

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MELANIE A. MELTON
(CRD No. 4258504),

Respondent.

Disciplinary Proceeding
No. 2016050951801

Hearing Officer–MJD

DEFAULT DECISION

June 27, 2018

Respondent is barred from associating with any FINRA member firm in any capacity for failing to produce information and documents during an investigation, in violation of FINRA Rules 8210 and 2010.

For the Complainant: Emmet P. Ong, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For Respondent: No appearance.

DECISION

The Department of Enforcement opened an investigation into Respondent Melanie A. Melton’s (“Respondent”) potential failure to disclose tax liens on her Uniform Application for Securities Industry Registration or Transfer (“Form U4”). Pursuant to FINRA Rule 8210, Enforcement twice requested that Respondent produce information and documents. Respondent did not produce the information requested. For violating FINRA Rules 8210 and 2010, Respondent is barred from associating with any FINRA member firm in any capacity.

Enforcement properly served Respondent with two Notices of Complaint and the Complaint. Respondent did not file an Answer to the Complaint. On May 31, 2018, Enforcement filed a Motion for Entry of Default Decision (“Default Motion”) supported by the Declaration of Emmet P. Ong (“Ong Decl.”) and eight exhibits (CX-1 through CX-8). Respondent did not respond to the Default Motion.

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

I. Findings of Fact and Conclusions of Law

A. Background

Respondent first became associated with a FINRA member firm in 2000. She was registered with Allstate Financial Services LLC as an Investment Company Shares and Variable Contracts from July 2002 to August 9, 2016, when the firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) to terminate her registration.¹

B. Jurisdiction

Respondent was last registered with FINRA on August 9, 2016.² Although she is not currently associated with a FINRA member firm, FINRA has jurisdiction over this disciplinary proceeding pursuant to Article V, Section 4(a) of FINRA’s By-Laws because (i) the Complaint was filed within two years of the termination of Respondent’s registration, and (ii) the Complaint charges her with failing to comply with requests for information that FINRA staff issued during the two-year period following the termination of her FINRA registration.

C. Origin of the Investigation

FINRA initiated the investigation into Respondent in August 2016 after learning from her firm’s Form U5 filing that she may have failed to disclose tax liens on her Form U4.³ The investigation led to the filing of the Complaint in this matter.

D. Respondent Defaulted by Failing to Answer the Complaint

Enforcement served Respondent with the Complaint, First Notice of Complaint, and Second Notice of Complaint in accordance with FINRA Rules 9131 and 9134. Enforcement served the Complaint and First Notice of Complaint on March 13, 2018, and the Complaint and Second Notice of Complaint on April 12, 2018.⁴ In each case, Enforcement served Respondent by first-class certified mail addressed to her last known residential address recorded in FINRA’s

¹ Ong Decl. ¶¶ 5-7; CX-1, at 4-8, 14. The Form U5 stated that Respondent was terminated because of a “[l]oss of confidence after failure to disclose multiple judgments/liens.”

² Ong Decl. ¶¶ 5, 7.

³ Ong Decl. ¶ 7; Compl. ¶ 5. The Internal Revenue Service (“IRS”) recorded seven tax liens against Respondent totaling over \$350,000. CX-7, at 1-2.

⁴ Ong Decl. ¶¶ 9, 11.

Central Registration Depository (“CRD”).⁵ Thus, Respondent received valid constructive notice of this proceeding.⁶

Pursuant to Rule 9215, Respondent’s Answer was due by April 30, 2018. Respondent did not file an Answer to the Complaint or Second Notice of Complaint. Thus, Respondent is in default.

On May 2, 2018, I issued an Order instructing Enforcement to file a Default Motion. On May 31, 2018, Enforcement filed a Default Motion. Pursuant to FINRA Rules 9215(f) and 9269(a)(2), I grant the Default Motion,⁷ and deem the allegations in the Complaint admitted.

E. Enforcement Initiates Expedited Proceeding Pursuant to FINRA Rule 9552

On August 15, 2016, a week after she was terminated by Allstate, FINRA staff sent Respondent a request for information and documents pursuant to Rule 8210. Respondent did not respond by the due date of August 29, 2016. On September 2, 2016, FINRA sent Respondent another request for information and documents, which set September 16, 2016, as the deadline to respond. Respondent did not respond.⁸

Because Respondent failed to provide the information, Enforcement commenced expedited proceedings under FINRA Rule 9552. On December 20, 2016, Enforcement sent Respondent a letter stating that she would be suspended effective January 13, 2017, if she did not comply with the Rule 8210 requests for information or did not request a hearing under FINRA Rule 9552(e).⁹ Respondent did not produce the information or request a hearing by January 13, 2017. Accordingly, Enforcement sent Respondent a letter informing her that she was suspended effective January 13, 2017.¹⁰ Two months later, on March 23, 2017, Respondent supplied the information requested. Enforcement subsequently terminated Respondent’s suspension because she produced the information.¹¹

⁵ Ong Decl. ¶¶ 9, 11; CX-2; CX-3; CX-4; CX-5. Respondent confirmed to Enforcement that the address in CRD was correct. Enforcement represented that it is currently unaware of any addresses for Respondent other than the one reported in CRD. Ong Decl. ¶ 9.

⁶ See, e.g., *Dep’t of Enforcement v. Evansen*, No. 2010023724601, 2014 FINRA Discip. LEXIS 10, at *20-21 n.21 (NAC June 3, 2014), *aff’d*, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080 (July 27, 2015).

⁷ Respondent may move to set aside the default under FINRA Rule 9269(c) upon a showing of good cause.

⁸ Complaint (“Compl.”) ¶¶ 5-6.

⁹ Compl. ¶ 7.

¹⁰ Compl. ¶ 8.

¹¹ Compl. ¶¶ 9-11; CX-7.

F. The Charges and Applicable Rules

The Complaint contains one cause of action. It alleges that Respondent violated FINRA Rules 8210 and 2010 by twice failing to produce information and documents in 2017.

Rule 8210 requires persons subject to its jurisdiction to provide information to FINRA upon request. Rule 8210 is considered to be among FINRA's most important tools for investigating potential wrongdoing.¹² "FINRA Rule 8210 is unequivocal and grants FINRA broad authority to obtain information concerning an associated person's securities-related business ventures."¹³ Furthermore, "[a]ssociated persons 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."¹⁴

Rule 8210(a)(1) authorizes FINRA, in the course of an investigation, to require persons subject to its jurisdiction to "provide information orally, in writing, or electronically." Rule 8210(a)(2) authorizes FINRA to "inspect and copy the books, records, and accounts" of persons subject to its jurisdiction "with respect to any matter involved in the investigation ... that is in such ... person's possession, custody, or control." Rule 8210(c) provides that: "No member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule." It is therefore a violation of Rule 8210 for a person to fail to provide information sought by FINRA.

1. April 2017 Request for Information and Documents

On April 28, 2017, Enforcement sent Respondent a letter, pursuant to Rule 8210, requesting that she produce documents and written information about her tax liens, including her residential and other addresses during the period the IRS recorded tax liens and copies of her tax filings. The letter obligated Respondent to respond by May 15, 2017. Enforcement mailed the request to Respondent at her last known residential address recorded in CRD.¹⁵

On May 15, 2017, Respondent called Enforcement to ask for an extension because she was having medical issues. Enforcement granted an extension to May 29, 2017. Respondent did not produce the information by that date.¹⁶

¹² See *Dep't of Mkt. Regulation v. Sciascia*, No. CMS040069, 2006 NASD Discip. LEXIS 22, at *11 (NAC Aug. 7, 2006) (analyzing NASD Procedural Rule 8210, the predecessor to FINRA Rule 8210).

¹³ *Dep't of Enforcement v. Gallagher*, No. 2008011701203, 2012 FINRA Discip. LEXIS 61, at *12 (NAC Dec. 12, 2012).

¹⁴ *Id.* at *13 (citing *CMG Inst. Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *21 (Jan. 30, 2009)).

¹⁵ Compl. ¶ 13; CX-8.

¹⁶ Compl. ¶ 14.

In June 2017, Respondent asked Enforcement for two extensions to produce the information requested. Enforcement agreed to both extension requests. Respondent did not produce the information requested and did not ask for any more extensions.¹⁷

2. July 2017 Request for Information and Documents

On July 5, 2017, Enforcement staff called Respondent and left her a voicemail when she did not answer. On July 6, 2017, Enforcement sent Respondent a letter pursuant to Rule 8210 seeking the information requested in the April 2017 Rule 8210 request. The letter requested that Respondent produce the information by July 20, 2017. Enforcement mailed the letter to Respondent's CRD address. Respondent did not produce the information by that date and she did not contact Enforcement to request an extension.¹⁸

Between July 21 and August 24, 2017, Enforcement and Respondent exchanged voicemails about Respondent's failure to produce the information requested. In a voicemail, Respondent told Enforcement that she was still experiencing medical problems and would try to have someone help her respond to the Rule 8210 request.¹⁹

On January 9, 2018, Enforcement again called Respondent. When Respondent did not answer the phone, FINRA staff left a voicemail. Respondent did not return Enforcement's call.²⁰

Respondent never responded to the April and July 2017 requests for information and documents.²¹

3. Conclusion

By failing to provide information and documents requested, as alleged in the Complaint, Respondent violated FINRA Rules 8210 and 2010.²²

II. Sanctions

FINRA's Sanction Guidelines ("Guidelines") recommend that if an individual does not respond in any manner to a request for information a bar in all capacities should be standard.²³

¹⁷ Compl. ¶¶ 15-16; Ong. Decl. ¶ 16.

¹⁸ Compl. ¶¶ 17-18.

¹⁹ Compl. ¶¶ 19-20. Respondent never asserted that her medical issues prevented her from answering FINRA's requests for information. Enforcement granted each of Respondent's extension requests. Ong. Decl. ¶ 17.

²⁰ Compl. ¶ 21.

²¹ Compl. ¶ 21.

²² FINRA Rule 2010 requires a member to "observe high standards of commercial honor and just and equitable principles of trade." It is well-established that a violation of Rule 8210 is also a violation of Rule 2010. *See CMG Inst. Trading, LLC*, 2009 SEC LEXIS 215, at *29-30; *Stephen J. Gluckman*, 54 S.E.C. 175, 185 (1999).

²³ FINRA Sanction Guidelines at 33 (2018), http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

The Guidelines further provide that when an individual fails to respond the principal consideration in determining sanctions is the importance of the information requested as viewed from FINRA's perspective.²⁴

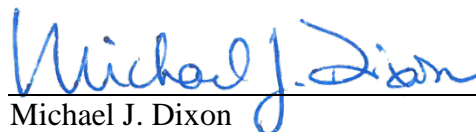
FINRA needed the information requested to perform its regulatory function to fully investigate potential misconduct. Enforcement was investigating allegations that Respondent had failed to disclose multiple tax liens totaling over \$350,000. Respondent's failure to provide information and documents prevented FINRA from fulfilling its regulatory responsibilities.²⁵ The evidence reveals no excuse for Respondent's failure to respond to FINRA's requests.

I find that there are no mitigating factors. Thus, the appropriate sanction is a bar in all capacities.

III. Order

Respondent Melanie A. Melton is barred from associating with any FINRA member firm in any capacity for violating FINRA Rules 8210 and 2010.

The bar shall become effective immediately if this Default Decision becomes FINRA's final disciplinary action.


Michael J. Dixon
Hearing Officer

Copies to:

Melanie A. Melton (*via overnight courier and first-class mail*)
Emmet P. Ong, Esq. (*via email and first-class mail*)
Gina Petrocelli, Esq. (*via email*)
Jeffrey D. Pariser, Esq. (*via email*)

²⁴ *Id.*

²⁵ *Dep't of Enforcement v. Sahai*, No. C9B020032, 2004 NASD Discip. LEXIS 14, at *19-20 (NAC Aug. 12, 2004) (finding that a person who fails to respond to FINRA requests for information subverts FINRA's regulatory responsibilities).