

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL JOHN DELL' OLIO  
(CRD No. 2403455),

Respondent.

Disciplinary Proceeding  
No. 2012034939302

**DEFAULT DECISION**

Hearing Officer — KBW

May 4, 2015

**Respondent failed to provide testimony in connection with a FINRA investigation, in violation of FINRA Rules 8210 and 2010. Respondent is barred from associating with any member firm in any capacity.**

**Appearances**

Albert A. Starkus III, Esq., Penelope Brobst Blackwell, Esq., and David B. Klafter, Esq., for the Department of Enforcement, Complainant.

No appearance by or on behalf of Michael John Dell' Olio, Respondent.

**I. Introduction**

On December 16, 2014, the Department of Enforcement ("Enforcement") filed a Complaint with the Office of Hearing Officers. The Complaint alleges that Respondent Michael John Dell' Olio twice failed to appear for scheduled testimony requested pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

Dell' Olio failed to file an Answer to the Complaint. Accordingly, on March 5, 2015, Enforcement filed Department of Enforcement's Motion for Entry of Default Decision and Request for Sanctions, together with a Declaration in Support of Enforcement's Motion for Entry of Default Decision ("Starkus Decl."), and exhibits CX-1 to CX-19.

For the reasons set forth below, the Hearing Officer finds Dell' Olio in default, deems the allegations of the Complaint admitted, pursuant to FINRA Rules 9215(f) and 9269(a), and orders that Dell' Olio is barred from associating with any member firm in any capacity.

## **I. Findings Of Fact And Conclusions Of Law**

### **A. Dell Olio's Background**

Dell' Olio entered the securities industry in 1993. He worked at various firms before joining FINRA member firm North Atlantic Securities, LLC in 2003 as a general securities representative.<sup>1</sup> Dell' Olio remained registered with FINRA through North Atlantic until December 26, 2012. Dell' Olio has not since been registered with any FINRA member.<sup>2</sup>

### **B. Jurisdiction**

FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4(a) of FINRA's By-Laws, because (1) Enforcement filed the Complaint on December 16, 2014, which was within two years after the effective date of the termination of Dell' Olio's registration through the North Atlantic, and (2) the Complaint alleges that Dell' Olio failed to appear for on-the-record testimony in response to a request by FINRA Staff pursuant to FINRA Rule 8210 during the two years following the termination of his registration.<sup>3</sup>

### **C. Origin Of Investigation**

In June 2011, the Office of Securities for the State of Maine Department of Professional and Financial Regulation ("Maine Office of Securities") began an investigation into potential violations of securities laws and regulations by Dell' Olio. In February 2012, the Maine Office of Securities revoked Dell' Olio's license in the State of Maine, after finding that he had engaged in dishonest and unethical practices, including borrowing from a client, making false statements, and forging documents. A related Uniform Disciplinary Action Reporting Form ("Form U6") was filed on behalf of Dell' Olio in February 2012. During a close-out examination of North Atlantic, FINRA Staff became aware that the Maine Office of Securities had revoked Dell' Olio's license and the related findings.<sup>4</sup>

### **D. Service Of The Complaint**

On December 16, 2014, Enforcement served Respondent with a Complaint and Notice of Complaint (collectively, "First Notice") by sending the First Notice by first-class certified mail (return receipt requested) and first-class regular mail to Dell' Olio at his last known residential address as recorded in the Central Registration Depository ("CRD address") and three alternative addresses identified through a LEXIS/NEXIS search. Enforcement also sent a copy of the First Notice to Dell' Olio at an email account from which he had previously corresponded with FINRA Staff (the "Dell' Olio email account"). The First Notice stated that Dell' Olio was

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<sup>1</sup> CX-2, at 4; Starkus Decl. ¶ 6.

<sup>2</sup> CX-2, at 1; CX-3; Starkus Decl. ¶ 7.

<sup>3</sup> See Article V, Sec. 5(a), FINRA By-Laws, [www.finra.org/Rules](http://www.finra.org/Rules) (then follow the "FINRA Manual" hyperlink to "Corporate Organization: By-Laws.>").

<sup>4</sup> Compl. ¶ 4; Starkus Decl. ¶ 5.

required to answer the Complaint no later than January 13, 2015. Dell' Olio did not answer or otherwise respond to the Complaint by that date.<sup>5</sup>

On December 16, 2014, Enforcement served Respondent with a Complaint and Second Notice of Complaint (collectively, "Second Notice") by sending the Second Notice by first-class certified mail (return receipt requested) and first-class regular mail to Dell' Olio at the CRD address and the three alternative addresses. Enforcement also sent a copy of the Second Notice to the Dell' Olio email account. The Second Notice stated that Dell' Olio was required to answer the Complaint no later than February 2, 2015. Dell' Olio did not answer or otherwise respond to the Complaint by that date.<sup>6</sup>

### **E. Dell' Olio's Default**

The Hearing Officer finds that Dell' Olio received valid notice of the Complaint in this proceeding.<sup>7</sup> Accordingly, the Hearing Officer finds that Dell' Olio defaulted by failing to file an answer or otherwise respond to the Complaint. Therefore, the Hearing Officer deems the allegations in the attached Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

### **F. Dell' Olio's Failure To Testify In Response To Requests For On-The-Record Testimony**

In connection with its investigation, pursuant to FINRA Rule 8210, Enforcement sent to Dell' Olio two requests that he appear and provide testimony. The Complaint alleges that Dell' Olio violated FINRA Rules 8210 and 2010 by failing to provide testimony in response to these requests.

#### **1. First Request**

On September 24, 2014, FINRA Staff sent a letter ("First Request") to Dell' Olio requesting, pursuant to FINRA Rule 8210, that he appear for testimony on October 10, 2014. FINRA sent the First Request by first-class mail and by certified mail to his CRD address and to two alternative addresses that FINRA obtained from an online LEXIS/NEXIS search. FINRA also sent a copy of the First Request to the Dell' Olio email account.<sup>8</sup>

Dell' Olio did not respond to the First Request and did not appear on October 10, 2014, and testify as requested.<sup>9</sup>

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<sup>5</sup> Starkus Decl. ¶¶ 9, 12; CX-4, at 1, 2.

<sup>6</sup> Starkus Decl. ¶¶ 13, 15; CX-11, at 1, 5.

<sup>7</sup> See, e.g., *Dep't of Enforcement v. Evansen*, No. 2010023724601, 2014 FINRA Discip. LEXIS 10, at \*20 n.21 (NAC June 3, 2014), *appeal docketed*, SEC Admin. Proc. No. 3-15964 (July 3, 2014).

<sup>8</sup> Compl. ¶¶ 7, 8.

<sup>9</sup> Compl. ¶ 10.

## 2. Second Request

On October 10, 2014, FINRA Staff sent a letter (“Second Request”) to Dell’ Olio requesting, pursuant to FINRA Rule 8210, that he appear for testimony on October 27, 2014. FINRA sent the Second Request by first-class mail and by certified mail to his CRD address and to the two alternative addresses that FINRA obtained from an online LEXIS/NEXIS search. FINRA also sent a copy of the Second Request to the Dell’ Olio email account.<sup>10</sup>

Dell’ Olio did not respond to the Second Request and did not appear on October 27, 2014, and testify as requested and has not responded since.<sup>11</sup>

### G. Dell’ Olio Violated FINRA Rules 8210 And 2010

FINRA Rule 8210 requires FINRA members and their associated persons to cooperate with FINRA investigations by providing information when requested by FINRA Staff. FINRA Rule 8210(c) provides, in part, that no person shall fail to provide testimony pursuant to FINRA Rule 8210. FINRA Rule 8210(a) provides, in part, that for the purpose of an investigation, FINRA Staff shall have the right to require a person subject to FINRA’s jurisdiction to testify at a location specified by FINRA Staff, under oath or affirmation administered by a court reporter or notary public if requested, with respect to any matter involved in the investigation.

FINRA Rule 8210(d) specifies that “notice under this Rule shall be deemed received by the member or currently or formerly registered person to whom it is directed by mailing or otherwise transmitting the notice to the last known business address of the member or the last known residential address of the person as reflected in the Central Registration Depository.”<sup>12</sup> Accordingly, the Hearing Officer concludes that Dell’ Olio received the two requests and violated FINRA Rule 8210 by failing to respond to FINRA’s requests for testimony. His violation of Rule 8210 is also a violation of Rule 2010.<sup>13</sup>

## II. Sanctions

For cases involving failure to respond to a FINRA Rule 8210 Request, the FINRA Sanction Guidelines (“Guidelines”) advise that “[i]f an individual did not respond in any manner, a bar should be standard.”<sup>14</sup> The Guidelines also advise adjudicators to consider the importance of the information requested from FINRA’s perspective.

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<sup>10</sup> Compl. ¶¶ 11, 12.

<sup>11</sup> Compl. ¶ 14.

<sup>12</sup> FINRA Rule 8210(d).

<sup>13</sup> See *John Joseph Plunkett*, Exchange Act Release No. 73124, 2014 SEC LEXIS 3396, at \*3 n.3 (Sept. 16, 2014) (stating in the context of a violation of FINRA Rule 8210 that “[a] violation of FINRA rules constitutes conduct inconsistent with just and equitable principles of trade and therefore also establishes a violation of FINRA Rule 2010.”).

<sup>14</sup> Guidelines 33 (2013), [www.finra.org/Industry/Enforcement/SanctionGuidelines](http://www.finra.org/Industry/Enforcement/SanctionGuidelines).

Applying this guidance, the Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is the appropriate sanction. FINRA initiated its investigation after learning that the Maine Office of Securities had found that Dell' Olio had engaged in dishonest and unethical practices, including borrowing from a client, making false statements, and forging documents. Dell' Olio twice failed to respond in any manner to a Rule 8210 request that he appear for testimony. Dell' Olio's failure to appear and testify as requested impeded FINRA's investigation. The testimony of Dell' Olio requested by FINRA was material to FINRA's investigation and necessary for FINRA to complete its regulatory mandate to fully investigate potential rule violations.<sup>15</sup>

### III. Order

Respondent Michael John Dell' Olio is barred from associating with any member firm in any capacity for failing to provide testimony, in violation of FINRA Rules 8210 and 2010. The bar shall become effective immediately if this Default Decision becomes FINRA's final action in this disciplinary proceeding.



Kenneth Winer  
Hearing Officer

#### Copies to:

Michael John Dell' Olio (*via email, overnight courier, and first-class mail*)  
Albert A. Starkus, III, Esq. (*via email and first-class mail*)  
Penelope Brobst Blackwell, Esq. (*via email*)  
David B. Klafter, Esq. (*via email*)  
Jeffrey D. Pariser, Esq. (*via email*)

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<sup>15</sup> Compl. ¶¶ 17, 18; Sarkus Decl. ¶ 17.

**FINANCIAL INDUSTRY REGULATORY AUTHORITY**

**OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Michael John Dell'Olio (CRD No. 2403455),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2012034939302

HEARING OFFICER:

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. In connection with an investigation concerning possible violations of the federal securities laws and/or FINRA rules, FINRA requested that Respondent Michael John Dell'Olio ("Dell'Olio" or the "Respondent") appear for on-the-record testimony. Dell'Olio has failed to respond to the Staff's request and has failed to appear for on-the-record testimony, as requested pursuant to FINRA Rule 8210. As a result, Dell'Olio violated FINRA Rules 8210 and 2010.

**RESPONDENT AND JURISDICTION**

2. Dell'Olio entered the securities industry in September 1993, when Metropolitan Life Insurance Company filed a Uniform Application for Securities Industry Registration and Transfer ("Form U4") on his behalf and became registered with FINRA in January 1995 as a general securities representative. In November 2003, FINRA member North Atlantic Securities, LLC ("North Atlantic" or "the Firm") filed a Form U4 for Dell'Olio and registered him as a

general securities representative. Dell'Olio remained registered at North Atlantic through December 26, 2012, when the Firm's membership with FINRA was canceled for failure to pay fees.

2. Dell'Olio is not currently registered or associated with a FINRA member. Although Respondent is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Respondent's registration with North Atlantic, namely, December 26, 2012, and (2) the Complaint charges him with failing to respond to FINRA requests to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

**CAUSE OF ACTION  
FINRA Rules 8210 and 2010  
(Failure to Respond)**

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.

4. In June 2011, the Office of Securities for the State of Maine Department of Professional and Financial Regulation ("Maine Office of Securities") began an investigation into potential violations of securities laws and regulations by Dell'Olio. The investigation proceeded to a hearing in October 2011. In February 2012, Dell'Olio's license in the State of Maine was revoked by the Maine Office of Securities after a finding that he had committed dishonest and unethical practices, including borrowing from a client, making false statements, and forgery of documents. North Atlantic filed a related Uniform Disciplinary Action Reporting Form ("Form U6") in February 2012.

5. Upon learning of the Maine Office of Securities proceedings, FINRA commenced an investigation into whether Dell'Olio, while registered or associated with a FINRA member, had engaged in any violations of the federal securities laws and/or FINRA rules, including whether he had borrowed from a client, made false statements, and forged documents and whether he had committed dishonest and unethical practices by doing so.

6. During the course of this investigation, FINRA made numerous requests seeking on-the-record testimony from Dell'Olio. These requests were made pursuant to FINRA Rule 8210, and Dell'Olio was advised that failure to respond could result in disciplinary action against him. However, in spite of the numerous requests and admonitions, Dell'Olio completely failed to respond to any of the Staff's requests and failed to testify as requested.

The September 24, 2014 Letter

7. On September 24, 2014, FINRA sent Dell'Olio a letter, via first class and certified mail (Certified Mail # 7011 3500 0000 7016 1053), addressed to his residential address as listed in the Central Registration Depository ("CRD"), which was located in Cedar Park, Texas ("CRD Address"). On that same date, FINRA sent the same letter, also via first class and certified mail (Certified Mail # 7011 3500 0000 7016 1060), to an alternative address at, Scarborough, Maine ("First Scarborough Address"). Similarly, on that same date, FINRA sent the same letter, also via first class and certified mail (Certified Mail # 7011 3500 0000 7016 1077), to a second alternative address in Scarborough, Maine ("Second Scarborough Address"). FINRA obtained the First Scarborough Address and the Second Scarborough Address from an online LexisNexis search. A copy of the letter was also sent to Dell'Olio at an email account from which he had previously corresponded with Staff.



8. The September 24, 2014 letter requested, pursuant to FINRA Rule 8210, that Dell'Olio "appear for an on-the-record interview . . . scheduled for October 10, 2014, at 9:00 a.m. CST." The letter also requested that Dell'Olio "contact [Staff] no later than October 1, 2014, to confirm [his] appearance."

9. The September 24, 2014 first class letter to the CRD Address was returned on October 6, 2014 marked "Return to sender – attempted – not known – unable to forward." The September 24, 2014 certified letter to the CRD Address was also returned on October 6, 2014 and was marked "Return to sender – not deliverable as addressed – unable to forward." The September 24, 2014 first class letter to the First Scarborough Address was not returned. The September 24, 2014 certified letter to the First Scarborough Address was returned on October 28, 2014 and was marked "Return to sender – unclaimed – unable to forward." The United States Postal Service noted on the letter that notice was left at the residence on September 27, 2014, October 2, 2014, and October 12, 2014. The September 24, 2014 first class letter to the Second Scarborough Address was returned on October 28, 2014 and was marked "Return to sender – not deliverable as addressed – unable to forward." The September 24, 2014 certified letter to the Second Scarborough Address was returned on October 27, 2014 and was marked "Return to sender – unable to forward." Dell'Olio did not respond to the email sent to him by Staff.

10. Dell'Olio failed to respond to the September 24, 2014 letter by the requested date of October 1, 2014, and has not responded since. Further, Dell'Olio failed to appear on October 10, 2014, and testify as requested.

#### The October 10, 2014 Letter

11. On October 10, 2014, FINRA sent Dell'Olio a letter, via first class and certified mail (Certified Mail # 7011 3500 0000 7016 1268), to the CRD Address. On that same date,

FINRA sent the same letter, also via first class and certified mail (Certified Mail # 7011 3500 0000 7016 1275), to the First Scarborough Address. Similarly, on that same date, FINRA sent the same letter, also via first class and certified mail (Certified Mail # 7011 3500 0000 7016 1282), to the Second Scarborough Address. A copy of the letter was also sent to Dell'Olio at an email account from which he had previously corresponded with Staff.

12. The October 10, 2014 letter requested, pursuant to FINRA Rule 8210, that Dell'Olio "appear for an on-the-record interview . . . scheduled for October 27, 2014, at 9:00 a.m. CST." The letter also requested that Dell'Olio "contact [Staff] no later than October 20, 2014, to confirm [his] appearance."

13. The October 10, 2014 first class letter to the CRD Address was not returned. The October 10, 2014 certified letter to the CRD Address was returned on October 22, 2014 and was marked "Not deliverable as addressed – unable to forward." The October 10, 2014 first class letter to the First Scarborough Address was not returned. The October 10, 2014 certified letter to the First Scarborough Address was returned on November 10, 2014. The United States Postal Service noted on the letter that notice was left at the residence on October 15, 2014, October 20, 2014, and October 30, 2014. The October 10, 2014 first class letter to the Second Scarborough Address was returned on October 24, 2014 and was marked "Return to sender – not deliverable as addressed – unable to forward." The October 10, 2014 certified letter to the Second Scarborough Address was returned on October 30, 2014 and was marked "Return to sender – unable to forward." Dell'Olio did not respond to the email sent to him by Staff.

14. Dell'Olio failed to respond to the October 10, 2014 letter by the requested date of October 20, 2014, and has not responded since. Further, Dell'Olio failed to appear on October 27, 2014, and testify as requested.

15. To date, Dell'Olio has not contacted FINRA to explain his failure to appear for an on-the-record interview and provide testimony.

16. FINRA Rule 8210(a)(1) authorizes FINRA, in the course of an investigation, to require persons associated with a FINRA member to “provide information orally [or] in writing . . . with respect to any matter involved in the investigation . . . .” FINRA Rule 8210(c) requires those persons to provide information when requested by FINRA. FINRA Rule 8210(d) provides that notice under the Rule is deemed received by mailing or otherwise transmitting such notice to a person’s last known residential address reflected in the CRD and any other more current address known by FINRA. A person subject to the requirement to provide information pursuant to FINRA Rule 8210, also violates FINRA Rule 2010 if that person does not provide the information requested.

17. The testimony of Dell'Olio requested by FINRA was material to FINRA’s investigation of potential rule violations and was necessary for FINRA to complete its regulatory mandate to fully investigate potential rule violations.

18. Dell'Olio’s failure to appear and testify as requested impeded FINRA’s investigation, and prevented FINRA from completing its regulatory responsibilities to fully investigate potential rule violations.

19. Dell'Olio’s failures to respond to the September 24, 2014 and October 10, 2014 requests to appear for testimony constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Dell'Olio.

**RELIEF REQUESTED**

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date: December 16, 2014



Albert A. Starkus III  
Principal Regional Counsel  
Penelope Brobst Blackwell  
Deputy Regional Chief Counsel  
FINRA – Department of Enforcement  
12801 North Central Expressway, Suite 1050  
Dallas, Texas 75243  
Phone: (972)716-7663; Fax: (972) 716-7612  
E-Mail: albert.starkus@finra.org  
E-Mail penny.blackwell@finra.org

David B. Klafter  
Regional Chief Counsel  
FINRA — Enforcement Department  
5200 Town Center Circle, Suite 200  
Boca Center Tower 1, Boca Raton, FL 33486  
Phone: (561) 443-8110; Fax: (561) 443-7998  
E-Mail: david.klafter@finra.org

Authorized House Counsel  
Admitted in NY and NJ Only