

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

VINCENT JOSEPH STORMS
(CRD No. 4969537),

Respondent.

Disciplinary Proceeding
No. 2017053982801

Hearing Officer—MJD

DEFAULT DECISION

July 3, 2019

Respondent Vincent Joseph Storms falsified firm branch audit data. The misconduct caused the firm to maintain inaccurate books and records. For these violations, Storms is barred from associating with any FINRA member firm in any capacity. Storms also failed to timely appear for on-the-record testimony. In light of the bar, no sanction is imposed for his failure to timely appear to provide testimony.

Appearances

For the Complainant: Sean W. Firley, Esq., Tino Lisella, Esq., and David B. Klafter, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: No appearance.

DECISION

I. Introduction

The Department of Enforcement filed a three-cause Complaint against Respondent Vincent Joseph Storms (“Storms”). Cause one charges that Storms falsified branch audit data, in violation of FINRA Rule 2010. Cause two charges that Storms’s misconduct caused his firm to maintain false books and records, in violation of FINRA Rules 4511 and 2010. Cause three charges that Storms failed to timely appear for an on-the-record interview (“OTR”), in violation of FINRA Rules 8210 and 2010.

Enforcement properly served Storms with two Notices of the Complaint and the Complaint. Storms did not file an Answer to the Complaint. On April 2, 2019, Enforcement filed a motion for entry of default decision (“Default Motion”) supported by the Declaration of

Enforcement counsel Sean W. Firley (“Firley Decl.”) and eight exhibits (CX-1 through CX-8). Storms did not respond to the Default Motion.

For the reasons set forth below, I grant Enforcement’s Default Motion and deem the facts alleged in the Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a)(2).

II. Findings of Fact and Conclusions of Law

A. Storm’s Background

Storms entered the securities industry as a compliance intern in 2005 with FINRA member firm Raymond James & Associates, Inc. (“RJA” or the “Firm”).¹ Storms served as a compliance associate and was registered with RJA as a general securities representative and general securities principal from November 19, 2015 to March 24, 2017, when the Firm terminated him. On April 20, 2017, RJA filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) terminating Storms’s registration with the Firm.²

After leaving RJA, Storms was briefly associated with another FINRA member firm from July to October 2017. That firm filed a Form U5 on October 25, 2017, terminating Storms’s registration with FINRA.³

B. FINRA’s Jurisdiction

Although Storms is no longer in the securities industry, FINRA retains jurisdiction over him pursuant to Article V, Section 4(a) of FINRA’s By-Laws because Enforcement filed the Complaint within two years after the effective date of termination of Storms’s registration with a FINRA member firm on October 25, 2017, and the Complaint alleges misconduct that occurred while he was registered with RJA and with failing to timely appear for an OTR during the two-year period after the date he ceased to be associated with a member firm.

C. Origin of the Investigation

This proceeding resulted from an investigation FINRA initiated when RJA filed the Form U5 in April 2017 reporting that it had discharged Storms for “improperly editing internal branch audit documents.”⁴

D. Storms’s Default

Enforcement served Respondent with the First and Second Notices of Complaint and the Complaint in accordance with FINRA Rules 9131 and 9134. Enforcement served the First Notice

¹ Complaint (“Compl.”) ¶ 2; CX-2, at 3-4.

² Compl. ¶ 2; CX-1, at 1; CX-2, at 2.

³ Compl. ¶ 3; Firley Decl. ¶ 6; CX-2, at 1.

⁴ Firley Decl. ¶¶ 3-4; CX-1, at 1.

of Complaint on January 31, 2019, and the Second Notice of Complaint on March 1, 2019.⁵ Pursuant to FINRA Rule 9215, Storms was required to file an Answer or otherwise respond to the Complaint by the March 18, 2019. Storms did not respond to the Complaint. Thus, Storms defaulted.

On March 21, 2019, an order was issued instructing Enforcement to file a Default Motion. On April 2, 2019, Enforcement filed the Default Motion. Storms did not respond to the Default Motion. Pursuant to FINRA Rules 9215(f) and 9269(a)(2), I grant the Default Motion and deem the allegations in the Complaint admitted.⁶

E. Storms Falsified RJA’s Branch Audit Data and Caused the Firm to Maintain False Books and Records (Causes One and Two)

During his time as a compliance associate, Storms’s primary responsibility was to audit RJA branch offices and to perform any necessary follow-up work that resulted from the audits.⁷ As part of the audits, the Firm sent an email to each registered representative associated with the branch containing a hyperlink to complete a questionnaire. The questionnaire asked whether the representative had any undisclosed outside business activities (“OBA”), undisclosed securities accounts at other broker-dealers, LinkedIn profiles, and whether the branch used third-party vendors to store data.⁸ Depending on the responses from representatives, Storms was required to follow up. For example, if a representative stated that he or she had an undisclosed OBA, Storms’s job was to determine the nature of the OBA and to ensure that the Firm had approved it before completing the audit.⁹

The Firm used a software program to store the representatives’ answers to the questionnaire. The software generated a numerical valuation for each response. A valuation of “1” or “3” did not require Storms to follow up. In contrast, a score of “2” required that Storms engage in additional steps before the audit could be considered complete.¹⁰ To process the answers collected, compliance associates, including Storms, exported the data stored by the software to a master spreadsheet that recorded the representatives’ responses (*i.e.*, 1, 2, or 3).¹¹

Although the data in the software program itself could not be altered, Storms was able to change the valuations recorded on the master spreadsheet, thereby avoiding any follow-up work.

⁵ Firley Decl. ¶¶ 8-12. Enforcement served the Notices of Complaint and Complaint on Storms at the residential address recorded in the Central Registration Depository (“CRD”). Enforcement is not aware of any other address for Storms. Firley Decl. ¶¶ 8, 11 & n.3.

⁶ Storms may move to set aside the default under FINRA Rule 9269(c) upon a showing of good cause.

⁷ Compl. ¶ 5.

⁸ Compl. ¶ 6.

⁹ Compl. ¶ 7.

¹⁰ Compl. ¶¶ 8-9.

¹¹ Compl. ¶ 10.

He changed valuations of “2” on the spreadsheet (which required follow-up) to “1” or “3” (which did not require follow-up).¹²

According to the Complaint, from March through November 2016, Storms altered answers to 524 questions from 145 registered representatives, affecting 60 branch audits.¹³ By doing this, Storms avoided performing required follow-up work. In March 2017, Storms’s supervisor confronted him about the altered branch audit data. To hide his misconduct, Storms tried unsuccessfully to correct the data he had altered.¹⁴

Submitting falsified documents to an associated person’s firm is a violation of FINRA Rule 2010, which provides that an associated person in the conduct of his business shall observe high standards of commercial honor and just and equitable principles of trade.¹⁵ Falsifying documents violates the Rule because it “is a prime example of misconduct that adversely reflects on a person’s ability to comply with regulatory requirements and has been held to be a practice inconsistent with just and equitable principles of trade.”¹⁶

FINRA Rule 4511 requires member firms to “make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules.” Section 17(a) of the Exchange Act, Exchange Act Rule 17a-3, requires firms to make and preserve accurate books and records. Causing a firm to make and preserve false or inaccurate books and records is a violation of FINRA Rule 4511. An associated person who violates Rule 4511 also violates Rule 2010.¹⁷

I find that by falsifying the branch audit data and submitting it to RJA, Storms violated FINRA Rule 2010, as alleged in cause one. His misconduct caused the Firm to maintain false and inaccurate books and records, in violation of FINRA Rules 4511 and 2010, as alleged in cause two.

¹² Compl. ¶¶ 10-13.

¹³ Compl. ¶ 14-15. Storms also deleted comments registered representatives made on the questionnaire, removing the names of third-party vendors the branch used. By doing so, RJA was unable to determine if it had approved the vendors. Compl. ¶ 15 & n.2.

¹⁴ Firley Decl. ¶ 15; CX-8, at 1.

¹⁵ *Dep’t of Enforcement v. Leopold*, No. 2007011489301, 2012 FINRA Discip. LEXIS 2, at *23-25 (NAC Feb. 24, 2012) (respondent violated NASD Rule 2110 by submitting false expense reports containing fictitious hotel invoices and forged signatures and false verification letters to reduce his tax liability).

¹⁶ *Dep’t of Enforcement v. Taylor*, No. C8A050027, 2007 NASD Discip. LEXIS 11, at *23 (NAC Feb. 27, 2007). See also *Dep’t of Enforcement v. Cuzzo*, No. C9B050011, 2007 NASD Discip. LEXIS 12, at *22-23 (NAC Feb. 27, 2007) (holding that falsification of documents and entering inaccurate dates on required records violates NASD Rule 2110).

¹⁷ See, e.g., *Fox & Co. Invs., Inc.*, 58 S.E.C. 873, 891-94 (2005) (stating that a violation of FINRA’s recordkeeping rules is also a violation of FINRA Rule 2010).

G. Storms Failed to Timely Appear for On-the-Record Testimony (Cause Three)

On September 30, 2017, FINRA staff sent a letter pursuant to FINRA Rule 8210 to Storms's residential address as reflected in CRD requesting that he attend an OTR on November 7, 2017, at FINRA's Florida District Office.¹⁸ On November 1, 2017, Storms telephoned FINRA staff and acknowledged that he had received the letter scheduling the OTR. He stated that he would appear for the November 7, 2017 OTR but failed to do so.¹⁹

On November 7, 2017, FINRA staff sent Storms another letter pursuant to Rule 8210 scheduling another OTR for December 5, 2017. Storms failed to appear for the second scheduled OTR.²⁰

On January 10, 2018, Storms telephoned FINRA staff and stated that he was willing to appear for an OTR. Storms appeared for the OTR on February 12, 2018.²¹ According to the Complaint, Storms's failure to appear for the first two scheduled OTRs impeded the staff's investigation by causing unnecessary delay.²²

FINRA Rule 8210 requires that associated persons provide information orally or in writing with respect to any matter involved in a FINRA investigation, complaint, examination, or proceeding. The Rule further provides that no member or person shall fail to provide information or testimony pursuant to the Rule.²³ The Rule is considered to be among FINRA's most important tools for investigating potential wrongdoing.²⁴ Because FINRA lacks subpoena power, it must rely on FINRA Rule 8210 "to police the activities of its members and associated persons."²⁵ The Rule is unequivocal and grants FINRA broad authority to obtain information from an associated person about matters that are involved in FINRA's investigations.²⁶ "Delay and neglect on the part of members and their associated persons undermine the ability of [FINRA] to conduct investigations and thereby protect the public interest."²⁷ Associated persons

¹⁸ Compl. ¶ 30.

¹⁹ Compl. ¶¶ 32-33.

²⁰ Compl. ¶¶ 34, 36.

²¹ Compl. ¶¶ 37-38.

²² Compl. ¶ 38.

²³ FINRA Rule 8210(c).

²⁴ See *Dep't of Mkt. Regulation v. Sciascia*, No. CMS040069, 2006 NASD Discip. LEXIS 22, at *11 (NAC Aug. 7, 2006) (analyzing NASD Rule 8210, the predecessor to FINRA Rule 8210).

²⁵ *Joseph Patrick Hannan*, 53 S.E.C. 854, 858-59 (1998).

²⁶ See *Dep't of Enforcement v. Fawcett*, No. C9A040024, 2007 NASD Discip. LEXIS 2, at *11-12 (NAC Jan. 8, 2007), *aff'd*, Exchange Act Release No. 56770, 2007 SEC LEXIS 2598 (Nov. 8, 2007).

²⁷ *PAZ Sec., Inc.*, Exchange Act Release No. 57656, 2008 SEC LEXIS 820, at *12-13 (Apr. 11, 2008) (quoting *Barry C. Wilson*, 52 S.E.C. 1070, 1075 (1996)), *petition for review denied*, 566 F.3d 1772 (D.C. Cir. 2009).

therefore must cooperate fully in providing FINRA with information and may not take it upon themselves to determine whether the information FINRA has requested is material.²⁸

The record establishes that Storms twice failed to appear for an OTR before he ultimately agreed to testify. He impeded the investigation by causing an unnecessary delay. I find that because Storms failed to timely appear for an OTR he violated FINRA Rules 8210 and 2010.

III. Sanctions

A. Storms's Falsification of Branch Audit Data (Causes One and Two)

For Storms's falsification of the branch audit data and causing RJA to maintain false books and records, I bar him from associating with any member firm in any capacity. The misconduct charged under the first two causes of action relates to Storms's falsification of the Firm's branch audit data. FINRA's Sanction Guidelines ("Guidelines") state that, in certain instances, it may be appropriate to aggregate violations for purposes of imposing sanctions.²⁹ I therefore impose a unitary sanction for causes one and two.³⁰

The Guidelines do not specifically address violations related to submitting falsified documents to a firm. When the Guidelines do not provide specific guidance, adjudicators are encouraged to look to the guidelines for analogous violations.³¹ I therefore consulted the guideline for falsification of records,³² in tandem with the guideline for recordkeeping violations of Rule 4511.³³

The guideline for falsification of records states that "a bar is standard" if the misconduct is accompanied by significant aggravating factors.³⁴ Similarly, the guideline for recordkeeping

²⁸ See *CMG Inst. Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *21 (Jan. 30, 2009) (quoting *Gen. Bond & Share Co. v. SEC*, 39 F.3d 1451, 1461 (10th Cir. 1994)) (stating that associated persons "may not ignore NASD inquiries . . . nor take it upon themselves to determine whether information is material to an NASD investigation of their conduct").

²⁹ See FINRA Sanction Guidelines (2019) at 4, http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

³⁰ See *Dep't of Enforcement v. Taylor*, No. 20070094468, 2011 FINRA Discip. LEXIS 17, at *25-26 (NAC Aug. 5, 2011) (applying a single sanction for providing firm false information and causing firm to maintain inaccurate books and records).

³¹ See Guidelines at 1.

³² Guidelines at 37.

³³ Guidelines at 29.

³⁴ Guidelines at 37. The guideline also suggests imposing a fine between \$5,000 and \$155,000 and suspending the respondent for between two months and two years when a respondent falsifies a document, in the absence of other violations or customer harm. The guideline also asks adjudicators to consider a fine between \$5,000 and \$11,000 and suspending a respondent for between 10 business days and six months for falsifications in the absence of other violations or customer harm.

violations states that an adjudicator should consider a longer suspension (of up to two years) or a bar where aggravating factors predominate.³⁵

I find that Storms's misconduct was accompanied by multiple aggravating factors. The guideline for falsification of documents directs adjudicators to consider the nature of the documents falsified. The guideline for recordkeeping violations requires that adjudicators consider the nature and materiality of the inaccurate information.³⁶ Here, the falsified documents relate to the audits of 60 RJA branch office locations and the supervision of 145 registered representatives—information that was critical to the Firm's operations. The Firm relied on Storms to honestly fulfill his function as a compliance associate. Instead, Storms's misconduct created significant risks for the Firm. And, he engaged in the misconduct for approximately eight months.³⁷ He acted deliberately and with the intent to deceive his employer and avoid work. It is further aggravating that Storms attempted to cover up his actions after the Firm confronted him.³⁸

I find Storms's falsification of records to be egregious. I find no mitigating factors. His actions amply demonstrate that he lacks the fitness to serve as a securities professional. Given the aggravating factors detailed above, I find that a bar is an appropriate and remedial sanction. It will also serve to deter others from engaging in similar misconduct.³⁹

B. Storms's Failure to Timely Appear for an OTR (Cause Three)

When an associated person does not respond in any manner to a request made pursuant to FINRA Rule 8210, the Guidelines state that a bar should be standard. A partial, but incomplete, response to FINRA's request for information, documents, or testimony presents the functional equivalent of a failure to respond in any manner because individuals have selectively kept certain information from FINRA. Under such circumstances, the Guidelines state that "a bar is standard unless the person can demonstrate that the information provided substantially complied with all

³⁵ Guidelines at 29. The guideline also suggests imposing a fine of \$10,000 to \$155,000 where aggravating factors predominate. In situations where aggravating factors do not predominate, the guideline asks adjudicators to consider a fine between \$1,000 and \$16,000 and suspending the responsible individual for between 10 business days and three months.

³⁶ Guidelines at 29, 37.

³⁷ Guidelines at 7 (Principal Considerations in Determining Sanctions, Nos. 8, 9) (whether respondent engaged in numerous acts and/or a pattern of misconduct) (whether respondent engaged in the misconduct over an extended period of time).

³⁸ Guidelines at 7-8 (Principal Considerations in Determining Sanctions, Nos. 10, 13) (whether respondent attempted to conceal his or her misconduct or to lull into inactivity, mislead, deceive his member firm) (whether respondent's misconduct was the result of an intentional act, recklessness, or negligence).

³⁹ See Guidelines at 2 (General Principles Applicable to All Sanction Determinations, No. 1) (stating that "[a]djudicators should design sanctions that are meaningful and significant enough to prevent and discourage future misconduct by a respondent and deter others from engaging in similar misconduct").

aspects of the request.”⁴⁰ Where mitigation exists, or the person did not respond in a timely manner—as Storms did in this case—the Guidelines suggest a fine of \$2,500 to \$39,000, and a suspension of the individual in any or all capacities for up to two years.⁴¹

For failing to respond in a timely manner, the Guidelines advise adjudicators to consider several factors to determine the appropriate sanctions for a violation of FINRA Rule 8210, including: (1) the importance of the information requested as viewed from FINRA’s perspective; (2) the number of requests made and the degree of regulatory pressure required to obtain a response; and (3) the length of time the respondent took to respond.⁴² FINRA staff had reason to believe that Storms had engaged in serious misconduct: tampering with or falsifying Firm branch audit data, which potentially affected RJA’s ability to properly supervise dozens of its registered representatives and branch offices. Storms ignored two requests to attend an OTR, delaying the investigation by more than three months.

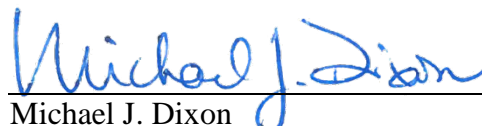
I find that an appropriately remedial sanction is a fine of \$5,000 and a six-month suspension from associating with any FINRA member firm in any capacity. However, in light of the bar for falsifying documents and causing RJA to maintain false books and records, I do not impose these sanctions.

IV. Order

Respondent Vincent Joseph Storms falsified firm branch audit data, in violation of FINRA Rule 2010, as alleged in cause one. His misconduct caused the Firm’s books and records to be inaccurate, in violation of FINRA Rules 4511 and 2010, as alleged in cause two. For these violations, I impose a unitary sanction and bar Storms from associating with any FINRA member in any capacity.

In light of the bar, I impose no sanction for Storms’s failure to timely appear to give testimony at an OTR, in violation of FINRA Rules 8210 and 2010, as alleged in cause three.

If this decision becomes FINRA’s final disciplinary action, the bar shall become effective immediately.


Michael J. Dixon
Hearing Officer

⁴⁰ Guidelines at 33.

⁴¹ Guidelines at 33.

⁴² Guidelines at 33.

Copies to:

Vincent Joseph Storms (via overnight courier and first-class mail)

Sean W. Firley Esq. (via email and first-class mail)

Tino Lisella, Esq. (via email)

David B. Klafter, Esq. (via email)

Jennifer L. Crawford, Esq. (via email)