## FINANCIAL INDUSTRY REGULATORY AUTHORITY OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

TAVIC O. FRANCIS (CRD No. 6676717),

Respondent.

Disciplinary Proceeding No. 2023078168101

Hearing Officer–BDC

**DEFAULT DECISION** 

September 30, 2024

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

### **Appearances**

For the Complainant: Jessica (Ji Eun) Kim, Esq., Eric M. Goldstein, Esq., and Matthew Minerva, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

#### **DECISION**

### I. Introduction

The Department of Enforcement filed a Complaint against Respondent Tavic O. Francis alleging that he failed to provide documents and information that FINRA requested in connection with an investigation into Francis's alleged use of his firm's corporate credit card to pay personal expenses. As a result, the Complaint alleged, Francis violated FINRA Rules 8210 and 2010. When Francis failed to answer the Complaint, the original Hearing Officer in this matter ordered Enforcement to file a motion for entry of a default decision supported by a memorandum of law and a declaration. <sup>1</sup>

On August 14, 2024, Enforcement filed its motion for entry of a default decision ("Default Motion") along with a memorandum of law, a declaration from Enforcement Counsel

<sup>&</sup>lt;sup>1</sup> The Chief Hearing Officer reassigned this matter to me on July 17, 2024.

Jessica (Ji Eun) Kim ("Kim Decl."), and 12 exhibits (CX-1 through CX-12) in support of the Default Motion. Francis did not respond to the Default Motion.

For the reasons set forth below, I grant the Default Motion, deem the allegations in the Complaint admitted, and bar Francis from associating with any FINRA member firm in any capacity.

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

### A. Background

Francis first registered with FINRA through his association with FINRA member firm Goldman Sachs & Co. LLC ("Goldman Sachs") in October 2017.<sup>2</sup> He was registered with Goldman Sachs as an Investment Banking Representative from October 9, 2017, to March 9, 2023, when Goldman Sachs filed a Uniform Termination Notice for Securities Industry Registration (Form U5) disclosing that it terminated its association with Francis for "[p]ersonal use of a corporate credit card."<sup>3</sup>

#### **B.** Jurisdiction

Francis has not been registered with a FINRA member firm since March 9, 2023.<sup>4</sup> 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 (1) Enforcement filed the Complaint within two years of the effective date of the Form U5 that terminated Francis's association with a member firm, and (2) the Complaint charges him with failing to comply with requests for documents and information issued by FINRA staff within two years of the termination of his registration.<sup>5</sup>

### C. Origin of the Investigation

FINRA commenced an investigation of Francis in March 2023 after Goldman Sachs filed the Form U5 disclosing that it had discharged Francis due to his personal use of a corporate credit card.<sup>6</sup> As part of its investigation, FINRA sought documents and information from Francis related to his alleged use of a corporate credit card to pay personal expenses.<sup>7</sup>

<sup>&</sup>lt;sup>2</sup> Complaint ("Compl.") ¶ 2; Kim Decl. ¶ 6; CX-1.

<sup>&</sup>lt;sup>3</sup> Compl. ¶ 2; Kim Decl. ¶¶ 6, 7; CX-1; CX-2.

<sup>&</sup>lt;sup>4</sup> Compl. ¶ 2; Kim Decl. ¶ 7; CX-1.

<sup>&</sup>lt;sup>5</sup> Compl. ¶ 3; Kim Decl. ¶ 9.

<sup>&</sup>lt;sup>6</sup> Compl. ¶¶ 2, 4; Kim Decl. ¶ 4.

<sup>&</sup>lt;sup>7</sup> Compl. ¶ 5; Kim Decl. ¶ 4; CX-3.

### D. Respondent Defaulted by Failing to Answer the Complaint

Under FINRA Rules 9131(b) and 9134(a)(2) and (b)(1), a Complaint may be served on a natural person by United States Postal Service ("USPS") first-class certified mail at the person's residential address as reflected in the Central Registration Depository ("CRD"). Enforcement served Francis with the First Notice of Complaint and Complaint on May 30, 2024,<sup>8</sup> and the Second Notice of Complaint and Complaint on June 28, 2024.<sup>9</sup> In each case, Enforcement served Francis by USPS first-class and certified mail, return receipt requested, at his last known residential address recorded in CRD.<sup>10</sup> Therefore, Enforcement served the Complaint in accordance with FINRA's applicable rules.

Pursuant to FINRA Rule 9215, Francis was required to file an Answer or otherwise respond to the Complaint by July 15, 2024. Francis did not respond. As a result, I find Francis in default and deem the allegations in the Complaint admitted under FINRA Rules 9215(f) and 9269(a)(2).<sup>11</sup>

### E. Governing Law

The Complaint charges Francis with violating FINRA Rule 8210. This rule requires persons subject to FINRA's jurisdiction to provide information to FINRA upon request for the purpose of an investigation, complaint, examination, or proceeding. <sup>12</sup> 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 [an] investigation . . . that is in such . . . person's possession, custody, or control." Rule 8210(c) provides that "[n]o 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."

Constructive notice of the request, not actual notice of it, "is all that FINRA Rule 8210 demands." Under Rule 8210, a formerly registered person is deemed to have received a FINRA Rule 8210 request if it was mailed or otherwise transmitted to their "last known residential

<sup>&</sup>lt;sup>8</sup> Kim Decl. ¶ 34; CX-9; CX-10.

<sup>&</sup>lt;sup>9</sup> Kim Decl. ¶ 42; CX-11; CX-12.

<sup>&</sup>lt;sup>10</sup> Kim Decl. ¶¶ 34, 42; CX-9; CX-10; CX-11; CX-12. The address as reflected in CRD does not include "Apt." before what appears to be an apartment or unit number. *See* CX-1. The address as reflected in LexisNexis is the same as the CRD address but it includes "Apt." before the unit number. *See* CX-4. Enforcement served Francis with the First and Second Notices of Complaint and Complaint at the CRD address both with and without the inclusion of "Apt." before the apartment number. Kim Decl. ¶¶ 34, 42. Enforcement also sent courtesy copies to Francis's email addresses. Kim Decl. ¶¶ 35, 43.

<sup>&</sup>lt;sup>11</sup> Francis is notified that he may move to set aside the default under FINRA Rule 9269(c) upon a showing of good cause.

<sup>&</sup>lt;sup>12</sup> FINRA Rule 8210(a), (c).

<sup>&</sup>lt;sup>13</sup> Dep't of Enforcement v. Evansen, No. 2010023724601, 2014 FINRA Discip. LEXIS 10, at \*36 (NAC June 3, 2014), aff'd, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080 (July 27, 2015).

address . . . as reflected in [CRD]."<sup>14</sup> If the FINRA staff responsible for sending the request actually knows "that the address in [CRD] is out of date or inaccurate" and knows of another "more current address," then it must also mail or transmit a copy of the request to that other address.<sup>15</sup>

Rule 8210 "is at the heart of the self-regulatory system for the securities industry." <sup>16</sup> It "provides a means, in the absence of subpoena power, for [FINRA] to obtain from its members information necessary to conduct investigations." <sup>17</sup> The rule "is unequivocal and grants FINRA broad authority to obtain information concerning an associated person's securities-related business ventures." <sup>18</sup> Associated persons must cooperate fully in providing FINRA with information. <sup>19</sup> It is therefore a violation of Rule 8210 for a person to fail to provide information sought by FINRA. <sup>20</sup>

Francis is also charged with violating FINRA Rule 2010, which requires a FINRA member "in the conduct of its business" to "observe high standards of commercial honor and just and equitable principles of trade." This Rule also applies to persons associated with a member, as they "have the same duties and obligations as a member under the Rules." It is well established that "[a] violation of FINRA Rule 8210 constitutes a violation of FINRA Rule 2010."

<sup>&</sup>lt;sup>14</sup> FINRA Rule 8210(d).

<sup>&</sup>lt;sup>15</sup> *Id*.

<sup>&</sup>lt;sup>16</sup> *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at \*13 (Nov. 14, 2008), *petition for review denied*, 347 F. App'x 692 (2d Cir. 2009).

<sup>&</sup>lt;sup>17</sup> *Id.* (quoting *Richard J. Rouse*, Exchange Act Release No. 32658, 1993 SEC LEXIS 1831, at \*7 (July 19, 1993)).

<sup>&</sup>lt;sup>18</sup> Dep't of Enforcement v. Gallagher, No. 2008011701203, 2012 FINRA Discip. LEXIS 61, at \*12 (NAC Dec. 12, 2012).

<sup>&</sup>lt;sup>19</sup> See CMG Inst'l Trading, LLC, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at \*21 (Jan. 30, 2009) (member firms and their associated persons have an obligation to respond to FINRA's request for information "fully and promptly"). See also Dep't of Enforcement v. Vedovino, No. 2015048362402, 2019 FINRA Discip. LEXIS 20, at \*20 (NAC May 15, 2019) (Rule 8210 "requires associated persons to comply fully with FINRA's requests for information, testimony, and documents with respect to any matter involved in a FINRA investigation, complaint, examination, or proceeding.").

<sup>&</sup>lt;sup>20</sup> See Dep't of Enforcement v. Felix, No. 2018058286901, 2021 FINRA Discip. LEXIS 7, at \*20 (NAC May 26, 2021) (respondent violated Rule 8210 by failing to produce his Internal Revenue Service wage and income transcript), appeal docketed, No. 3-20380 (SEC July 1, 2021).

<sup>&</sup>lt;sup>21</sup> FINRA Rule 2010.

<sup>&</sup>lt;sup>22</sup> FINRA Rule 0140(a).

<sup>&</sup>lt;sup>23</sup> Dep't of Enforcement v. DiPaola, No. 2018057274302, 2023 FINRA Discip. LEXIS 4, at \*37 n.18 (NAC Mar. 23, 2023) (citing Blair C. Mielke, Exchange Act Release No. 75981, 2015 SEC LEXIS 3927, at \*41 n.49 (Sept. 24, 2015)), appeal docketed, No. 3-21402 (SEC May 1, 2023).

## F. Francis Failed to Provide Documents and Information Requested Under FINRA Rule 8210

### 1. First Request

On June 1, 2023, in connection with its investigation and pursuant to Rule 8210, FINRA staff sent Francis a request for documents and information related to his alleged personal use of a Goldman Sachs corporate credit card ("the First Request"). <sup>24</sup> Enforcement sent the First Request via USPS certified and first-class mail to Francis's last known residential address in CRD with the inclusion of "Apt." before what appears to be an apartment or unit number. <sup>25</sup> Francis's response was due by June 15, 2023. <sup>26</sup> The certified and first-class mailings were returned to FINRA as undeliverable. <sup>27</sup> Francis failed to respond to the First Request and did not request an extension of time to respond. <sup>28</sup>

## 2. Second Request

On June 15, 2023, FINRA staff searched Francis in LexisNexis and identified the CRD address, with the inclusion of "Apt." before the unit number, as Francis's address through May 2023.<sup>29</sup> LexisNexis did not reveal any additional current addresses for Francis.<sup>30</sup> On June 16, 2023, FINRA sent Francis a second written request for information and documents pursuant to Rule 8210 ("the Second Request") and attached a copy of the First Request.<sup>31</sup> Enforcement sent the Second Request via USPS certified and first-class mail to the CRD address (with the inclusion of "Apt." before the unit number).<sup>32</sup> FINRA provided a due date of July 3, 2023.<sup>33</sup>

<sup>&</sup>lt;sup>24</sup> Compl. ¶ 5; Kim Decl. ¶ 10; CX-3, at 1–5.

<sup>&</sup>lt;sup>25</sup> Compl. ¶ 6; Kim Decl. ¶ 11; CX-3, at 1. While the address as reflected in CRD does not include "Apt." before the unit number, I find that service was made consistent with Rule 8210(d) when it was mailed to the CRD address with the inclusion of "Apt." before the apartment number.

<sup>&</sup>lt;sup>26</sup> Compl. ¶ 6 (the Complaint mistakenly indicates the due date was June 15, 2022); Kim Decl. ¶ 10; CX-3, at 1.

<sup>&</sup>lt;sup>27</sup> Compl. ¶ 7; Kim Decl. ¶ 12.

<sup>&</sup>lt;sup>28</sup> Compl. ¶ 8; Kim Decl. ¶ 13.

<sup>&</sup>lt;sup>29</sup> Compl. ¶ 9; Kim Decl. ¶ 14; CX-4.

<sup>&</sup>lt;sup>30</sup> Compl. ¶ 9; Kim Decl. ¶ 14; CX-4.

<sup>&</sup>lt;sup>31</sup> Compl. ¶ 10; Kim Decl. ¶ 15; CX-3, at 6–17.

<sup>&</sup>lt;sup>32</sup> Compl. ¶ 11; Kim Decl. ¶ 16; CX-3, at 6.

<sup>&</sup>lt;sup>33</sup> Compl. ¶ 11; Kim Decl. ¶ 15; CX-3, at 6.

Both mailings were returned to FINRA.<sup>34</sup> Francis failed to respond to the Second Request and did not request an extension of time to respond.<sup>35</sup>

### 3. Third Request

On August 24, 2023, FINRA staff sent Francis a third written request for information and documents pursuant to Rule 8210 ("the Third Request"), requesting the same information and documents sought in the First and Second Requests. On that same date, FINRA staff conducted a second LexisNexis search on Francis but did not find a more current address. This time, Enforcement sent the letter via USPS certified and first-class mail, and FedEx, to the CRD address both with and without the inclusion of "Apt." before the unit number. Enforcement provided a due date of September 8, 2023. The FedEx and certified mailings were returned to FINRA but the first-class mailings were not returned. No forwarding information was provided for any of the Third Request mailings. Francis failed to respond to the Third Request and did not request an extension of time to respond.

### 4. Fourth Request

On March 1, 2024, FINRA staff sent Francis a fourth request for information and documents pursuant to Rule 8210 ("the Fourth Request"), seeking the same information requested in the prior letters. <sup>43</sup> As with the Third Request, Enforcement sent the letter via USPS certified and first-class mail, and FedEx, to the CRD address both with and without the inclusion of "Apt." before the unit number. <sup>44</sup> FINRA provided a due date of March 22, 2024. <sup>45</sup> The certified mailings were returned to FINRA but the first-class mailings were not returned. <sup>46</sup> The

<sup>&</sup>lt;sup>34</sup> Compl. ¶ 12; Kim Decl. ¶ 17.

<sup>&</sup>lt;sup>35</sup> Compl. ¶ 13; Kim Decl. ¶ 18.

<sup>&</sup>lt;sup>36</sup> Compl. ¶ 15; Kim Decl. ¶ 20; CX-3, at 18–30.

<sup>&</sup>lt;sup>37</sup> Compl. ¶ 14; Kim Decl. ¶ 19; CX-5.

<sup>&</sup>lt;sup>38</sup> Compl. ¶ 16; Kim Decl. ¶ 21; CX-3, at 18.

<sup>&</sup>lt;sup>39</sup> Compl. ¶ 16; Kim Decl. ¶ 20; CX-3, at 18.

<sup>&</sup>lt;sup>40</sup> Compl. ¶ 17; Kim Decl. ¶ 22. The certified mailing sent to the CRD address with the inclusion of "Apt." before the unit number was marked "Moved 8/30/23 UTF" and the certified mailing sent to the CRD address without the inclusion of "Apt." was marked "Return to Sender / Not Deliverable as Addressed / Unable to Forward." Compl. ¶ 17; Kim Decl. ¶ 22.

<sup>&</sup>lt;sup>41</sup> Compl. ¶ 17; Kim Decl. ¶ 22.

<sup>&</sup>lt;sup>42</sup> Compl. ¶ 18; Kim Decl. ¶ 23.

<sup>&</sup>lt;sup>43</sup> Compl. ¶ 19; Kim Decl. ¶ 24; CX-3, at 31–45.

<sup>&</sup>lt;sup>44</sup> Compl. ¶ 20; Kim Decl. ¶ 25; CX-3, at 31.

<sup>&</sup>lt;sup>45</sup> Compl. ¶ 20; Kim Decl. ¶ 24; CX-3, at 31.

<sup>&</sup>lt;sup>46</sup> Compl. ¶ 21; Kim Decl. ¶ 26.

letters sent via FedEx were returned with the notation, "Delivery was refused by the recipient." Francis failed to respond to the Fourth Request and did not request an extension of time to respond. 48

FINRA staff did not have actual knowledge that Francis's CRD address was out of date or inaccurate at the time it sent the four requests to Francis.<sup>49</sup>

# G. Francis Violated FINRA Rules 8210 and 2010 by Failing to Respond to FINRA's Requests for Documents and Information

FINRA properly served the requests for documents and information pursuant to the service provisions of FINRA Rule 8210(d). Enforcement (1) mailed or otherwise transmitted the request to Francis's last known residential address as reflected in CRD and (2) lacked actual knowledge that the address was outdated or inaccurate. <sup>50</sup> As a result, I deem Francis to have received constructive notice of the requests. <sup>51</sup>

By failing to produce the information requested by FINRA staff, Francis violated FINRA Rules 8210 and 2010.

#### III. Sanctions

FINRA's Sanction Guidelines ("Guidelines") recommend that if an individual does not respond in any manner to a request for information made pursuant to Rule 8210, a bar should be standard. <sup>52</sup> The Principal Consideration in determining sanctions for failing to respond in any manner to a request made under Rule 8210 is the "importance of the information requested as viewed from FINRA's perspective." <sup>53</sup>

Between June 2023 and March 2024, in connection with its investigation of Francis and pursuant to Rule 8210, Enforcement sent Francis four requests for documents and information. Among other things, Enforcement sought a detailed statement addressing the merits of the allegations on Francis's Form U5, an explanation for each of the alleged personal charges on the Goldman Sachs corporate credit card, and any documents supporting his explanations. <sup>54</sup>

<sup>&</sup>lt;sup>47</sup> Compl. ¶ 21; Kim Decl. ¶ 26.

<sup>&</sup>lt;sup>48</sup> Compl. ¶ 22; Kim Decl. ¶ 27.

<sup>&</sup>lt;sup>49</sup> Kim Decl. ¶ 28.

<sup>&</sup>lt;sup>50</sup> Compl. ¶¶ 6, 11, 16, 20; Kim Decl. ¶¶ 11, 16, 21, 25, 28.

<sup>&</sup>lt;sup>51</sup> Dep't of Enforcement v. Felix, No. 2020065128501, 2022 FINRA Discip. LEXIS 13, at\*16 (NAC Oct. 13, 2022) ("Because FINRA properly served the FINRA Rule 8210 requests, Felix is deemed to have received them. See FINRA Rule 8210(d)."), aff'd, Exchange Act Release No. 100662, 2024 SEC LEXIS 1860 (Aug. 6, 2024).

<sup>&</sup>lt;sup>52</sup> Guidelines at 93 (2024), https://www.finra.org/sites/default/files/Sanctions Guidelines.pdf.

<sup>&</sup>lt;sup>53</sup> *Id*.

<sup>&</sup>lt;sup>54</sup> See CX-3.

Francis's failure to provide the information requested deprived Enforcement of key information and documents pertaining to his alleged personal use of the Goldman Sachs corporate credit card and prevented Enforcement from fully investigating the matter.<sup>55</sup>

Considering the foregoing, and because I find there are no mitigating factors, the appropriate sanction is a bar in all capacities. In light of the bar, I do not also impose a fine.<sup>56</sup>

### IV. Order

Enforcement's Default Motion is **GRANTED**. For violating FINRA Rules 8210 and 2010 by failing to provide documents and information as required by FINRA Rule 8210, Respondent Tavic O. Francis is barred from associating with any FINRA member firm in any capacity. The bar shall become effective immediately if this Default Decision becomes FINRA's final disciplinary action.

Brian D. Craig
Hearing Officer

## Copies to:

Tavic O. Francis (via email, overnight courier, and first-class mail)
Jessica (Ji Eun) Kim, Esq. (via email)
Eric M. Goldstein, Esq. (via email)
Matthew Minerva, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)

<sup>&</sup>lt;sup>55</sup> Compl. ¶ 29; Kim Decl. ¶ 53.

<sup>&</sup>lt;sup>56</sup> Guidelines at 9 (Technical Matters) ("Adjudicators generally should not impose a fine if an individual is barred and there is no customer loss."). The record in this case did not demonstrate customer loss.