

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DAWN BENNETT  
(CRD No. 1567051),

Respondent.

Disciplinary Proceeding  
No. 2015047682402

Hearing Officer–CC

**DEFAULT DECISION**

Date: September 18, 2019

**Respondent Dawn Bennett failed four times to appear and provide testimony requested pursuant to FINRA Rule 8210 and failed twice to produce documents requested pursuant to FINRA Rule 8210. For this misconduct, Bennett is barred from associating with any member firm in any capacity.**

For the Complainant: David F. Newman, Esq., Matthew M. Ryan, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

**DECISION**

**I. Introduction**

FINRA’s Department of Enforcement (“Enforcement”) filed the Complaint on November 9, 2016. Cause one of the Complaint alleges that Dawn Bennett (“Bennett”) violated FINRA Rules 8210 and 2010 by failing to respond to two September 2016 requests for the production of documents and information. Cause two alleges that Bennett violated FINRA Rules 8210 and 2010 by failing to appear on four occasions between May and September 2016 to provide on-the-record testimony.

Bennett filed an Answer to the Complaint and, through counsel, actively litigated the case. The Hearing Officer scheduled a three-day hearing beginning August 29, 2017.

On August 25, 2017, federal authorities arrested Bennett. She has been incarcerated since her arrest and a jury subsequently convicted her.

Enforcement attempted to communicate with Bennett at various correctional facilities to no avail. The Office of Hearing Officers (“OHO”) provided Bennett with numerous

opportunities to participate in writing or by telephone in status conferences. She did not participate. I ordered Bennett to participate by telephone or in writing in a May 7, 2019 status conference. After Bennett failed to participate, I issued a May 9, 2019 order to show cause why Bennett should not be held in default. OHO properly served Bennett with the order to show cause, and she failed to respond.

Accordingly, on June 19, 2019, I ordered Enforcement to file a motion for entry of default decision. On July 17, 2019, Enforcement filed a motion for entry of default decision (“Default Motion”), together with counsel’s declaration in support of the motion (“Decl.”) and supporting exhibits.<sup>1</sup> Bennett did not respond to the Default Motion.

For the reasons set forth below, I find Bennett in default, grant Enforcement’s Default Motion, and deem the allegations of the Complaint admitted.

## **II. Findings of Fact and Conclusions of Law**

### **A. Bennett’s Background**

Bennett first registered as a general securities representative in March 1987.<sup>2</sup> Most recently, Bennett associated with member firm Western International Securities, Inc. (“Western”) and was registered as a general securities representative from October 2009 through December 2015.<sup>3</sup> While associated with Western, Bennett operated an on-line retail clothing business, DJBennett.com, which she owned through DJB Holdings, LLC (“DJBH”).<sup>4</sup>

On December 1, 2015, Western filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) stating that Bennett was “permitted to resign” effective November 24, 2015.<sup>5</sup> Western stated as its reason for terminating Bennett: “Firm decision following discovery of promissory notes with Firm customers by registered representative’s company.”<sup>6</sup>

On March 30, 2017, the Securities and Exchange Commission barred Bennett from the securities industry, imposed a cease and desist order, and ordered her to pay disgorgement with interest and civil and monetary penalties for making material misstatements and omissions

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<sup>1</sup> In this Decision, I refer to Enforcement’s exhibits as (“CX”) and Bennett’s stipulations as (“Stip.”). Before Bennett’s arrest, attorney EI represented her in this proceeding. Through EI, Bennett executed stipulations of fact on July 25, 2017.

<sup>2</sup> Decl. ¶ 25; Complaint (“Compl.”) ¶ 2; Stip. ¶ 1; CX-A.

<sup>3</sup> Decl. ¶ 25; Compl. ¶ 3; Stip. ¶ 2; CX-A.

<sup>4</sup> Compl. ¶ 8; Stip. ¶ 3. Bennett owned DJBH and was its chief executive officer. Compl. ¶ 8; Stip. ¶ 3.

<sup>5</sup> Decl. ¶ 26; Compl. ¶ 4; CX-A.

<sup>6</sup> Decl. ¶ 26; Compl. ¶ 4; CX-A.

regarding assets under management and investment returns related to the registered investment advisor she owned and operated.<sup>7</sup>

## **B. FINRA's Jurisdiction**

Bennett is no longer registered or associated with a FINRA member firm.<sup>8</sup> FINRA retains jurisdiction over Bennett pursuant to Article V, Section 4(a) of FINRA's By-Laws, because: (1) Enforcement filed the Complaint on November 9, 2016, which is within two years of Bennett's November 24, 2015 termination of her association with member firm Western; and (2) the Complaint alleges that Bennett failed to appear for testimony and failed to respond to written requests pursuant to FINRA Rule 8210 during the two-year period of FINRA's continuing jurisdiction.<sup>9</sup>

## **C. Origin of the Proceeding**

In November 2015, FINRA began investigating Bennett for possible rule violations including, conversion, fraud, and private securities transactions.<sup>10</sup> FINRA's investigation revealed that Bennett solicited Western customers and other individuals to invest in DJBH. FINRA determined that 30 investors, most of whom were Western customers and several of whom were elderly, invested approximately \$6 million in DJBH convertible notes or promissory notes.<sup>11</sup> FINRA's investigation revealed that Bennett represented to investors that she would use the proceeds from the notes to expand DJBH, but rather than using the funds to expand DJBH, Bennett used the funds to pay for personal expenses and a lavish lifestyle.<sup>12</sup>

FINRA staff sent Bennett multiple requests for documents, information, and testimony, pursuant to FINRA Rule 8210, to further its investigation of Bennett's use of investor funds.<sup>13</sup> The Complaint alleges that Bennett failed to respond to FINRA's Rule 8210 requests for information, documents, and testimony.

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<sup>7</sup> See *Bennett Group Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 SEC LEXIS 1003 (Mar. 30, 2017).

<sup>8</sup> Decl. ¶ 27; Compl. ¶ 6; CX-A.

<sup>9</sup> See Art. V, Section 4, FINRA By-Laws; Decl. ¶¶ 28, 29; Compl. ¶ 6.

<sup>10</sup> Decl. ¶ 4.

<sup>11</sup> Decl. ¶ 6.

<sup>12</sup> Decl. ¶¶ 7, 8; Compl. ¶ 9.

<sup>13</sup> Decl. ¶ 9.

#### **D. FINRA’s Rule 9552 Proceeding**

Between November 2015 and February 2016, FINRA staff issued numerous Rule 8210 requests for documents to Bennett.<sup>14</sup> Bennett failed to respond timely and fully to the requests.<sup>15</sup>

In March 2016, FINRA initiated Rule 9552 suspension proceedings against Bennett for failing to timely and fully respond to Rule 8210 requests for Bennett’s and DJBH’s bank and other financial records related to Bennett’s use of investor funds.<sup>16</sup> Bennett participated in a May 19, 2016 expedited hearing.<sup>17</sup>

On August 2, 2016, the Hearing Panel in the Rule 9552 proceeding issued a decision finding that Bennett repeatedly refused to comply with her obligations under FINRA Rule 8210 to provide information and documents to FINRA staff.<sup>18</sup> The Hearing Panel suspended Bennett from associating with any FINRA member in any capacity for ten business days and ordered that her suspension automatically convert to a bar in all capacities if, at the conclusion of the 10-business day suspension, she continued to fail to comply with FINRA’s Rule 8210 requests.<sup>19</sup>

On August 16, 2016, the final day before Bennett’s suspension converted to a bar, Bennett’s attorney, EI, produced the information and documents requested.<sup>20</sup>

#### **E. Bennett’s Default**

##### **1. FINRA’s Pre-Conviction Communications with Bennett**

On November 9, 2016, Enforcement properly served Bennett with Notice of the Complaint and the Complaint at her Central Registration Depository (“CRD”) Address.<sup>21</sup> Enforcement also provided a courtesy copy of the Complaint to Bennett’s attorney, EI.<sup>22</sup> On January 6, 2017, EI filed an Answer on behalf of Bennett.<sup>23</sup> The previous Hearing Officer scheduled the hearing for August 29 through 31, 2017.<sup>24</sup> The matter proceeded unremarkably.

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<sup>14</sup> Compl. ¶ 10.

<sup>15</sup> Compl. ¶ 11.

<sup>16</sup> Decl. ¶ 10; Compl. ¶¶ 10, 11.

<sup>17</sup> Decl. ¶ 12; Compl. ¶ 12.

<sup>18</sup> Decl. ¶ 13; Compl. ¶¶ 13, 14, 15; Stip. ¶¶ 7, 8, 9.

<sup>19</sup> Decl. ¶ 14; Compl. ¶¶ 16, 17; Stip. ¶¶ 10, 11.

<sup>20</sup> Decl. ¶ 14; Compl. ¶ 18; Stip. ¶ 13.

<sup>21</sup> Decl. ¶¶ 30, 31; CX-C.

<sup>22</sup> Decl. ¶ 31.

<sup>23</sup> Decl. ¶ 32.

<sup>24</sup> Decl. ¶ 34. On August 17, 2017, the Chief Hearing Officer reassigned this case to me from another Hearing Officer in OHO.

Through counsel, the parties participated in pre-hearing conferences, engaged in motions practice, and filed pre-hearing submissions.<sup>25</sup>

On Friday, August 25, 2017, federal authorities arrested Bennett.<sup>26</sup> In light of Bennett's arrest and subsequent incarceration pending trial, I twice continued the hearing date before temporarily staying the proceeding on December 1, 2017, pending the outcome of Bennett's criminal case.<sup>27</sup> Subsequently, Bennett attorney EI advised OHO that Bennett would likely remain in federal custody pending her criminal trial (then scheduled for September 2018) and filed a motion to withdraw as counsel.<sup>28</sup> On January 9, 2018, I granted counsel's motion to withdraw<sup>29</sup> and directed Enforcement to monitor Bennett's criminal proceeding, update OHO as appropriate, and copy Bennett's defense lawyer for the criminal proceeding on all communications. Subsequent to my issuance of the January 9, 2018 Order, Bennett was not represented by counsel in this proceeding.<sup>30</sup>

On October 17, 2018, a jury convicted Bennett of 17 counts of securities fraud, wire fraud, bank fraud, conspiracy, and false statements on loan applications.<sup>31</sup> She remained in federal custody pending sentencing.

## **2. FINRA's Post-Conviction Efforts to Communicate with Bennett**

On November 16, 2018, I issued an Order setting a December 18, 2018, telephone status conference.<sup>32</sup> I provided notice of the telephone status conference to Bennett by first-class mail delivered to a correctional facility in Washington, D.C. (hereinafter, "D.C. Correctional Facility"). I also provided a copy of the Order to her then-criminal defense attorney DB by email and first-class mail.<sup>33</sup> The United States Postal Service ("USPS") returned the notice sent to Bennett by first-class mail at the D.C. Correctional Facility marked "not deliverable as addressed/unable to forward." Bennett did not participate in the telephone status conference.<sup>34</sup>

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<sup>25</sup> Decl. ¶ 34.

<sup>26</sup> Decl. ¶ 35. The United States Attorney for the District of Maryland charged Bennett with wire fraud, bank fraud, securities fraud, and making false statements in relation to loan and credit applications.

<sup>27</sup> Decl. ¶¶ 36, 37, 38, 39.

<sup>28</sup> Decl. ¶¶ 40, 41.

<sup>29</sup> Decl. ¶¶ 40, 41.

<sup>30</sup> Decl. ¶ 41.

<sup>31</sup> Decl. ¶ 42.

<sup>32</sup> Decl. ¶ 43.

<sup>33</sup> Decl. ¶ 43.

<sup>34</sup> Decl. ¶ 44.

Enforcement participated, and Bennett’s criminal defense attorney, DB, participated solely for informational purposes.<sup>35</sup> He declined to file a notice of appearance in this matter.

At the December 18, 2018, status conference, DB updated me as to Bennett’s status. He indicated that Bennett had been moved from the D.C. Correctional Facility to a correctional facility in Baltimore, Maryland (hereinafter, “the Baltimore Correctional Facility”).<sup>36</sup> He provided the name and address of the Baltimore Correctional Facility and stated that it is possible to communicate with Bennett by telephone at the facility.<sup>37</sup> DB also provided the name and address of another attorney (DR) that Bennett had retained to represent her in an unrelated civil matter.<sup>38</sup> I ordered Enforcement to make a diligent effort to communicate with Bennett, including contact with DR, to determine how she would like to proceed in this matter and to file a written report of its efforts on or before January 22, 2019.<sup>39</sup>

On January 22, 2019, Enforcement filed a status report in which it outlined its efforts, as detailed below, to communicate with Bennett.<sup>40</sup>

On January 9, 2019, Enforcement sent a letter to Bennett at the Baltimore Correctional Facility.<sup>41</sup> The letter requested that Bennett indicate whether she wants to participate in the litigation of this proceeding and if so, whether she wants to arrange for a hearing or to participate by written submission. It provided the name, email address, phone number, and mailing address of the Enforcement attorney handling this matter and invited her to indicate if she wants to discuss settling the matter.<sup>42</sup> Enforcement sent the January 9, 2019 letter to Bennett at the Baltimore Correctional Facility by first-class and certified mail. The USPS returned a delivery receipt to Enforcement indicating delivery of the certified mailing. The USPS did not return the first-class mailing.<sup>43</sup>

On January 9, 2019, Enforcement also telephoned DR to discuss additional options for communicating with Bennett.<sup>44</sup> DR indicated that a representative of Enforcement could be added to Bennett’s “approved caller list” at the Baltimore Correctional Facility, thereby enabling

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<sup>35</sup> Decl. ¶ 44.

<sup>36</sup> Decl. ¶ 45.

<sup>37</sup> Decl. ¶ 45.

<sup>38</sup> Decl. ¶ 46.

<sup>39</sup> Decl. ¶ 47.

<sup>40</sup> Decl. ¶ 52; CX-B1.

<sup>41</sup> Decl. ¶ 48; CX-B1.

<sup>42</sup> Decl. ¶ 49; CX-B1.

<sup>43</sup> Decl. ¶ 48; CX-B1.

<sup>44</sup> Decl. ¶ 50.

Bennett to call Enforcement directly.<sup>45</sup> DR agreed to facilitate adding Enforcement to the “approved caller list.” He also mentioned that Bennett’s brother, SB, frequently spoke with Bennett and might be willing to deliver a message from Enforcement.<sup>46</sup> That same day, Enforcement emailed DR requesting that he forward Enforcement’s January 9, 2019 letter to Bennett’s brother, SB.<sup>47</sup> DR forwarded Enforcement’s email to SB that day.<sup>48</sup>

On January 22, 2019, Enforcement sent a second letter to Bennett at the Baltimore Correctional Facility.<sup>49</sup> The January 22, 2019 letter included a copy of Enforcement’s January 9, 2019 letter to Bennett and requested an opportunity to communicate with her.<sup>50</sup> Enforcement sent the January 22, 2019 letter to Bennett by first-class and certified mail. The USPS returned a delivery receipt to Enforcement indicating delivery of the certified mailing. The USPS did not return the first-class mailing.<sup>51</sup> Enforcement also emailed a copy of the letter to SB.<sup>52</sup>

Later on January 22, 2019, SB responded to Enforcement by email.<sup>53</sup> SB stated that his contact with Bennett is random, and he cannot call her. He stated that he assists her with familial and personal issues. SB stated that he would let Bennett know that Enforcement is trying to reach her, but that he could not serve as a “go between” for Bennett’s legal issues.<sup>54</sup>

On January 23, 2019, Enforcement exchanged emails with DR about adding a representative of Enforcement to Bennett’s “approved caller list.” Enforcement was unable to confirm that a representative of Enforcement had been added to the list.<sup>55</sup>

On January 24, 2019, OHO emailed SB to request his assistance in communicating with Bennett. OHO advised SB that it intended to proceed with this disciplinary matter but that, before proceeding, it sought to provide Bennett with the opportunity to participate in a meaningful way notwithstanding her incarceration. OHO advised SB that it intended to schedule a status conference for February 25, 2019, and that Bennett could participate by telephone or suggest an alternate date and time for the conference. SB responded that his contact with Bennett

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<sup>45</sup> Decl. ¶ 50.

<sup>46</sup> Decl. ¶ 50.

<sup>47</sup> Decl. ¶ 50; CX-B1.

<sup>48</sup> Decl. ¶ 50; CX-B1.

<sup>49</sup> Decl. ¶ 51; CX-B2.

<sup>50</sup> Decl. ¶ 51; CX-B2.

<sup>51</sup> Decl. ¶ 51; CX-B2.

<sup>52</sup> Decl. ¶ 51.

<sup>53</sup> Decl. ¶ 53.

<sup>54</sup> Decl. ¶ 53.

<sup>55</sup> Decl. ¶ 54.

is random, and he cannot call her. He indicated that he is not an appropriate “go between” for Bennett’s legal issues.

On January 24, 2019, I issued a notice of a February 25, 2019, telephone status conference.<sup>56</sup> I provided notice of the status conference to Bennett by first-class mail delivered to the Baltimore Correctional Facility. The USPS did not return the first-class mailing.<sup>57</sup> I also provided a copy of the notice to Bennett’s criminal defense attorney DB by email and first-class mail. The January 24, 2019 notice provided Bennett with the name and contact information for my Case Administrator and invited her to propose an alternate date and time for the status conference to enable her to participate from the Baltimore Correctional Facility by telephone.<sup>58</sup>

On February 25, 2019, Enforcement participated by telephone in the status conference. Bennett did not participate.<sup>59</sup> Enforcement reported that the USPS provided a delivery receipt for its January 22, 2019 letter to Bennett. Enforcement did not receive a response. Enforcement reported that DR advised that he would attempt to arrange telephone communications between Enforcement and Bennett, but then indicated that he was unable to do so.<sup>60</sup> Enforcement requested that I order Bennett to show cause why she should not be held in default. I instead ordered Enforcement to make an additional attempt to communicate with Bennett and file a status report of its efforts on or before March 29, 2019.<sup>61</sup>

On March 28, 2019, Enforcement filed a status report in which it outlined its efforts, as detailed below, to contact Bennett.<sup>62</sup>

In a February 25, 2019 email, Enforcement requested that DR notify Bennett that Enforcement was willing to meet in person with Bennett at the Baltimore Correctional Facility to discuss her intentions in this matter. Enforcement also again requested to be added to Bennett’s “approved caller list.”<sup>63</sup> To Enforcement’s knowledge, DR was unable to facilitate contact with Bennett.<sup>64</sup>

On March 14, 2019, in accordance with instructions from the Baltimore Correctional Facility, Enforcement faxed a letter to the Chief of Security at the Baltimore Correctional

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<sup>56</sup> Decl. ¶ 55.

<sup>57</sup> The notice states on its face that OHO mailed it to Bennett at the Baltimore Correctional Facility by first-class and certified mail. OHO’s records, however, indicate that OHO mailed it by first-class mail only.

<sup>58</sup> Decl. ¶ 55.

<sup>59</sup> Decl. ¶ 56.

<sup>60</sup> Decl. ¶ 56.

<sup>61</sup> Decl. ¶ 57.

<sup>62</sup> Decl. ¶ 63; CX-B2.

<sup>63</sup> Decl. ¶ 58; CX-B2; CX-B3.

<sup>64</sup> Decl. ¶ 58.



Facility requesting permission to visit Bennett on Tuesday, March 19, 2019, at 9:00 a.m.<sup>65</sup> The Chief of Security approved the visit, but rescheduled it for March 20, 2019, at 9:00 a.m.<sup>66</sup> On March 14, 2019, Enforcement also sent a letter to Bennett at the Baltimore Correctional Facility by express mail and certified mail.<sup>67</sup> The USPS provided Enforcement with a delivery receipt for the certified mailing.<sup>68</sup> The letter advised Bennett of Enforcement's scheduled visit on March 20, 2019, and provided her with Enforcement's contact information.<sup>69</sup> Enforcement invited Bennett to communicate with it through SB or DR, and Enforcement enclosed copies of its January 9, 2019 and January 22, 2019 letters.<sup>70</sup>

On March 20, 2019, at 9:00 a.m., as scheduled, Enforcement attorneys David Newman and Matthew Ryan visited the Baltimore Correctional Facility in an effort to meet with Bennett.<sup>71</sup> Guards at the facility informed them that Bennett was present at the facility, but that she refused to see them.<sup>72</sup>

As of the filing of Enforcement's July 17, 2019 Default Motion, Enforcement has not received any communications from Bennett or anyone on behalf of Bennett.<sup>73</sup>

### **3. Order to Show Cause Why Bennett Should Not Be Held in Default**

On April 2, 2019, I issued an Order directing the parties to participate in a pre-hearing status conference on May 7, 2019.<sup>74</sup> I served Bennett with notice of the pre-hearing status conference by Federal Express and first-class mail.<sup>75</sup> Federal Express reported delivery of the April 2, 2019 Order on April 3, 2019. OHO also provided copies of the April 2, 2019 Order to DR and DB by email and first-class mail.<sup>76</sup>

The April 2, 2019 Order detailed OHO's many attempts to communicate with Bennett regarding her continued participation in this litigation. The Order also detailed Enforcement's efforts to communicate with Bennett and noted that Bennett had not communicated with OHO or

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<sup>65</sup> Decl. ¶ 59.

<sup>66</sup> Decl. ¶ 59.

<sup>67</sup> Decl. ¶ 60; CX-B2.

<sup>68</sup> Decl. ¶ 60; CX-B2.

<sup>69</sup> Decl. ¶ 60; CX-B2.

<sup>70</sup> Decl. ¶ 60; CX-B2.

<sup>71</sup> Decl. ¶ 61.

<sup>72</sup> Decl. ¶¶ 61, 62; CX-B2.

<sup>73</sup> Decl. ¶ 64.

<sup>74</sup> Decl. ¶ 65.

<sup>75</sup> Decl. ¶ 66.

<sup>76</sup> Decl. ¶ 66.

Enforcement since her attorney withdrew as counsel on January 9, 2018. The April 2, 2019 Order advised Bennett that her failure to participate in the May 7, 2019 pre-hearing status conference, either by telephone or written submission, would be treated as a default, and pursuant to FINRA Rule 9269(a)(2), the allegations of the Complaint would be deemed admitted.<sup>77</sup>

In light of Bennett's incarceration, I afforded her the opportunity to participate in the May 7, 2019 pre-hearing status conference by written submission.<sup>78</sup> To facilitate Bennett's participation by written submission, I enclosed with the April 2, 2019 Order a prepaid Federal Express envelope for Bennett to return a written submission.<sup>79</sup>

On April 2, 2019, DR emailed OHO's Case Administrator and copied Enforcement.<sup>80</sup> DR stated, "Since Ms. Bennett calls our office on occasion, I have asked my assistant to tell her of this Order the next time she calls."<sup>81</sup> On April 2, 2019, Enforcement also forwarded a copy of the April 2, 2019 Order to WZ, an attorney who recently entered his appearance on behalf of Bennett in the criminal matter.<sup>82</sup>

Enforcement participated and Bennett failed to participate in the May 7, 2019 pre-hearing status conference.<sup>83</sup> At the conclusion of the May 7, 2019 pre-hearing status conference, I indicated that I intended to issue an order for Bennett to show cause why she should not be held in default in this proceeding.<sup>84</sup>

On May 9, 2019, I issued an Order requiring Bennett to show cause, on or before June 14, 2019, why she should not be held in default for failing to participate in the May 7, 2019 pre-hearing status conference.<sup>85</sup> In light of Bennett's incarceration, I afforded her the opportunity to respond by written submission and provided her with a pre-paid Federal Express envelope for that purpose. The May 9, 2019 order detailed OHO's efforts to communicate with Bennett and her failure, to date, to respond or otherwise participate in the litigation of this proceeding.

OHO confirmed that Bennett remained incarcerated at the Baltimore Correctional Facility, and I served her there with my May 9, 2019 Order to show cause by Federal Express

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<sup>77</sup> Decl. ¶ 69.

<sup>78</sup> Decl. ¶ 65.

<sup>79</sup> Decl. ¶ 66.

<sup>80</sup> Decl. ¶ 67.

<sup>81</sup> Decl. ¶ 67.

<sup>82</sup> Decl. ¶ 68. At my request, Enforcement has monitored the docket for Bennett's criminal proceeding since her conviction. Decl. ¶ 68, n.28.

<sup>83</sup> Decl. ¶ 70.

<sup>84</sup> Decl. ¶ 70.

<sup>85</sup> Decl. ¶ 71.

and first-class mail.<sup>86</sup> Federal Express reported delivery on May 10, 2019. In an effort to ensure that Bennett received notice of the May 9, 2019 Order, I provided copies to attorneys DR and WZ, both of whom may have had contact with her because they represented her at the time in other matters.<sup>87</sup>

The May 9, 2019 Order to show cause warned Bennett that, if she failed to show cause, Enforcement would be ordered to file a default motion, and I could deem admitted the allegations against her, impose sanctions, and assess costs.<sup>88</sup> Bennett never responded to the show cause order.<sup>89</sup>

On June 19, 2019, I issued an Order Governing Motion for Entry of Default Decision.<sup>90</sup> In it, I outlined OHO's many efforts to provide Bennett with an opportunity to participate in this proceeding. I indicated that Bennett had not demonstrated why she should not be held in default, nor had she otherwise communicated with OHO regarding participation in this proceeding. Accordingly, I ordered Enforcement to file a default motion by July 17, 2019. OHO confirmed that Bennett remained incarcerated at the Baltimore Correctional Facility, and I served her there by Federal Express and first-class mail. Federal Express reported delivery on June 20, 2019. In an effort to ensure that Bennett received notice of the June 19, 2019 Order Governing Motion for Entry of Default Decision, I provided copies to attorneys DR and WZ.

On July 17, 2019, Enforcement filed the Default Motion. Enforcement served Bennett on that date with a copy of the Default Motion, Declaration, and supporting exhibits at the Baltimore Correctional Facility by first-class mail, certified mail, and Federal Express.

#### **4. Legal Basis for Finding Bennett in Default**

As outlined above, I find that Bennett received due notice of the May 7, 2019 pre-hearing status conference and the June 19, 2019 Order Governing Motion for Entry of Default Decision. I further find that, although Bennett could have participated by written submission, for which she received an addressed, stamped envelope, she failed to participate. FINRA Rule 9241(f) states that a Hearing Officer may issue a default decision, pursuant to FINRA Rule 9269, against a party that fails to appear in person or through counsel at a pre-hearing conference of which the party had due notice. FINRA Rule 9269(a)(1) similarly states that a Hearing Officer may issue a default decision against a [p]arty who "fails to appear at a pre-hearing conference held pursuant to Rule 9241 of which the party ha[d] due notice." FINRA Rule 9269(a)(2) states that, when the defaulting party is a respondent, as is the case here, "the Hearing Officer may deem the allegations against the Respondent admitted." Accordingly, I find Bennett in default for failing to

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<sup>86</sup> Decl. ¶ 72.

<sup>87</sup> Decl. ¶ 72.

<sup>88</sup> Decl. ¶ 73.

<sup>89</sup> Decl. ¶ 74.

<sup>90</sup> Decl. ¶ 75.

appear or participate in writing in the May 7, 2019 pre-hearing status conference. Furthermore, I deem admitted all allegations in the Complaint.

#### **F. Bennett Failed to Respond to Two Requests for Information and Documents**

After completion of FINRA's Rule 9552 suspension proceeding, on September 9, 2016, FINRA staff sent a Rule 8210 request by certified mail and email to Bennett through her attorney, EI.<sup>91</sup> The September 9, 2016 request sought, among other information, the identification of Bennett's bank and brokerage accounts, the production of account statements and related documentation, and information about repayments to investors.<sup>92</sup> Staff also sent a copy of the request to Bennett.<sup>93</sup> Bennett and her attorney received the September 9, 2016 request for documents and information.<sup>94</sup> Bennett did not produce the documents and information requested.<sup>95</sup>

On September 26, 2016, FINRA staff sent a second Rule 8210 request by certified mail and email to Bennett through her attorney, EI.<sup>96</sup> The September 26, 2016 request sought the same documents and information requested in the September 9, 2016 request.<sup>97</sup> Staff also sent a copy of the request to Bennett.<sup>98</sup> Bennett and her attorney received the September 26, 2016 request for documents and information.<sup>99</sup> Bennett did not produce the documents and information requested.<sup>100</sup>

#### **G. Bennett Failed Four Times to Appear for On-the-Record Testimony**

On four occasions between April and September 2016, FINRA staff requested Bennett's on-the-record testimony.<sup>101</sup> Specifically, on April 6, 2016, FINRA staff sent a letter to Bennett by certified mail requesting that she appear pursuant to Rule 8210 at 10:00 a.m. on May 5 and 6,

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<sup>91</sup> Decl. ¶ 15; Compl. ¶ 19; Stip. ¶ 14.

<sup>92</sup> Decl. ¶ 15.

<sup>93</sup> Compl. ¶ 19; Stip. ¶ 14.

<sup>94</sup> Stip. ¶ 15.

<sup>95</sup> Decl. ¶ 16; Compl. ¶ 22; Stip. ¶ 17. On September 21, 2016, Bennett sent a letter to FINRA staff stating that the September 9, 2016 request was unduly burdensome. January 6, 2016 Answer ("Ans.") ¶ 20; Stip. ¶ 16.

<sup>96</sup> Decl. ¶ 17; Compl. ¶ 21; Stip. ¶ 18.

<sup>97</sup> Decl. ¶ 17; Compl. ¶ 21; Stip. ¶ 18.

<sup>98</sup> Compl. ¶ 21; Stip. ¶ 18.

<sup>99</sup> Stip. ¶ 19.

<sup>100</sup> Decl. ¶ 18; Compl. ¶ 22; Stip. ¶ 21. On October 3, 2016, Bennett sent a letter to FINRA staff stating that the September 26, 2016 request was unfair and unduly burdensome. Ans. ¶ 22; Stip. ¶ 20.

<sup>101</sup> Decl. ¶ 19; Compl. ¶ 23.

2016 at FINRA's offices in Philadelphia, Pennsylvania to give testimony.<sup>102</sup> On May 3, 2016, EI sent a letter to FINRA staff stating that Bennett would not appear on May 5 and 6, 2016, or at all, pending the resolution of the then-pending Rule 9552 proceeding.<sup>103</sup> Bennett did not appear on May 5 or 6, 2016 at FINRA's Philadelphia offices.<sup>104</sup>

On May 5, 2016, FINRA staff sent a letter to Bennett by certified mail requesting that she appear pursuant to Rule 8210 at 10:00 a.m. on May 12 and 13, 2016 at FINRA's offices in Philadelphia, Pennsylvania to give testimony.<sup>105</sup> On May 11, 2016, EI sent a letter to FINRA staff stating that Bennett would not appear on May 12 and 13, 2016, or at all, pending the resolution of the then-pending Rule 9552 proceeding.<sup>106</sup> Bennett did not appear on May 12 or 13, 2016 at FINRA's Philadelphia offices.<sup>107</sup>

On August 29, 2016, FINRA staff sent a letter to Bennett by certified mail requesting that she appear pursuant to Rule 8210 at 10:00 a.m. on September 13 and 14, 2016 at FINRA's offices in Philadelphia, Pennsylvania to give testimony.<sup>108</sup> On September 12, 2016, EI sent a letter to FINRA staff stating that it was unfair and unduly burdensome for Bennett to appear on September 13 and 14, 2016.<sup>109</sup> Bennett did not appear on September 13 or 14, 2016 at FINRA's Philadelphia offices.<sup>110</sup>

On September 13, 2016, FINRA staff sent a letter to Bennett by certified mail requesting that she appear pursuant to Rule 8210 at 10:00 a.m. on September 22 and 23, 2016 at FINRA's offices in Philadelphia, Pennsylvania to give testimony.<sup>111</sup> On September 21, 2016, EI sent a letter to FINRA staff stating that it was unfair and unduly burdensome for Bennett to appear on

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<sup>102</sup> Staff also sent a copy of the letter to EI. Decl. ¶ 20; Compl. ¶ 25; Stip. ¶ 23. Bennett and her attorney received the request for testimony. Stip. ¶ 24.

<sup>103</sup> Decl. ¶ 20; Compl. ¶ 26; Stip. ¶ 25.

<sup>104</sup> Decl. ¶ 20; Compl. ¶ 27; Stip. ¶ 26.

<sup>105</sup> Staff also sent a copy of the letter to EI. Decl. ¶ 21; Compl. ¶ 28; Stip. ¶ 27. Bennett and her attorney received the request for testimony. Stip. ¶ 28.

<sup>106</sup> Decl. ¶ 21; Compl. ¶ 29; Stip. ¶ 29.

<sup>107</sup> Decl. ¶ 21; Compl. ¶ 30; Stip. ¶ 30.

<sup>108</sup> Staff also sent a copy of the letter to EI. Decl. ¶ 22; Compl. ¶ 31; Stip. ¶ 31. Bennett and her attorney received the request for testimony. Stip. ¶ 32.

<sup>109</sup> Decl. ¶ 22; Compl. ¶ 32; Stip. ¶ 33.

<sup>110</sup> Decl. ¶ 22; Compl. ¶ 33; Stip. ¶ 34.

<sup>111</sup> Staff also sent a copy of the letter to EI. Decl. ¶ 23; Compl. ¶ 35; Stip. ¶ 35. Bennett and her attorney received the request for testimony. Stip. ¶ 36.

September 22 and 23, 2016.<sup>112</sup> Bennett did not appear on September 22 or 23, 2016 at FINRA’s Philadelphia offices.<sup>113</sup>

## H. Discussion

FINRA Rule 8210(a)(1) authorizes FINRA staff, for purposes of an investigation, complaint, examination, or proceeding, to require a person associated with a member or person subject to FINRA’s jurisdiction, to provide information orally, in writing, or electronically and to testify under oath at a location specified by FINRA staff. Bennett admitted and stipulated that she received the September 9 and 26, 2016 requests for information and documents and did not produce the information and documents.<sup>114</sup> Bennett also admitted and stipulated that she received four requests for her appearance for on-the-record testimony and that she failed to appear on all four occasions.<sup>115</sup>

An associated person must comply fully and promptly with FINRA Rule 8210 requests.<sup>116</sup> Furthermore, the obligation to comply is unequivocal.<sup>117</sup> “Vigorous enforcement of Rule 8210 ‘helps ensure the continued strength of the self-regulatory system—and thereby enhances the integrity of the securities markets and protects investors.’”<sup>118</sup> FINRA does not have subpoena power. As such, Rule 8210 “is at the heart of the self-regulatory system for the securities industry.”<sup>119</sup>

Accordingly, I find that Bennett violated FINRA Rules 8210 and 2010<sup>120</sup> by failing on two occasions to respond to FINRA requests for information and documents and failing on four occasions to appear for on-the-record testimony.

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<sup>112</sup> Decl. ¶ 23; Compl. ¶ 36; Stip. ¶ 37.

<sup>113</sup> Decl. ¶ 23; Compl. ¶ 37; Stip. ¶ 38.

<sup>114</sup> Decl. ¶¶ 16, 18; Stip. ¶¶ 15, 17, 19, 21.

<sup>115</sup> Decl. ¶¶ 19, 24; Stip. ¶¶ 24, 26, 28, 30, 32, 34, 36, 38.

<sup>116</sup> *Asensio & Co.*, Exchange Act Release No. 68505, 2012 SEC LEXIS 3954, at \*22 n.31 (Dec. 20, 2012); *Dep’t of Enforcement v. N. Woodward Fin. Corp.*, No. 2011028502101, 2016 FINRA Discip. LEXIS 35, at \*10 (NAC July 19, 2016) (citing *CMG Institutional Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at \*15 (Jan. 30, 2009)).

<sup>117</sup> *North Woodward Fin. Corp.*, 2016 FINRA Discip. LEXIS 35, at \*10.

<sup>118</sup> *Michael Nicholas Romano*, Exchange Act Release No. 76011, 2015 SEC LEXIS 3980, at \*19 (Sept. 29, 2015) (quoting *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at \*15 (Nov. 14, 2008), *aff’d*, 347 F. App’x 692 (2d Cir. 2009)).

<sup>119</sup> *Berger*, 2008 SEC LEXIS 3141, at \*13.

<sup>120</sup> *Joseph Ricupero*, Exchange Act Release No. 62891, 2010 SEC LEXIS 2988, at \*12 (Sept. 10, 2010) (finding that a violation of another FINRA rule is a violation of FINRA Rule 2010).

### III. Sanctions

“Members and their associated persons who fail to respond in any manner to Rule 8210 requests present ‘too great a risk’ to the markets and investors to be permitted to remain in the securities industry.”<sup>121</sup> FINRA’s Sanction Guidelines (“Guidelines”) for failure to respond to Rule 8210 requests for information state that where, as here, the Respondent has failed to respond in any manner, a bar should be standard.<sup>122</sup> There is no basis in this case to deviate from the standard sanction because there are numerous aggravating factors and no mitigating factors.

I turn first to the importance of the information requested as viewed from FINRA’s perspective.<sup>123</sup> The investigation underlying FINRA’s Rule 8210 requests involved possible conversion, fraud, and private securities transactions.<sup>124</sup> In furtherance of the investigation, FINRA staff sought to review bank records and question Bennett about how she obtained and subsequently spent funds that she received from investors.<sup>125</sup> Bennett’s repeated failures to respond prevented FINRA staff from completing its investigation and tracing investors’ money.<sup>126</sup> I find Bennett’s conduct aggravating.

I also find it aggravating that Bennett refused to respond to two requests for information and documents and four requests for on-the-record testimony. She engaged in a pattern of misconduct in that her repeated refusals spanned many months during FINRA’s investigation.<sup>127</sup> I also find it aggravating that Bennett’s refusals were intentional.<sup>128</sup> Despite repeated warnings in the written document requests and requests for on-the-record testimony, she chose to refuse to comply in any way. Furthermore, FINRA’s prior Rule 9552 action reinforced that, as a FINRA member, Bennett was obligated to comply with Rule 8210. She nonetheless ignored her obligations repeatedly.<sup>129</sup>

The failure to respond to requests for information and testimony is a serious violation and renders the violator presumptively unfit for employment in the securities industry because Rule 8210 is essential to the functioning of FINRA’s self-regulatory system.<sup>130</sup> Accordingly, for

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<sup>121</sup> *Berger*, 2008 SEC LEXIS 3141, at \*15 (citing *Charles C. Fawcett, IV*, Exchange Act Release 56770, 2007 SEC LEXIS 2598, at \*25 (Nov. 8, 2007)).

<sup>122</sup> FINRA Sanction Guidelines at 33 (2019), [https://www.finra.org/sites/default/files/Sanctions\\_Guidelines.pdf](https://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf).

<sup>123</sup> *See* Guidelines at 33 (Principal Consideration No. 1).

<sup>124</sup> Decl. ¶ 79.

<sup>125</sup> Decl. ¶¶ 79, 80.

<sup>126</sup> Decl. ¶ 81.

<sup>127</sup> *See* Guidelines at 7 (Principal Consideration Nos. 8, 9).

<sup>128</sup> *See* Guidelines at 8 (Principal Consideration No. 13).

<sup>129</sup> *See* Guidelines at 8 (Principal Consideration No. 14).

<sup>130</sup> *See Dep’t of Enforcement v. Reichman*, No. 200801201960, 2011 FINRA Discip. LEXIS 18, at \*46-47 (NAC July 21, 2011).

violating FINRA Rules 8210 and 2010, I bar Bennett from associating with any member firm in any capacity.

#### **IV. Order**

I bar Respondent Dawn Bennett from associating with any member firm in any capacity for failing to respond to two requests for information and documents and failing four times to appear for on-the-record testimony, in violation of FINRA Rules 8210 and 2010. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Carla Carloni  
Carla Carloni  
Hearing Officer

Copies to:

Dawn Bennett (via Federal Express and first-class mail)  
William Edward Zapf, III, Esq. (via email and first-class mail)  
David Robbins, Esq. (via email and first-class mail)  
Blerina Jasari, Esq. (via email)  
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