

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANDREW P. YORO
(CRD No. 6870944),

Respondent.

Disciplinary Proceeding

No. 2018056934901

Hearing Officer–DDM

DEFAULT DECISION

October 4, 2019

Respondent cheated on the Series 7 examination, in violation of NASD Rule 1080 and FINRA Rule 2010. For this misconduct, he is barred from associating with any FINRA member firm in any capacity.

Appearances

For the Complainant: Chandana Kolavala, Esq., Carolyn Craig, Esq., Seema Chawla, 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 Andrew Yoro alleging that he cheated on the Series 7 examination by consulting study materials during unscheduled breaks and then changing some of his answers, in violation of NASD Rule 1080¹ and FINRA Rule 2010.

Enforcement properly served Yoro with two Notices of the Complaint at two different addresses. Yoro failed to file an Answer or otherwise respond to the Complaint, and on September 10, 2019, Enforcement filed a motion for entry of default decision (“Default Motion”). Enforcement also submitted counsel’s declaration (“Decl.”) in support of the motion,

¹ NASD Rule 1080 was in effect when Yoro took the Series 7 examination in November 2017. NASD Rule 1080 was superseded by FINRA Rule 1210, which became effective on October 1, 2018.

along with supporting exhibits. As with the Complaint, Yoro did not respond to the Default Motion.

For the reasons set forth below, I find Yoro in default and grant Enforcement's Default Motion.

II. Findings of Fact and Conclusions of Law

A. Respondent's Background

Yoro entered the securities industry in October 2017 when he became associated with Charles Schwab & Co., Inc. ("Schwab").² Yoro took the Series 7 qualification exam in November 2017 and became registered with FINRA as a General Securities Representative.³ Yoro was associated with Schwab until July 26, 2018, when Schwab terminated his registration and filed a Uniform Termination Notice for Securities Industry Registration ("Form U5").⁴ In the Form U5, Schwab wrote that "Mr. Yoro may not have followed the FINRA Rules of Conduct in connection with his Series 7 examination."⁵ Yoro has not been associated with a FINRA member firm since his registration with Schwab was terminated.⁶

B. FINRA's Jurisdiction

FINRA retains jurisdiction over Yoro pursuant to Article V, Section 4(a) of FINRA's By-Laws. Enforcement filed its Complaint within two years after the effective date of termination of Yoro's FINRA registration, and the Complaint charges him with misconduct committed while he was associated with a FINRA member.

C. Origin of the Investigation

This proceeding resulted from an investigation initiated by FINRA after receiving an incident report from a testing center in Dallas, Texas.⁷

D. Respondent's Default

Enforcement served Yoro with the First and Second Notices of Complaint and Complaint in accordance with FINRA Rules 9131 and 9134. Enforcement served Yoro with the First Notice of Complaint and Complaint on June 19, 2019, by first-class certified mail to his residential address as reflected in the Central Registration Depository ("CRD Address"), as well as to an

² Complaint ("Compl.") ¶ 3; Complainant's Exhibit ("CX-") 1.

³ CX-1.

⁴ CX-1.

⁵ CX-1, at 14.

⁶ CX-1.

⁷ Decl. ¶ 4.

alternate address that Yoro had provided to FINRA during the investigation (“Alternate Address”).⁸ Because Yoro failed to file an Answer to the First Notice of Complaint, Enforcement served him with a Second Notice of Complaint and Complaint on July 18, 2019, again by first-class certified mail to his CRD Address and his Alternate Address.⁹ Again, Yoro failed to file an Answer or otherwise respond to the Complaint. He has defaulted.¹⁰

On September 10, 2019, Enforcement filed a Default Motion. Yoro failed to 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.

E. Yoro Cheated on the Series 7 Examination

NASD Rule 1080 states that “[a]n applicant [for a qualification examination] cannot receive assistance while taking an examination.” Consulting study materials during a qualification exam violates NASD Rule 1080 and FINRA Rule 2010.¹¹ It is also a violation of those rules to possess unauthorized study materials in a testing area, regardless of whether the materials were helpful or used to cheat.¹²

Yoro was aware of these rules, as he attested before he took the Series 7 Exam that he had read and agreed to abide by FINRA’s Test Center Rules of Conduct governing the exam,¹³ which prohibit the use or attempted use of any study materials during the exam session.¹⁴ Yoro also agreed not to use any personal items, including study materials, during the exam and not to access the locker provided to him for his personal items during any unscheduled breaks in the exam.¹⁵ In fact, Yoro acknowledged that he could be barred from the financial services industry or otherwise disciplined if he did not follow FINRA’s Test Center Rules of Conduct.¹⁶

When Yoro took the Series 7 examination on November 22, 2017, however, he violated FINRA’s Rules of Conduct. He brought a laminated commercial study guide for the exam to the

⁸ Decl. ¶ 5.

⁹ Decl. ¶ 9.

¹⁰ Respondent may move to set aside the default pursuant to FINRA Rule 9269(c) upon a showing of good cause.

¹¹ See, e.g., *Dep’t of Enforcement v. Rubino*, No. 2008014873201, 2010 FINRA Discip. LEXIS 36 (OHO June 15, 2010).

¹² See *Helene R. Schwartz*, 51 S.E.C. 1207, 1209 (1994) (“[T]o assure the honesty of its testing process, [FINRA] does not have to demonstrate actual cheating. It may properly discipline an individual for bringing unauthorized test materials into the test center.”); *Dep’t of Enforcement v. Shelley*, No. C3A050003, 2007 NASD Discip. LEXIS 8, at *27-28 (NAC Feb. 15, 2007) (affirming the hearing panel’s finding that respondent’s attempt to cheat on a Series 24 examination was unethical).

¹³ Compl. ¶ 16.

¹⁴ Compl. ¶ 8.

¹⁵ Compl. ¶ 17.

¹⁶ Compl. ¶ 18.

testing center, and placed it in his locker.¹⁷ The study guide consisted of a laminated note sheet produced by a commercial test preparation company, which contained information relating to the Series 7 exam.¹⁸ During the exam sessions, Yoro took three unscheduled breaks, which he used to consult his study guide.¹⁹ After consulting the study guide, Yoro reviewed his previously answered questions from the exam, and changed several incorrect answers to correct answers.²⁰ By consulting study materials during the Series 7 exam, and correcting several of his exam answers after reviewing the study materials, Yoro engaged in a clear violation of NASD Rule 1080 and FINRA Rule 2010.

III. Sanctions

A bar is a standard sanction for cheating during a qualification examination, according to the Sanction Guidelines.²¹ The only principal consideration in the Guidelines for this violation is whether it is clear, based on the content of the material that was used by the Respondent, that the Respondent did not intend to cheat.²²

It is clear that Yoro used the Series 7 study guide to cheat on the Series 7 exam. In fact, after consulting the study guide in his locker, Yoro changed several of his incorrect answers to correct answers. Yoro's attestation before the exam that he understood and agreed to abide by FINRA's Rules of Conduct governing the exam, which expressly prohibited him from consulting study materials during the exam, is an aggravating factor.

The appropriate sanction for Yoro is a bar in all capacities. The imposition of a bar is remedial because it protects the investing public from a person who cannot be trusted to comply with legal and regulatory requirements. The Securities & Exchange Commission has held that cheating on a FINRA exam cannot be tolerated because it "threatens the integrity of [FINRA's] registration process" and "flouts the ethical standards to which members of the industry must adhere."²³ Given the importance of qualifications exams, the SEC has stated that it regards "deception in connection with the taking of those examinations . . . to be so grave" that it would not find a bar to be excessive or oppressive unless "the most extraordinary mitigative facts were shown."²⁴ There are no mitigating factors here.

¹⁷ Compl. ¶ 14.

¹⁸ Compl. ¶ 14.

¹⁹ Compl. ¶ 19.

²⁰ Compl. ¶¶ 19-25.

²¹ FINRA Sanction Guidelines at 40 (2019), <https://www.finra.org/sanctionguidelines>.


²² *Id.*

²³ *Ronald H.V. Justiss*, 52 S.E.C. 746, 750 (1996) (affirming the imposition of a bar against the respondent for bringing unauthorized material to the testing center and using those materials to cheat on his Series 65 exam).

²⁴ *Hugh M. Casper*, 42 S.E.C. 471, 473 (1964); *see accord Shelley*, 2007 NASD Discip. LEXIS 8, at *29-30.

IV. Order

Respondent Andrew P. Yoro violated NASD Rule 1080 and FINRA Rule 2010 by possessing unauthorized study materials and using them to cheat on the Series 7 examination. For this misconduct, he is barred from associating with any FINRA member in any capacity. The bar shall become effective immediately if this Default Decision becomes FINRA's final disciplinary action.



Daniel D. McClain
Hearing Officer

Copies to:

Andrew P. Yoro (via overnight courier and first-class mail)
Chandana Kolavala, Esq. (via email and first-class mail)
Carolyn Craig, Esq. (via email)
Seema Chawla, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)