

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RICARDO RODRIGUEZ-STERN
(CRD No. 4676168),

Respondent.

Disciplinary Proceeding
No. 2016048870601

Hearing Officer–MJD

DEFAULT DECISION

February 5, 2018

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

For the Complainant: Samir Ranade, Esq., Gino Ercolino, Esq., and Richard Chin, Esq.,
Department of Enforcement, Financial Industry Regulatory Authority.

For Respondent: No appearance.

DECISION

The Department of Enforcement opened an investigation into Respondent Ricardo Rodriguez-Stern's ("Respondent") potential failure to timely disclose ten unsatisfied tax liens and civil judgments filed between 2006 and 2013 on his Uniform Application for Securities Industry Registration or Transfer ("Form U4"). Enforcement also planned to investigate the circumstances surrounding 12 customer complaints. As part of the investigation, Enforcement sent Respondent requests for information pursuant to FINRA Rule 8210. He failed to respond to the requests. 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 January 11, 2018, Enforcement filed a Motion for Entry of Default Decision ("Default Motion") supported by the Declaration of Samir Ranade ("Ranade Decl.") and 20 exhibits (CX-1 through CX-20). Respondent did not respond to the 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 registered in 2003. He was registered with J.P. Morgan Securities LLC (known as Chase Investment Services Corp. until October 2012) as a General Securities Representative from November 2010 to January 29, 2016, when the firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") to terminate his registration.¹ J.P. Morgan reported on the Form U5 that it terminated Respondent because he "accessed a client's account in order to contact them [sic] for personal reasons."²

B. Jurisdiction

Respondent was last registered with FINRA on January 29, 2016.³ Although he 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 him with failing to comply with requests for information that FINRA staff issued during the two-year period following the termination of his FINRA registration.

C. Origin of the Investigation

Enforcement initiated its investigation after reviewing an amended Form U4 that disclosed liens and judgments and learning of customer complaints filed against him.⁴ 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 October 30, 2017, and the Complaint and Second Notice of Complaint on November 28, 2017.⁵ In each case, Enforcement served Respondent by first-class certified mail addressed to his last known residential address recorded

¹ Ranade Decl. ¶¶ 4-5; CX-1, at 6-7; CX-2, at 1.

² Ranade Decl. ¶ 5; CX-2, at 2.

³ After leaving J.P. Morgan, Respondent was associated with another member firm in an unregistered capacity from May 10, 2016, to August 3, 2016. CX-1, at 4.

⁴ Ranade Decl. ¶¶ 8-9; CX-3, at 1-2; CX-4, at 2.

⁵ Ranade Decl. ¶¶ 25, 27, 28, 30; CX-15; CX-17.

in FINRA's Central Registration Depository ("CRD").⁶ Thus, Respondent received valid constructive notice of this proceeding.⁷

Pursuant to Rule 9215, Respondent's Answer was due by December 15, 2017. Respondent did not file an Answer to the Complaint and Second Notice of Complaint. Thus, Respondent is in default.

On December 20, 2017, I issued an Order instructing Enforcement to file a Default Motion. On January 11, 2018, Enforcement filed a Default Motion. Pursuant to FINRA Rules 9215(f) and 9269(a)(2), I grant the Default Motion,⁸ and deem the allegations in the Complaint admitted.

E. The Charges and Applicable Rules

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

FINRA 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.⁹ "FINRA Rule 8210 is unequivocal and grants FINRA broad authority to obtain information concerning an associated person's securities-related business ventures."¹⁰ 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."¹¹

FINRA Rule 8210(a)(1) authorizes FINRA, in the course of an investigation, to require persons subject to its jurisdiction to "provide information ... in writing, or electronically ... with respect to any matter involved in the investigation." FINRA 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." FINRA Rule 8210(c) provides that: "No member or person shall fail to

⁶ Ranade Decl. ¶¶ 27, 30; CX-17; CX-20. Respondent confirmed that the address contained in CRD was current during an on-the-record interview on December 8, 2016. Ranade Decl. ¶ 10; CX-6, at 2. Enforcement also sent copies of the Complaint and Notices to an email address Respondent had provided. Ranade Decl. ¶¶ 25, 28.

⁷ 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).

⁸ Respondent may move to set aside the default under FINRA Rule 9269(c) upon a showing of good cause.

⁹ 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).

¹⁰ *Dep't of Enforcement v. Gallagher*, No. 2008011701203, 2012 FINRA Discip. LEXIS 61, at *12 (NAC Dec. 12, 2012).

¹¹ *Id.* at *13 (citing *CMG Inst. Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *21 (Jan. 30, 2009)).

provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule.” It is a violation of Rule 8210 for a person to fail to provide information sought by FINRA.

On May 24, 2017, Enforcement sent Respondent a request for information, pursuant to Rule 8210. Enforcement requested that Respondent provide his addresses between 2006 and 2013. During the investigation, Respondent told Enforcement that he did not receive the notices of liens and judgments that he was obligated to disclose because he frequently changed addresses. Enforcement asked Respondent to respond by June 7, 2017.¹² On June 9, 2017, after Respondent failed to respond to the first request letter, Enforcement sent a second request for the information. It required Respondent to respond by June 23, 2017.¹³ Enforcement mailed the two requests to Respondent at his last known residential address recorded in CRD.¹⁴ Respondent did not respond.¹⁵

By failing to respond to FINRA’s requests for information and documents, as alleged in the Complaint, Respondent violated FINRA Rules 8210 and 2010.¹⁶

II. Sanctions

FINRA’s Sanction Guidelines (“Guidelines”) recommend that if an individual does not respond to a request for information a bar in all capacities should be standard.¹⁷ 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).¹⁸

FINRA needed the information requested to perform its regulatory function to fully investigate potential misconduct. Enforcement was investigating allegations that Respondent had not made timely disclosures to FINRA of multiple liens and judgments filed against him. Respondent’s failure to provide the information prevented FINRA from fulfilling its regulatory

¹² Ranade Decl. ¶¶ 12-13; CX-7.

¹³ Ranade Decl. ¶¶ 17-19; CX-12.

¹⁴ Ranade Decl. ¶¶ 13, 18; CX-7; CX-12. Enforcement also emailed the two request letters to an address Respondent had provided during the investigation. Ranade Decl. ¶¶ 13-14, 16, 18; CX-4, at 1; CX-8; CX-13.

¹⁵ Ranade Decl. ¶¶ 15, 20-21.

¹⁶ 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).

¹⁷ FINRA Sanction Guidelines at 33 (2017), http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

¹⁸ *Id.*

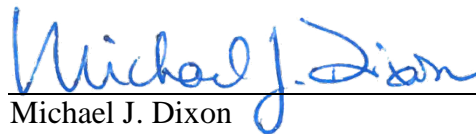
responsibilities.¹⁹ If Respondent did not previously know the potential consequences of failing to produce the information, he became aware of them in an April 2017 telephone call with FINRA when he asked what would happen if he stopped cooperating with the investigation.²⁰ The evidence reveals no excuse 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 Ricardo Rodriguez-Stern 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:

Ricardo Rodriguez-Stern (*via overnight courier and first-class mail*)
Samir Ranade, Esq. (*via email and first-class mail*)
Gino Ercolino, Esq. (*via email*)
Richard Chin, Esq. (*via email*)
Jeffrey D. Pariser, Esq. (*via email*)

¹⁹ *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).

²⁰ Ranade Decl. ¶ 11.