl. ¶ 27; Ex. 4, at 115:2–9.

⁶⁰ Compl. ¶ 28.

⁶¹ Compl. ¶ 28.

⁶² Compl. ¶ 29.

⁶³ Compl. ¶ 30.

⁶⁴ Compl. ¶ 31.

⁶⁵ Compl. ¶ 32.

A. No, she hadn't told me.

Q. Before seeing this [exhibit, namely, a Financial Institution W transaction confirmation] to the best of your knowledge, she still held her [Financial Institution W] annuity; is that correct?

A. I thought she still had her [Financial Institution W] annuity, correct.⁶⁶

Mancuso's testimony was false.⁶⁷ Mancuso directly facilitated the liquidation of Customer 1 and Customer 2's variable annuities at Financial Institution W by making several telephone calls and sending emails to ensure that the annuities were liquidated and the proceeds immediately transferred to Company A.⁶⁸

Mancuso also facilitated the liquidations by making misrepresentations to Financial Institution W.⁶⁹ On March 15, 2018, Mancuso called Financial Institution W and falsely stated that Customer 1 was having an "emergency" and needed to make a withdrawal.⁷⁰ Mancuso asked whether Financial Institution W could wire the funds rather than send them via ACH, as it would typically do.⁷¹ On March 19, 2018, the funds were withdrawn from Customer 1's variable annuity, and Financial Institution W wire transferred \$40,000 into Customer 1's account at Financial Institution X.⁷² On March 21, 2018, those funds were wire transferred from Customer 1's account at Financial Institution X to Company A.⁷³

Similarly, the next day, March 22, 2018, Mancuso called Financial Institution W and falsely claimed that Customer 2 had to liquidate her variable annuity because she was in the hospital and needed the funds.⁷⁴ Mancuso called Financial Institution W again later that day to ensure that the request would be processed and the funds transferred.⁷⁵ On March 26, 2018, the funds were withdrawn, and Financial Institution W wire transferred \$85,327 into Customer 2's

⁶⁶ Compl. ¶ 32; Ex. 4, at 103:7–12; 105:20–106:4.

⁶⁷ Compl. ¶ 33.

⁶⁸ Compl. ¶ 33.

⁶⁹ Compl. ¶ 34.

⁷⁰ Compl. ¶ 35.

⁷¹ Compl. ¶ 35.

⁷² Compl. ¶ 36.

⁷³ Compl. ¶ 37.

⁷⁴ Compl. ¶ 38.

⁷⁵ Compl. ¶ 38.

account at Financial Institution X.⁷⁶ That day, a wire transfer of \$85,000 was made from Customer 2's account at Financial Institution X to Company A.⁷⁷

Having facilitated a \$40,000 withdrawal from Customer 1's variable annuity, Mancuso then tried to arrange the complete surrender of the annuity, which he had recommended to Customer 1 about one year earlier.⁷⁸ On April 2, 2018, Mancuso telephoned Financial Institution W. The phone call was taped and reflects that as he was speaking to a Financial Institution W representative, Mancuso was completing the form required to surrender the annuity, which had a current value of \$362,000,⁷⁹ During the call, the representative told Mancuso that Customer 1 would incur surrender and other charges of more than \$26,000.⁸⁰ That day, Mancuso sent three emails to Financial Institution W to process the wire.⁸¹

The next day, April 3, 2018, Mancuso again called Financial Institution W to find out about the status of Customer 1's surrender of her annuity and to see if the request could be expedited and a wire transfer completed.⁸² Mancuso falsely informed Financial Institution W that Customer 1 was having a medical emergency.⁸³ On April 4, 2018, the funds were withdrawn and Financial Institution W wire transferred \$333,594 into Customer 1's account at Financial Institution X.⁸⁴ That day, \$335,000 was wired from Customer 1's account at Financial Institution X to Company A.⁸⁵

6. Mancuso Falsely Testified About Whether He Had Tried to Hire an Attorney to Change Customer 1's POA

Mancuso's involvement with Customer 1 continued after the transfers to Company A ended in 2019.⁸⁶ In June 2020, one month before his OTR, Mancuso contacted Massachusetts Attorney 1 about changing Customer 1's POA.⁸⁷ Mancuso emailed Massachusetts Attorney 1

⁷⁶ Compl. ¶ 39.

⁷⁷ Compl. ¶ 40.

⁷⁸ Compl. ¶ 41.

⁷⁹ Compl. ¶ 41.

⁸⁰ Compl. ¶ 41.

⁸¹ Ex. 3.

⁸² Compl. ¶ 42.

⁸³ Compl. ¶ 42.

⁸⁴ Compl. ¶ 43.

⁸⁵ Compl. ¶ 44.

⁸⁶ Compl. ¶ 45.

⁸⁷ Compl. ¶ 45.

and left him two telephone messages.⁸⁸ Mancuso was asked about Massachusetts Attorney 1 during his OTR testimony:

Q. Did you ever contact an attorney on [Customer 1's] behalf?

A. No.

Q. Does the name [Massachusetts Attorney 1] sound familiar to you?

A. No.

Q. Have you ever contacted [an] attorney by the name of [Massachusetts Attorney 1] in Massachusetts?

A. I don't think so.⁸⁹

Mancuso's testimony was false.⁹⁰ After he provided this testimony, FINRA staff played for Mancuso the two telephone messages he had left for Massachusetts Attorney 1.⁹¹ At first, Mancuso falsely denied that it was his voice on the first recording.⁹² Only after hearing the second recorded telephone message did Mancuso ultimately admit that he called Massachusetts Attorney 1.⁹³ Mancuso testified that he called Massachusetts Attorney 1 on Customer 1's behalf because she was purportedly unable to reach Massachusetts Attorney 1 directly.⁹⁴

* * *

Based on the above, Mancuso testified falsely at his July 13, 2020 OTR, which was requested under FINRA Rule 8210, and therefore violated FINRA Rules 8210 and 2010.

III. Sanctions

For failing to respond truthfully to requests made pursuant to FINRA Rule 8210, the FINRA Sanction Guidelines ("Guidelines") recommend a fine of \$ 25,000 to \$ 77,000.⁹⁵ The Guidelines, however, do not address non-monetary sanctions for this type of violation. That said, they do provide that a bar should be standard if the individual did not respond in any manner, but

⁸⁸ Compl. ¶ 47; Ex. 6.

⁸⁹ Compl. ¶ 46; Ex. 4, at 124:17–125:2.

⁹⁰ Compl. ¶ 47.

⁹¹ Compl. ¶ 47.

⁹² Compl. ¶ 48.

⁹³ Compl. ¶ 49.

⁹⁴ Compl. ¶ 49.

⁹⁵ Guidelines at 33 (2020), <http://www.finra.org/sanctionguidelines>.

that if mitigation exists, adjudicators should consider suspending the individual for up to two years.⁹⁶ The National Adjudicatory Council has applied that same approach to sanctioning a failure to respond truthfully to FINRA.⁹⁷ This is because “[f]ailing to provide truthful responses to requests for information is just as serious as failing to respond in any manner.”⁹⁸

The specific principal consideration for failing to respond truthfully is the importance of the requested information from FINRA’s perspective.⁹⁹ The information requested was important from FINRA’s perspective. FINRA was investigating Mancuso’s outside business activities and his involvement with Customers 1 and 2’s accounts.¹⁰⁰ Mancuso testified falsely to FINRA staff during his OTR testimony taken under FINRA Rule 8210 about topics that were, from FINRA’s perspective, central to FINRA’s investigation and vital to FINRA.¹⁰¹ Mancuso testified falsely about: (1) his knowledge of and involvement in Customer 1’s initial transfers to Company A and Company B; (2) how Customer 1 encountered Company A; (3) his knowledge of and involvement in the later transfers to Company A; (4) his lack of knowledge that Customer 1 liquidated her variable annuity; and (5) his contact with Massachusetts Attorney 1.¹⁰² I find that there are no mitigating factors present. I thus conclude that Mancuso should be barred in all capacities from associating with any FINRA member firm.¹⁰³

⁹⁶ *Id.*

⁹⁷ *Hedge Fund Capital Partners, LLC*, 2012 FINRA Discip. LEXIS 42, at *86; *see also Dep’t of Enforcement v. Saliba*, No. 2013037522501, 2019 FINRA Discip. LEXIS 1, at *62–63 (NAC Jan. 8, 2019), *appeal docketed*, No. 3-18989 (SEC Feb. 6, 2019) (citation omitted) (“Providing false information to FINRA [during testimony] is a serious violation for which a bar in all capacities is routinely imposed.”).

⁹⁸ *Dep’t of Enforcement v. Se. Invs. N.C., Inc.*, No. 2014039285401, 2019 FINRA Discip. LEXIS 23, at *90 (NAC May 23, 2019), *appeal docketed*, No. 3-19185 (SEC May 28, 2019) (citing *Geoffrey Ortiz*, Exchange Act Release No. 58416, 2008 SEC LEXIS 2401, at *32–33 (Aug. 22, 2008) (finding that while “[t]he Guidelines do not specify the appropriate sanctions for providing false testimony . . . the case law establishes that a bar is appropriate for such violations in the absence of mitigating circumstances.”)).

⁹⁹ Guidelines at 33.

¹⁰⁰ Decl. ¶ 5.

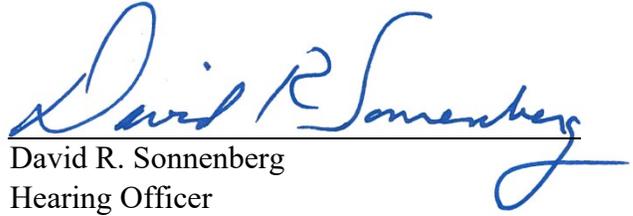
¹⁰¹ Decl. ¶ 44.

¹⁰² Decl. ¶ 44.

¹⁰³ Given the bar, I refrain from imposing a fine. *See* Guidelines at 33.

IV. Order

For violating FINRA Rules 8210 and 2010 by testifying falsely at his OTR requested under FINRA Rule 8210, Mancuso is barred in all capacities from associating with any FINRA member firm. The bar shall become effective immediately if this Default Decision becomes FINRA's final disciplinary action.


David R. Sonnenberg
Hearing Officer

Copies to:

Gregory J. Mancuso (via email, overnight mail, and first-class mail)
Michael Dorfman-Gonzalez, Esq. (via email)
David Monachino, Esq. (via email)
Matthew Minerva, Esq. (via email)
Kay Lackey, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)