

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DANIEL HOEFLINGER
(CRD No. 7602554),

Respondent.

Disciplinary Proceeding
No. 2023078202201

Hearing Officer–LOM

DEFAULT DECISION

November 26, 2024

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

Appearances

For the Complainant: Justin W. Arnold, Esq., Thomas R. Crimer, Esq., John R. Baraniak, Jr., Esq., and Jessica Zetwick-Skryzhynskyy, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

DECISION

I. Introduction

FINRA’s Department of Enforcement filed and served a Complaint against Respondent Daniel Hoeflinger alleging that he had failed to provide information and documents he was obligated to provide under FINRA Rule 8210. As a result, the Complaint alleges, Respondent violated FINRA Rules 8210 and 2010. Respondent failed to file an Answer to the Complaint. Accordingly, I ordered Enforcement to file a motion for entry of a default decision supported by a memorandum of law and a declaration. In compliance with that Order, on November 4, 2024, Enforcement filed its motion for entry of a default decision (“Default Motion”) along with a memorandum of law, a declaration from Enforcement Counsel Thomas R. Crimer (“Decl.”), and 27 exhibits (CX-1 through CX-27) in support of the Default Motion.

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

II. Findings of Fact and Conclusions of Law

A. Respondent's Background

Goldman Sachs & Co. Inc. (the "Firm") first employed Respondent in August 2022,¹ and he became registered as an Investment Banking Representative through his association with the Firm, a FINRA member, in October 2022.² On March 15, 2023, the Firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) stating that the Firm had discharged Respondent on February 14, 2023, for "[i]ntegrity concerns that the representative provided false information, including documentation, in connection with [a] paid leave of absence."³ The Firm checked a box on the disclosure form stating that Respondent was terminated after being accused of fraud or the wrongful taking of property.⁴ Respondent's registration was fully terminated on March 15, 2023.⁵

Respondent has not been registered or associated with any FINRA member since March 15, 2023.⁶

B. FINRA's Jurisdiction

Even though Respondent is no longer associated with a FINRA member firm, FINRA retains jurisdiction over him under Article V, Section 4(a) of FINRA's By-Laws. That provision of the By-Laws states that a person whose association with a FINRA member firm has terminated remains subject to the filing of a complaint for misconduct for two years after the termination of registration if the complaint concerns misconduct prior to termination. In addition, this By-Law provides that FINRA may file a complaint for one type of misconduct that may occur after termination if the misconduct occurs during the two-year period of retained jurisdiction—a failure "to provide information requested by FINRA pursuant to its rules." FINRA Rule 8210 provides that FINRA staff have the right to require a person subject to FINRA's jurisdiction to provide information, documents, and testimony with respect to any matter involved in an investigation.

¹ CX-3, at 3.

² Complaint ("Compl.") ¶ 3; CX-3, at 2–3; Decl. ¶ 6. According to his record in the Central Registration Depository ("CRD"), prior to joining the Firm Respondent held various positions in investment-related businesses in the United Kingdom, Germany, Brazil, and the United States, in between stints as a student. CX-3, at 2.

³ Compl. ¶ 3; Decl. ¶ 4; CX-2, at 1, 5.

⁴ CX-2, at 4.

⁵ CX-3, at 3–4; Decl. ¶ 6.

⁶ Decl. ¶ 7.

Accordingly, FINRA is empowered to investigate potential misconduct while a person was registered with a FINRA member firm by gathering information after the person is no longer registered, using Rule 8210 as a tool for gathering relevant information. And FINRA can enforce the obligation to produce information and documents pursuant to Rule 8210 by filing a complaint for a failure to comply with Rule 8210 during the two-year period of retained jurisdiction.

Enforcement filed its Complaint against Respondent on August 8, 2024. It charges him with failing to respond to three FINRA Rule 8210 requests for information and documents having to do with potential misconduct while he was registered. Although those Rule 8210 requests were made after Respondent's termination, they were made during the two-year period of retained jurisdiction, and the Complaint was also filed during that period.⁷ FINRA has jurisdiction to bring this proceeding.

C. Origin and Pursuit of the Investigation

In March 2023, FINRA staff began to investigate the integrity concerns that the Firm expressed in Respondent's Form U5.⁸ On August 18, 2023, September 11, 2023, and March 15, 2024, FINRA staff sent Respondent identical FINRA Rule 8210 requests seeking information and documents in connection with FINRA's investigation. In particular, the Rule 8210 requests sought information and documents relating to whether Respondent had submitted false information or documents to the Firm in connection with a leave of absence.⁹

FINRA staff sent the August 18, 2023 Rule 8210 request through the U.S. Postal Service by both first-class certified mail and first-class mail, to Respondent's residential address as reflected in CRD.¹⁰ Both the copy sent by certified mail and the copy sent by first-class mail to the CRD address were returned.¹¹

About ten days after Respondent's response to the first Rule 8210 request was due, FINRA staff followed up with the September 11, 2023 request, sent in the same manner to the same CRD address. The copy sent by first-class mail was not returned. The copy sent by certified mail was returned.¹²

⁷ Decl. ¶¶ 8–9.

⁸ Compl. ¶ 5; Decl. ¶ 5.

⁹ Decl. ¶ 36; CX-1; CX-19; CX-20.

¹⁰ Decl. ¶ 37; CX-1; CX-22; CX-23.

¹¹ Decl. ¶ 38.

¹² Decl. ¶¶ 39–40; CX-24.

About a month after the response to the second Rule 8210 request was due, on October 23, 2023, FINRA staff attempted to contact Respondent at a personal email address. But he did not respond.¹³

Enforcement contacted the Firm in February 2024 to ask if the Firm had any additional addresses or other contact information for Respondent.¹⁴ On March 1, 2024, after searching through its records, the Firm provided the same CRD address Enforcement had been using and the same email address Enforcement had already used in October to contact Respondent, along with a historical physical address and a historical email address that both appeared related to Respondent's time as a university student.¹⁵

On March 15, 2024, Enforcement served the third Rule 8210 request. It sent the third request not only to Respondent's residential address as shown in CRD but also to the historical physical and email addresses that the Firm had provided to the staff. In addition, Enforcement sent the third request to the personal email address that it had previously used to contact Respondent and that the Firm had confirmed as Respondent's home email address.¹⁶ As before, Enforcement sent the physical copies through the U.S. Postal Service by using both first-class certified mail and first-class mail. The copies sent by certified mail to the two physical addresses were delivered. In each case FINRA staff received a receipt with an illegible signature. The copies sent by first-class mail were not returned.¹⁷ Despite consulting public records, Enforcement is unaware of any other residential address for Respondent or any entity with which he is affiliated or employed.¹⁸

On the day that Respondent's response to the third Rule 8210 request was due, April 5, 2024, Respondent contacted FINRA staff from his personal email address.¹⁹ Among other things, he told Enforcement that his CRD address was out of date.²⁰ Respondent also asked the staff for an extension of time to respond to the Rule 8210 request.²¹ Enforcement granted him an extension to April 24, 2025, and asked him by email for a current mailing address and email address.²² On April 10, FINRA staff confirmed the extension of the deadline for his response and

¹³ Decl. ¶ 42; CX-25.

¹⁴ CX-4, at 2–3.

¹⁵ CX-4, at 1–2.

¹⁶ Decl. ¶ 43; CX-20; CX-26; CX-27.

¹⁷ Decl. ¶ 44; CX-26; CX-27.

¹⁸ Decl. ¶¶ 33, 34.

¹⁹ Decl. ¶ 45; CX-17, at 2.

²⁰ Decl. ¶ 32; CX-17, at 2.

²¹ Decl. ¶ 45; CX-17, at 2.

²² Decl. ¶ 45; CX-17, at 1.

repeated its request for updated contact information.²³ Respondent did not respond to the Rule 8210 request by the April 24 deadline or provide updated contact information. On April 25, FINRA staff sent Respondent an email cautioning him that a response to the correspondence was mandatory and a failure to respond could be a violation of FINRA Rule 8210.²⁴

D. Respondent's Default

Enforcement filed and served its first Notice of Complaint and Complaint on August 8, 2024, alleging that Respondent had failed to provide information and documents requested pursuant to Rule 8210 in violation of FINRA Rules 8210 and 2010. After he failed to file an Answer by the due date, Enforcement filed and served its second Notice of Complaint, along with the Complaint, on September 9, 2024. Respondent still did not file an Answer.

Both times, Enforcement served Respondent at his residential address, as reflected in his CRD, through the U.S. Postal Service by using first-class certified mail and first-class mail. Under FINRA Rules 9131(b) and 9134(a)(2) and (b)(1), a Complaint may be served on a natural person by first-class certified mail at the person's CRD residential address. Because Enforcement properly served Respondent, he received constructive notice of the Complaint and the warning that accompanied it saying that a failure to respond could result in a default.²⁵

In addition, Enforcement sent courtesy copies of the two Notices and the Complaint to the historical mailing address the Firm had earlier provided to the staff and to the personal email address that Respondent had earlier used to ask for an extension of time to respond to the third Rule 8210 request.²⁶

Respondent failed to file an Answer or any other pleading in the case. Under FINRA Rules 9215(f) and 9269, a Hearing Officer is authorized to issue a default decision against a Respondent who fails to file an Answer and to treat the allegations in the Complaint as admitted. Pursuant to my authority under those Rules, I issued an Order on October 3, 2024, directing Enforcement to file a Default Motion by November 4. The Order was served on Respondent by first-class mail, overnight courier, and email.

²³ CX-17, at 1.

²⁴ CX-17, at 1.

²⁵ *Rani T. Jarkas*, Exchange Act Release No. 77503, 2016 SEC LEXIS 1285, at *28 n.32 (Apr. 1, 2016) (“FINRA’s service of process on a CRD address generally provides constructive notice to associated persons.”).

²⁶ Decl. ¶¶ 10–13; CX-09. It has been noted that sending a complaint to the same email address a respondent uses to communicate with FINRA staff is evidence tending to show that the respondent received actual notice of those papers. *Cf.*, *Stephen Robert Williams*, Exchange Act Release No. 89238, 2020 SEC LEXIS 2828, at *9–10 (July 7, 2020) (concluding that the applicant received actual notice of the expedited proceeding against him when, among other things, FINRA sent notices of the proceeding to an email address he previously used to communicate with FINRA).

After I issued the October 3, 2024 Order instructing Enforcement to file a Default Motion, Respondent communicated for the first time with the Office of Hearing Officers by email. To learn more about his situation, on October 7, I set a pre-hearing conference (“PHC”) by videoconference for October 9, while keeping in place the schedule for the Default Motion. I ordered all parties to appear at the October 9 videoconference PHC, either in person or by counsel. After I set the PHC, Respondent sent another email message to the Office of Hearing Officers claiming he was unable to participate in the PHC because of unspecified travel, and would like, instead, to set forth his position by email. I held the PHC; Respondent did not appear. He sent the Office of Hearing Officers several more emails, but he did not file any pleading that would comply with FINRA’s rules regarding the filing of motions or extensions of time. Nor did he file an Answer. I preserved the existing schedule for the filing of the Default Motion.²⁷

On November 4, 2024, Enforcement filed and served its Default Motion. Respondent filed no opposition. Nor did he make any other response.

The record establishes that Enforcement properly served the Complaint and Respondent failed to file an Answer. As a result, I find Respondent in default and deem the allegations in the Complaint admitted under FINRA Rules 9215(f) and 9269(a)(2).

E. Respondent’s Violation of FINRA Rules 8210 and 2010

1. Governing Law

The Complaint charges Respondent with violating FINRA Rule 8210. Rule 8210 requires persons subject to FINRA’s jurisdiction to provide information to FINRA upon request for the purpose of an investigation, complaint, examination, or proceeding.²⁸ 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.”²⁹ 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 that person’s “last known residential address . . . as reflected in [CRD].”³⁰ This is because an associated person has a duty to keep the CRD address current and cannot avoid liability for violations by failing to update that

²⁷ See *Order Preserving Schedule for Default Motion and Memorializing Events Relating to It*, dated October 10, 2024.

²⁸ FINRA Rule 8210(a) and (c).

²⁹ *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).

³⁰ FINRA Rule 8210(d).

address.³¹ If, however, 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.³²

Rule 8210 “is at the heart of the self-regulatory system for the securities industry.”³³ It “provides a means, in the absence of subpoena power, for [FINRA] to obtain from its members information necessary to conduct investigations.”³⁴ The rule “is unequivocal and grants FINRA broad authority to obtain information concerning an associated person’s securities-related business ventures.”³⁵ Associated persons must cooperate fully in providing FINRA with information.³⁶ It is therefore a violation of Rule 8210 for a person to fail to provide information sought by FINRA.³⁷

Respondent 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.”³⁸ This Rule also applies to persons associated with a member, as they “have the same duties and obligations as a member under the Rules.”³⁹ It is well established that “[a] violation of FINRA Rule 8210 constitutes a violation of FINRA Rule 2010.”⁴⁰

³¹ *Dep’t of Enforcement v. Felix*, No. 2020065128501, 2022 FINRA Discip. LEXIS 13, at *13–15 & n.14 (NAC Oct. 13, 2022), *aff’d*, Exchange Act Release No. 100662, 2024 SEC LEXIS 1860 (Aug. 6, 2024).

³² FINRA Rule 8210(d).

³³ *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).

³⁴ *Id.* (quoting *Richard J. Rouse*, Exchange Act Release No. 32658, 1993 SEC LEXIS 1831, at *7 (July 19, 1993)).

³⁵ *Dep’t of Enforcement v. Gallagher*, No. 2008011701203, 2012 FINRA Discip. LEXIS 61, at *12 (NAC Dec. 12, 2012).

³⁶ *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.”).

³⁷ *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).

³⁸ FINRA Rule 2010.

³⁹ FINRA Rule 0140(a).

⁴⁰ *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).

2. Respondent Failed to Provide Requested Information and Documents

As detailed above, Enforcement sent the first two Rule 8210 requests to Respondent at his CRD address. Under the applicable rules, that service was sufficient.

Enforcement nevertheless attempted to gather more information about how to communicate with Respondent. It contacted the Firm, which provided some historical information, and consulted public records. Enforcement sent the third Rule 8210 request to Respondent's CRD address but also sent courtesy copies to an historical address and to a personal email address for Respondent. Respondent responded to Enforcement by email and asked for an extension of time. Enforcement granted Respondent an extension. But when the new deadline arrived, Respondent did not provide the requested information and documents. Nor did he ask for another extension of time. He also ignored the request for updated contact information.

By not providing the information and documents requested pursuant to Rule 8210, Respondent 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.⁴¹ 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."⁴²

In this case, the information requested was important. The three Rule 8210 requests sought information in connection with an investigation of Respondent for serious potential violations. The Firm had accused him of making false statements in connection with a paid leave of absence, and it had marked his Form U5 to show that the allegations involved accusations of fraud and the wrongful taking of property. By failing to provide the requested information and documents, Respondent prevented Enforcement from fully investigating the matter. The requested information and documents were integral to the investigation.⁴³

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.⁴⁴

⁴¹ Guidelines at 93 (Mar. 2024), https://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

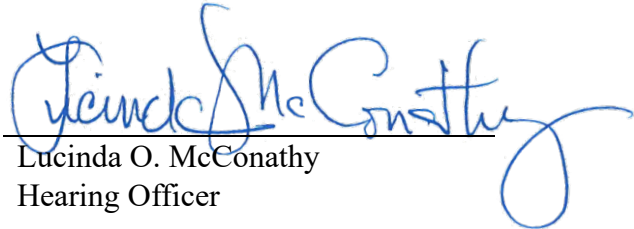
⁴² *Id.*

⁴³ Decl. ¶ 48.

⁴⁴ 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.

IV. Order

Enforcement's Default Motion is **GRANTED**, and I find that Respondent violated FINRA Rules 8210 and 2010 by failing to provide information and documents as required by FINRA Rule 8210. For violating FINRA Rules 8210 and 2010, Respondent Daniel Hoeflinger 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.



Lucinda O. McConathy
Hearing Officer

Copies to:

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