

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

Department of Enforcement,

Complainant,

v.

Eric Kuchel
(CRD No. 4118500)

Respondent.

DISCIPLINARY PROCEEDING
No. 2015047966701

COMPLAINT

The Department of Enforcement (the “Department”) alleges:

SUMMARY

1. Respondent Eric Kuchel (“Kuchel”) failed to appear and provide investigative testimony on two occasions, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Kuchel entered the securities industry in 2000. He associated with several FINRA member firms where, at various times, he was registered as a General Securities Representative (“GSR”) and a General Securities Principal (“GSP”). From July 2007 through November 2014, Kuchel was associated with Crown Capital Securities, L.P. (the “Firm”) and registered as a GSR and a GSP. From November 2014 to November 2015, Kuchel was associated with another FINRA member firm, where he was registered as a GSR and a GSP.

3. On or about November 24, 2015, the firm with which Kuchel was most recently associated filed a Form U5 on his behalf, indicating that Kuchel had been discharged on or about

November 19, 2015, for his “[f]ailure to appear for required on the record interview with FINRA.”

4. Although Kuchel 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 his registration with a member firm, namely November 19, 2015, and (2) the Complaint charges him with failing to appear for on-the-record testimony while he was registered or associated with a FINRA member.

**CAUSE OF ACTION
FAILURE TO APPEAR FOR ON-THE-RECORD TESTIMONY
(FINRA Rules 8210 and 2010)**

5. The Department realleges and incorporates by reference paragraphs 1 through 4 above.

6. In 2014, FINRA staff (the “Staff”) began investigating certain mutual fund transactions effected by several registered representatives at the Firm, including Kuchel, and the Firm’s supervision of those transactions. The Staff also found that Kuchel may have engaged in a private securities transaction while at the Firm. The Staff’s investigation included, among other things, an inquiry into whether Kuchel, while registered and associated with the Firm, violated NASD and/or FINRA Rules, and/or the federal securities laws, in connection with certain mutual fund transactions in his customers’ accounts, or through his participation in a private securities transaction.

7. As part of its investigation, between February and November 2015, the Staff requested Kuchel’s on-the-record (“OTR”) testimony on numerous occasions, as detailed below.

Initial Requests for Testimony

Request for Appearance for OTR on April 2, 2015

8. On or about February 24, 2015, the Staff sent a letter by first class mail to Kuchel, pursuant to FINRA Rule 8210, in connection with the above investigation. The Rule 8210 letter requested that Kuchel appear for an OTR at 9:00 a.m. on April 2, 2015, at FINRA's offices at 300 South Grand Ave., Los Angeles, California ("FINRA's Los Angeles Office"). A copy of the letter was also sent to the compliance department of Kuchel's then-employing firm.

9. An "Addendum A to Request for Testimony" (the "Addendum"), was also included as an attachment to the February 24, 2015 letter. The Addendum advised that Kuchel's failure to appear and testify at the OTR may subject him to FINRA disciplinary action and the imposition of sanctions, including a bar from the securities industry, suspension, censure and/or fine.

10. Shortly thereafter, the Staff received a letter dated March 3, 2015 from Kuchel's newly retained counsel, stating among other things, that he represented Kuchel and needed to re-schedule the OTR due to scheduling conflicts; he suggested rescheduling the OTR to the week of May 11, 2015.

Request for Appearance for OTR on May 14, 2015

11. After conferring with the Staff and agreeing upon the mutually acceptable date of May 14, 2015 for Kuchel's rescheduled OTR, Kuchel's counsel sent a letter to the Staff dated March 20, 2015, in which he confirmed that Kuchel would appear for his testimony on May 14, 2015, at FINRA's Los Angeles Office.

12. On April 23, 2015, the Staff received an email from Kuchel's counsel, with an attached letter dated the same date, informing the Staff that Kuchel was unable to attend the OTR

on May 14, 2015, because Kuchel was recovering from a “very recent accident.” Counsel represented that Kuchel would be well enough to attend the OTR during the week of June 15-19, 2015.

Request for Appearance for OTR on June 16 and 17, 2015

13. The Staff once again conferred with Kuchel’s counsel on a mutually acceptable date for Kuchel’s rescheduled OTR. On or about May 18, 2015, the Staff sent a letter to Kuchel’s counsel, pursuant to FINRA Rule 8210, requesting that his client appear for testimony on the agreed-upon dates, June 16 and 17, 2015, at FINRA’s Los Angeles Office. A copy of the letter was also sent to the compliance department of Kuchel’s then employing firm.

14. The May 18, 2015 letter attached the Addendum, which advised that Kuchel’s failure to appear and testify at the OTR may subject him to FINRA disciplinary action and the imposition of sanctions, including a bar from the securities industry, suspension, censure and/or fine.

15. On June 11, 2015, the Staff received a letter dated June 10, 2015 from Kuchel. The letter stated that he would not be able to appear for his scheduled testimony on June 16 and 17, 2015, due to complications from his accident. He requested that FINRA provide him with some dates in August for the OTR. On June 15, 2015, the Staff received an email from Kuchel that attached a nearly identical copy of this letter.

16. Because the staff received the correspondence referenced in Paragraph 15, above, directly from Kuchel instead of his counsel, on or about June 15, 2015, the Staff contacted Kuchel’s counsel to confirm whether he continued to represent Kuchel. Kuchel’s counsel confirmed that he no longer represented Kuchel in an email to the Staff dated June 15, 2015.

Request for Appearance for OTR on August 19 and 20, 2015

17. On June 18, 2015, the Staff and Kuchel exchanged emails and confirmed that Kuchel's OTR would be rescheduled to August 19 and 20, 2015.

18. On or about June 18, 2015, the Staff sent a letter to Kuchel, pursuant to FINRA Rule 8210, requesting that he appear for an OTR at 9:00 a.m. on August 19 and 20, 2015, at FINRA's Los Angeles Office.

19. The June 18, 2015 letter was sent by first class mail to Kuchel's residential address in Yorba Linda, California, as listed in the Central Registration Depository (the "CRD Address"), and also emailed to Kuchel at eric.kuchel@lpl.com and eric@kuchelfinancial.com (collectively, "Kuchel's Email Addresses"). According to Kuchel's then-employing firm, these were Kuchel's firm-approved email addresses at that time. The first class mailing was not returned. A copy of the letter was also sent to the compliance department of Kuchel's then-employing firm.

20. The June 18, 2015 letter attached the Addendum, which advised that Kuchel's failure to appear and testify at the OTR may subject him to FINRA disciplinary action and the imposition of sanctions, including a bar from the securities industry, suspension, censure and/or fine.

21. On August 19, 2015, Kuchel appeared for testimony without an attorney. At the commencement of the OTR, he agreed to proceed without legal representation. The Staff conducted the OTR from 9:00 a.m. until approximately 1:00 p.m., at which point Kuchel stated on the record that he was "in over my head" and that he needed to "consult legal counsel about anything further." The Staff adjourned the OTR at that time to enable Kuchel to retain counsel.

Request for Appearance for OTR on September 22 and 23, 2015

22. After suspending the OTR on August 19, 2015, the Staff provided Kuchel some time to retain counsel. After not receiving any communication from him, the Staff sent a letter dated September 3, 2015 to Kuchel, pursuant to FINRA Rule 8210, requesting that he appear for an OTR at 9:00 a.m. on September 22 and 23, 2015, at FINRA's Los Angeles Office (the "September 3rd Request").

23. The September 3rd Request was sent by first class mail to Kuchel's CRD Address and emailed to Kuchel's Email Addresses. The first class mailing was not returned. A copy of the September 3rd Request was also sent to the compliance department of Kuchel's then-employing firm.

24. The September 3rd Request summarized the Staff's attempts to obtain Kuchel's testimony since February 2015, and the multiple scheduling accommodations made by the Staff upon Kuchel's requests. It also stated Kuchel that, although the Staff had ceased its interview on August 19, 2015 upon his request for legal representation, the Staff had provided him time to retain counsel but had not heard from him.

25. The September 3rd Request also advised that Kuchel's failure to appear at the OTR may subject him to FINRA disciplinary action, including a fine, suspension, and/or a bar from the securities industry. This was reiterated in the Addendum attached to the September 3rd Request.

26. On September 18, 2015, the Staff received an email from Kuchel (from eric@kuchelfinancial.com) that attached a letter dated September 17, 2015. The letter stated, *inter alia*, that Kuchel still needed to hire an attorney and needed to reschedule the OTR for the middle of November 2015 to "give myself and my attorney time to prepare as is my right."

27. As a final accommodation to Kuchel, the Staff agreed to reschedule the OTR yet again, as detailed below.

Request for Appearance for OTR on October 28 and 29, 2015

28. On or about September 23, 2015, the Staff sent a letter to Kuchel, pursuant to FINRA Rule 8210, once again requesting Kuchel's appearance for testimony (the "September 23rd Request"). The September 23rd Request requested that Kuchel appear for an OTR at 9:00 a.m. on October 28 and 29, 2015, at FINRA's Los Angeles Office.

29. The September 23rd Request was sent by first class mail to Kuchel's CRD Address and emailed to Kuchel's Email Addresses. The first class mailing was not returned. A copy of the September 23rd Request was also sent to the compliance department of Kuchel's then-employing firm.

30. The September 23rd Request advised Kuchel that: (1) this would be the last continuance, and that there would be no further postponements in light of the Staff's lengthy efforts to obtain his testimony; and (2) he was required to appear on the scheduled date with or without counsel.

31. The September 23rd Request also advised that Kuchel's failure to appear at the OTR may subject him to FINRA disciplinary action, including a fine, suspension, and/or a bar from the securities industry. This was reiterated in the Addendum attached to the September 23rd Request.

32. On October 27, 2015—more than a month after the September 23rd Request was sent to Kuchel, and the day before his re-scheduled OTR was to commence—Kuchel sent an email (from eric@kuchelfinancial.com) to the Staff that attached a letter also dated October 27, 2015. Kuchel's letter stated, *inter alia*, that he had met with several securities attorneys in the

past few weeks, but each of them informed him that they required additional time to prepare for an OTR; the letter requested that his OTR be rescheduled to a date in December.

33. That same day, on October 27, 2015, the Staff sent a letter to Kuchel (by first class mail to his CRD Address and email to Kuchel's Email Addresses), acknowledging the Staff's receipt of his letter and informing him that his failure to appear for his OTR on October 28 and 29, 2015 would be deemed a violation of FINRA Rule 8210. A copy of the letter was also sent to the compliance department of Kuchel's then-employing firm.

34. Kuchel failed to appear for his OTR on October 28 and 29, 2015.

Request for Appearance for OTR on November 18 and 19, 2015

35. On November 3, 2015, the Staff sent a final letter to Kuchel, pursuant to FINRA Rule 8210, requesting that Kuchel appear for an OTR at 9:00 a.m. on November 18 and 19, 2015, at FINRA's Los Angeles Office (the "November 3rd Request").

36. The November 3rd Request was sent by first class mail to the CRD Address and emailed to Kuchel's Email Addresses. The first class mailing was not returned. A copy of the November 3rd Request was also sent to the compliance department of Kuchel's then-employing firm.

37. The November 3rd Request also advised that Kuchel's failure to appear at the OTR may subject him to FINRA disciplinary action, including a fine, suspension, and/or a bar from the securities industry. This was reiterated in the Addendum attached to the November 3rd Request.

38. On November 17, 2015, the day before his OTR was scheduled to commence, Kuchel sent an email (from eric@kuchelfinancial.com) to the Staff that attached a letter dated the same date, stating that he was "unable to attend the scheduled OTR for November 17 &18," and

that he was “still unable to find a Securities Attorney that can lookout [sic] for me and my best interests during the OTR process....”

39. Kuchel failed to appear for his OTR on November 18 and 19, 2015.

40. Kuchel’s repeated delays and failures to provide the requested on-the-record testimony—spanning nearly nine months from the Staff’s original request that Kuchel appear for an OTR—materially impeded the Staff’s investigation into whether Kuchel violated NASD and/or FINRA Rules, and/or the federal securities laws, in connection with certain mutual fund transactions in his customers’ accounts and whether he participated in a private securities transaction.

41. By failing to provide on-the-record testimony pursuant to FINRA Rule 8210 on October 28-29 and/or November 18-19, 2015, Kuchel violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Kuchel 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 Kuchel 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: January 6, 2016



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