

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL LAVOLPE  
(CRD No. 5054798),

Respondent.

Disciplinary Proceeding  
No. 2015047559201

Hearing Officer — KBW

**DEFAULT DECISION**

December 6, 2016

**Respondent is barred from associating with any FINRA member firm in any capacity for failing to respond to requests for documents and information, in violation of FINRA Rules 8210 and 2010.**

For the Complainant: Christina J. Kang, Esq., and Lara Thyagarajan, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

**DECISION**

**I. Introduction**

The Department of Enforcement (“Enforcement”) sent two letters to Respondent Michael Lavolpe requesting that he provide documents and information pursuant to FINRA Rule 8210 as part of an examination into his allegedly unsuitable trading in a customer’s account. He did not respond to either request.

On July 13, 2016, Enforcement served the Complaint on Respondent. The Complaint alleges that Respondent violated FINRA Rules 8210 and 2010 by failing to respond to the requests for documents and information. Respondent has not filed an answer 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**

From 2006 until May 2014, Respondent was associated with FINRA member firm Meyers Associates L.P. ("Meyers") as a general securities representative. On July 29, 2014, Meyers filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") stating that Respondent's employment was terminated. In October 2015, Meyers amended Respondent's Form U5 to disclose that a customer had filed an arbitration claim alleging that Respondent had engaged in unsuitable trading in the account of a customer.<sup>1</sup>

Respondent is no longer registered with FINRA or associated with a FINRA member firm.

### **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.<sup>2</sup>

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

FINRA sent the two FINRA Rule 8210 requests after Meyers amended Respondent's Form U5.

### **D. Respondent's Default**

Enforcement served Respondent with the Complaint, Notice of Complaint, and Second Notice of Complaint in accordance with FINRA Rules 9131 and 9134. Enforcement served the Complaint and Notice of Complaint on July 13, 2016, and the Complaint and Second Notice of Complaint on August 11, 2016. Each time, Enforcement served Respondent by first-class and certified mail, return receipt requested, sent to his last known residential address recorded in the Central Registration Depository ("CRD address").<sup>3</sup>

Respondent did not file an answer or otherwise respond to the Complaint.<sup>4</sup> Accordingly, the Hearing Officer finds that Respondent defaulted.<sup>5</sup>

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<sup>1</sup> Complaint ("Compl.") ¶¶ 2-6.

<sup>2</sup> Decl. ¶ 6.

<sup>3</sup> Decl. ¶¶ 7, 10.

<sup>4</sup> Decl. ¶ 11.

<sup>5</sup> Respondent is notified that he may move to set aside the default pursuant to FINRA Rule 9269(c) upon a showing of good cause.

### **E. Respondent Failed to Respond to Requests for Documents and Information**

FINRA Rule 8210 authorizes FINRA staff to require a person subject to FINRA's jurisdiction to provide documents and information with respect to any matter involved in an 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 person's CRD address.

In December 2015, FINRA staff sent a letter pursuant to FINRA Rule 8210 to Respondent's CRD address requesting that he provide documents and information regarding, among other things, his activity in the customer's account. In March 2016, FINRA staff sent a second letter pursuant to FINRA Rule 8210 to Respondent's CRD address requesting that he provide the same documents and information. Respondent did not respond to either Rule 8210 request.<sup>6</sup> Thus, Respondent violated FINRA Rules 8210 and 2010.

### **III. Sanctions**

#### **A. Rule 8210**

FINRA's Sanction Guidelines ("Guidelines") recommend that, if an individual did not respond in any manner, a bar in all capacities should be standard.<sup>7</sup> The conduct under investigation was serious. 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**

For violating FINRA Rules 8210 and 2010 by failing to respond to requests for documents and information, Respondent Michael Lavolpe is barred from associating with any FINRA member firm in any capacity. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Kenneth B. Winer  
Hearing Officer

Copies to:

Michael Lavolpe (via overnight courier and first-class mail)  
Christina J. Kang, Esq. (via email)  
Lara Thyagarajan, Esq. (via email)  
Jeffrey D. Pariser, Esq. (via email)

<sup>6</sup> Comp ¶¶ 7-8, 12-14, 18.

<sup>7</sup> FINRA Sanction Guidelines at 33 (2016), <http://www.finra.org/industry/sanction-guidelines>.