

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

STEVEN YI  
(CRD No. 3268937),

Respondent.

Disciplinary Proceeding  
No. 20120351805-01

Hearing Officer – LOM

**DEFAULT DECISION**

March 11, 2014

**Respondent failed to provide information requested by FINRA staff pursuant to FINRA Rule 8210, in violation of that Rule and FINRA Rule 2010. Respondent is barred from associating with any FINRA registered firm in any capacity for this violation.**

**Appearances**

Mark Graves, San Francisco, California, for the Department of Enforcement.

No appearance on behalf of Steven Yi.

**I. Introduction**

The Respondent, Steven Yi (“Respondent” or “Yi”), failed to answer the Complaint filed and served on him by the Department of Enforcement (“Enforcement”) for the Financial Industry Regulatory Authority (“FINRA”). As a consequence, Enforcement filed a Motion For Entry Of Default Decision (“Default Motion”). The Default Motion is accompanied by a Declaration Of Mark Graves In Support Of Motion For Entry Of Default Decision in which Graves, an Enforcement attorney, identifying evidence underlying the Default Motion (“Declaration” or “Graves Decl.”). The Declaration is also supported by documentation in the form of attached exhibits (CX-1 through CX-4).

The Declaration details Enforcement's two efforts to serve Respondent with the Complaint. According to the Declaration, Enforcement first served the Complaint and Notice of Complaint by first-class certified mail, as provided in the FINRA Code of Procedure, at Respondent's residential address as shown in the Central Registry Depository ("CRD"). Enforcement also sent copies to that address by regular first-class mail. Respondent never filed an Answer or otherwise responded. Enforcement made a second attempt to serve the Complaint, along with a Second Notice of Complaint in the same manner. Respondent never filed an Answer or otherwise responded.

Pursuant to FINRA Rule 9269, Enforcement seeks to have the allegations of the Complaint deemed admitted. As filed with the Office of Hearing Officers, the Complaint alleges that Yi failed to provide information FINRA staff requested pursuant to FINRA Rule 8210. The Complaint charges that this failure to cooperate with the investigation violated FINRA Rules 8210 and 2010.

For the reasons set forth below and pursuant to authority granted by FINRA Rule 9269(a), the Hearing Officer finds Respondent in default, grants Enforcement's Default Motion, and deems the allegations against Respondent admitted. On that basis, the Hearing Officer finds that Respondent committed the violations alleged. Respondent is barred from associating with any FINRA member firm in any capacity for failure to provide information pursuant to FINRA Rule 8210, in violation of that Rule and FINRA Rule 2010.

## **II. Findings And Conclusions Relating To Grant Of Default Motion**

On September 23, 2013, Enforcement served the Notice of Complaint and Complaint on Yi by first-class certified mail, as provided in the FINRA Code of Procedure, sent to Yi's

residential address as shown in CRD. The papers also were sent by first-class mail to the same CRD address. Enforcement is not aware of any more current address for Yi.<sup>1</sup>

The Notice directed Yi to file an Answer on or before October 21, 2013. Yi did not file an Answer by that date. The first-class certified mailing was returned to Enforcement on November 4, 2013, stamped “Returned to Sender, Undeliverable as Addressed.”<sup>2</sup>

Enforcement served a Second Notice of Complaint, accompanied by the Complaint, on October 24, 2013, by the same means to the same CRD address. The Second Notice directed Yi to file an Answer on or before November 11, 2013. The two mailings of the Second Notice and Complaint were returned to Enforcement in early November.<sup>3</sup>

Yi still has not filed an Answer to the Complaint.

Service here was valid under FINRA Procedural Rule 9134 because Enforcement served Yi by certified mail at Yi’s residential address as reflected in CRD. Respondent had constructive notice. Pursuant to FINRA Rules 9215(f) and 9269(a) and based on Yi’s failure to file an Answer, the Hearing Officer grants Enforcement’s Default Motion, finds Yi in default, and deems the allegations in the attached Complaint admitted.

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<sup>1</sup> Graves Decl. ¶¶ 5-6.

<sup>2</sup> Graves Decl. ¶¶ 7-8; CX-3.

<sup>3</sup> Graves Decl. ¶¶ 9-10; CX-4.

### **III. Findings And Conclusions Relating To Underlying Violations**

#### **A. Yi's Background**

According to the Complaint, Yi entered the securities industry on July 5, 1999. On October 18, 1999, he registered with FINRA as a General Securities Representative ("GSR") through his association with a member firm. On April 16, 2009, his registration with TD Ameritrade, Inc. (the "Firm") as GSR was approved. He voluntarily terminated his employment with the Firm on November 16, 2012. The Firm submitted a Form U5 termination notice on December 13, 2012, in which it reported that Yi had voluntarily left the Firm while the Firm was investigating a customer complaint against Yi.

Specifically, the Firm reported that it had received a complaint from a customer on or about September 26, 2012. The customer alleged that Yi had borrowed \$96,000 and made himself a beneficiary of the customer's outside brokerage account without her knowledge. Review of internal records, however, failed to reveal any evidence of wrongdoing. But Yi left the Firm prior to the conclusion of its internal investigation.

Yi has not associated or registered with another FINRA member firm since he voluntarily left his Firm in November 2013.

#### **B. Jurisdiction**

FINRA has jurisdiction over Yi in this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws. The Complaint was filed on September 23, 2013, which was within two years of the date on which the Firm filed Yi's Form U5 (December 13, 2012). The Complaint charges Yi with a failure to provide information pursuant to FINRA Rule 8210 from

late December 2012 through January 2013. This was during the period in which FINRA retained jurisdiction to file a complaint based on conduct prior to Yi's termination of his employment.<sup>4</sup>

### C. Violation

FINRA Rule 8210 requires FINRA members and their associated persons "to provide information orally, in writing, or electronically" in connection with any investigation. This Rule is crucial to FINRA's ability to oversee and regulate broker-dealers because FINRA does not have subpoena power.<sup>5</sup> Instead, FINRA must depend on member firms and their associated persons to cooperate fully and promptly with requests for information pursuant to Rule 8210.<sup>6</sup> A failure to respond promptly and completely to such information requests frustrates FINRA's ability to detect misconduct and protect investors and markets.<sup>7</sup> A person who fails to provide information requested pursuant to FINRA Rule 8210 violates both FINRA Rule 8210 and the Rule known as the "J&E Rule," which requires compliance with high standards of commercial honor and just and equitable principles of trade.<sup>8</sup>

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<sup>4</sup> See Article V, Sec. 4(a)(i), FINRA By-Laws, available at [www.finra.org](http://www.finra.org) (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws") specifying that jurisdiction for purposes of providing information pursuant to FINRA Rule 8210 continues during the two years in which FINRA retains jurisdiction.

<sup>5</sup> See, e.g., *Dep't of Enforcement v. Valentino*, No. FPI010004, 2003 NASD Discip. LEXIS 15, at \*12 (NAC May 21, 2003), *aff'd*, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD [FINRA's predecessor] lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted); *Joseph G. Chiulli*, 54 S.E.C. 515, 2000 SEC LEXIS 112, at \*16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for FINRA to effectively conduct its investigations, and emphasizing that FINRA members and associated persons must fully cooperate with requests for information). See also *Morton Bruce Erenstein*, 316 Fed. App'x. 865, 871, 2008 U.S. App. LEXIS 19746, at \*13 (11th Cir. Sept. 16, 2008) ("[I]t is critically important to the self-regulatory system that members and associated persons cooperate with NASD investigations, especially because the NASD lacks subpoena power."); *Robert Fitzpatrick*, 55 S.E.C. 419, 2001 SEC LEXIS 2185, at \*11-12 (Oct. 19, 2001).

<sup>6</sup> *PAZ Sec., Inc.*, 2008 SEC LEXIS 820, at \*13 (Apr. 11, 2008), *petition for review denied sub nom. Paz Sec. v. SEC*, 566 F.3d 1172, 2009 U.S. App. LEXIS 11500 (D.C. Cir. May 29, 2009).

<sup>7</sup> See *CMG Inst. Trading, LLC*, Exchange Act Rel. No. 59325, 2009 SEC LEXIS 215, at \*30 (Jan. 30, 2009); *Gluckman*, 1999 SEC LEXIS 1395, at \*22.

<sup>8</sup> *Dep't of Enforcement v. Baxter*, No. C07990016, 2000 NASD Discip. LEXIS 3, at \*25 (NAC Apr. 19, 2000).

Yi violated Rule 8210 by failing to provide any information in response to FINRA staff requests pursuant to FINRA Rule 8210. FINRA staff sent Yi a letter to his CRD address on or about December 24, 2012, seeking information regarding the Firm's disclosures in the Form U5.<sup>9</sup> When Yi failed to respond by the specified due date, FINRA staff sent him a second letter to his CRD address on or about January 8, 2013.<sup>10</sup> The second letter again requested information pursuant to FINRA Rule 8210. To date, FINRA staff has received no response to either letter.<sup>11</sup>

Yi plainly violated FINRA Rule 8210 and the J&E Rule. He provided no information in response to the staff's Rule 8210 requests for information.

#### **IV. Sanctions**

FINRA's Sanction Guidelines ("Sanction Guidelines") provide the guideposts for sanctions in FINRA disciplinary proceedings.<sup>12</sup> The Sanction Guidelines set forth recommendations regarding sanctions for violations of specific violations. The Sanction Guidelines also instruct adjudicators to consult the Principal Considerations applicable to all determinations of sanctions, and the General Principles for all sanction determinations.<sup>13</sup> The Overview to the Sanction Guidelines expresses the overarching purpose of FINRA's disciplinary actions and the objectives served by sanctions where violations are found:

The regulatory mission of FINRA is to protect investors and strengthen market integrity through vigorous, even-handed and cost-effective self-regulation. . . . As part of FINRA's regulatory mission, it must stand ready to discipline member firms and their associated persons by

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<sup>9</sup> Compl. ¶ 5.

<sup>10</sup> Compl. ¶¶ 6-7.

<sup>11</sup> Compl. ¶ 9.

<sup>12</sup> FINRA Sanction Guidelines (2011) are available at [www.finra.org/SanctionGuidelines](http://www.finra.org/SanctionGuidelines).

<sup>13</sup> Sanction Guidelines at 1, 88, 90. The General Principles are found in the Sanction Guidelines at 2-5. The Principal Considerations are found in the Sanctions Guidelines at 6-7.

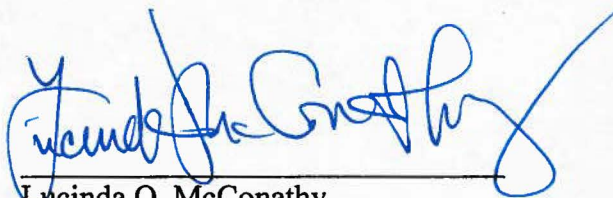
imposing sanctions when necessary and appropriate to protect investors ... and to promote the public interest.<sup>14</sup>

Where an individual fails to respond in any manner to a request for information, documents, or testimony pursuant to FINRA Rule 8210, the Sanction Guidelines recommend a bar. The Sanction Guidelines describe this sanction as the “standard” sanction for such a failure to respond.<sup>15</sup> The Sanction Guidelines also suggest a fine ranging from \$25,000 to \$50,000. Accordingly, it is appropriate to bar Yi from the industry for his violation of FINRA Rules 8210 and 2010.

#### V. Order

Enforcement’s Default Motion is granted, and the allegations in the Complaint are deemed admitted.

For failing to provide information and documents requested by FINRA staff pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010, as alleged in the Complaint, Respondent is barred from associating with any member firm in any capacity. If this decision becomes FINRA’s final disciplinary action, the bar shall take effect immediately.



Lucinda O. McConathy  
Hearing Officer

Copies to:  
Steven Yi (via overnight courier and first-class mail)  
Mark Graves, Esq. (via electronic and first-class mail)  
Jeffrey D. Pariser, Esq. (via electronic mail)

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<sup>14</sup> Sanction Guidelines at 1.

<sup>15</sup> Sanction Guidelines at 33.

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

Department of Enforcement,

Complainant,

v.

Steven Yi  
(CRD No. 3268937),

Respondent.

DISCIPLINARY PROCEEDING  
No. 20120351805-01



**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. Respondent Steven Yi failed to provide information and documentation requested by staff pursuant to FINRA Rule 8210 on two occasions during 2012 and 2013.

**RESPONDENT AND JURISDICTION**

2. Steven Yi entered the securities industry on or about July 5, 1999. On or about October 18, 1999, he registered as General Securities Representative (GS) with the firm. On or about April 7, 2009, Yi registered as a GS with FINRA Member Firm TD Ameritrade, Inc. Yi remained registered with TD Ameritrade as a GS until he voluntarily terminated his employment with the firm on or about November 16, 2012. TD Ameritrade submitted a Form U5 termination notice on or about December 13, 2012, reporting that Yi voluntarily left the firm while the firm was investigating a customer complaint against Yi. Specifically, on or about September 26, 2012, the



firm received a complaint from customer JR that alleged that Yi “borrowed money [\$96,000] and made himself beneficiary of [JR’s] outside [brokerage] account without her knowledge. Review of internal records failed to reveal any evidence of wrong doing [sic]. [Yi] voluntarily left the firm prior to conclusion [of the internal investigation].” Respondent Yi has not associated or registered with another FINRA member firm since he voluntarily left TD Ameritrade on or about November 16, 2012, as reported on a Form U5 submitted on or about December 13, 2012. FINRA has jurisdiction to issue this Complaint until December 12, 2014, pursuant to Article V, Section 4 of its By-Laws.

**FIRST CAUSE OF ACTION  
(FAILURE TO RESPOND TO RULE 8210 REQUESTS FOR INFORMATION  
(FINRA RULES 2010 AND 8210))**

3. The Department realleges and incorporates by reference paragraphs 1-2 above.
4. Staff commenced an investigation of Yi following the termination of his association and registration with TD Ameritrade in order to determine whether Yi engaged in the conduct reported by TD Ameritrade on the Form U5, and, if so, whether he violated the federal securities laws or FINRA rules in connection therewith.
5. FINRA staff sent a letter to Yi on or about December 24, 2012 (First Letter), requesting information about, among other things, TD Ameritrade’s Form U5 disclosure quoted in paragraph 2, above. The staff requested the information pursuant to FINRA Rule 8210. The First Letter was sent by regular first class mail and certified mail, return receipt requested, to Yi’s residential address as listed in the Central Registration Depository (CRD), which is located in San Diego, CA (CRD

Address). The First Letter sent by regular first class mail was not returned to the staff. The First Letter sent by certified mail was returned to the staff, marked "unclaimed unable to forward." The First Letter required Yi to provide the requested information on or before January 7, 2013.

6. Yi failed to provide the information requested in the First Letter on, before, or subsequent to, the First Letter's due date.
7. On or about January 8, 2013, the staff sent a second request for information to Yi at his CRD Address (Second Letter). The request was sent pursuant to FINRA Rule 8210, via first class mail and certified mail, return receipt requested, to the CRD Address. The Second Letter sent by regular first class mail was not returned to the staff. The Second Letter sent by certified mail was returned to the staff, marked "unclaimed unable to forward." The Second Letter required Yi to provide the requested information on or before January 21, 2013.
8. Yi failed to provide the information requested in the Second Letter on, before, or subsequent to, the Second Letter's due date.
9. To date, staff has not received any information in response to the First or Second Letters sent to Respondent Yi at his CRD Address.
10. Each failure to provide any or all of the information requested by FINRA staff pursuant to FINRA Rule 8210 in the First and Second Letters, as set forth in paragraphs 4-9 above, constitutes a separate and distinct violation of FINRA Rule 8210 by Respondent Yi. Such conduct is also inconsistent with high standards of

commercial honor and just and equitable principles of trade and a violation of FINRA Rule 2010 by Respondent Yi.

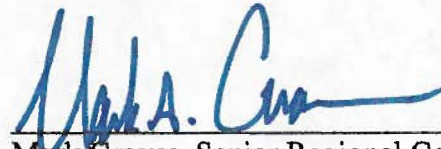
**RELIEF REQUESTED**

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed.
- B. order that the 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: September 23, 2013



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