

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

AZLINA HARUN
(CRD No. 4676563),

Respondent.

Disciplinary Proceeding
No. 20090198744-02

Hearing Officer – Sara Nelson Bloom

DEFAULT DECISION

February 10, 2012

For failing to respond in a timely manner to requests for information, and for failing to respond in any manner to additional requests for information, in violation of Rules 8210 and 2010, Respondent is barred from associating with any FINRA-registered firm in any capacity.

Appearances

Dorian M. Gross, Esq., appeared on behalf of the Department of Enforcement.

No appearance by or for Azlina Harun.

DECISION

I. Introduction

FINRA Staff (“Staff”) began its investigation of Respondent Azlina Harun (“Respondent”) following a customer complaint regarding the sale of a promissory note and her firm’s filing of a Uniform Termination Notice for Securities Industry Registration (“Form U5”) disclosing that Respondent was terminated for “selling away” in connection with the customer complaint.¹ Enforcement filed the Complaint against Respondent after she failed to timely respond to its first request for information and failed to respond in any manner to its second request for information.

¹ CX-1 pp. 12-13.

Enforcement filed the attached Complaint with the Office of Hearing Officers on September 14, 2011. The first cause of the Complaint charges that Respondent failed to timely respond to Staff's Rule 8210 requests for information. The second cause of the Complaint charges that Respondent failed to respond in any manner to a second set of Rule 8210 requests for information.

Respondent did not answer or otherwise respond to the Complaint. Consequently, on December 14, 2011, Enforcement filed a Motion for Entry of Default Decision, supported by the Declaration of Dorian M. Gross, Esq. ("Decl.") and 28 exhibits. Respondent did not reply to the motion.² For the reasons set forth below, Enforcement's Default Motion is granted.

II. Jurisdiction

Between July 2007 and September 2009, Respondent was registered as a General Securities Representative with FINRA member firm Prncor Financial Services Corporation (the "Firm").³ On September 21, 2009, the Firm filed a Form U5 report that Respondent had been discharged on September 18, 2009, for "selling away."⁴

Although Respondent is not currently registered with a FINRA-registered firm, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years following the termination of her registration with a FINRA-registered firm and (2) the Complaint charges

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

³ CX-1; Decl. ¶ 4.

⁴ CX-2 p.10.

her with failing to respond to FINRA's requests for information made during the two-year period following the termination of her registration with a FINRA-registered firm.⁵

III. Respondent's Default

On September 14, 2011, Enforcement sent the Notice of Complaint and Complaint electronically to an email address provided by Respondent ("Email address") and by first-class mail and certified mail (return receipt requested) to Respondent at her residential address recorded in FINRA's Central Registration Depository ("CRD Address"), as well as two alternate addresses then known to Staff. All of the mailings except one of the certified mailings to one of the alternate addresses were returned marked as unclaimed, undeliverable, or unable to forward. Respondent did not respond to the Complaint by October 12, 2011, the deadline specified in the Notice of Complaint.⁶

On October 17, 2011, Enforcement sent the Second Notice of Complaint and Complaint by first-class mail and certified mail (return receipt requested) to Respondent at her CRD Address and the same alternate addresses. The certified mailings were returned marked unclaimed or unable to forward. The first class mailing sent to Respondent's CRD address was returned marked undeliverable and unable to forward. The remaining first class mailings were not returned. Respondent did not respond to the Complaint by November 3, 2011, the deadline specified in the Second Notice of Complaint.⁷

To date, Respondent has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.

⁵ See Article V, Sec. 4(a), FINRA By-Laws, *available at* www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

⁶ CX-25, CX-26; Decl. ¶¶ 34-36.

⁷ CX-27, CX-28; Decl. ¶¶ 37-39.

By failing to answer the Complaint, Respondent defaulted. Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's Motion for Entry of Default Decision.

IV. Violations

A. Failure to Timely Respond to Requests for Information

The First Cause of Action alleges that Respondent violated Rules 8210 and 2010 by failing to provide information to FINRA in a timely manner.

In a letter dated February 9, 2011, Staff requested, pursuant to Rule 8210, that Respondent provide: (i) documents relating to any notice or request Respondent gave to her Firm regarding her intention to engage in outside business, (ii) a detailed description of Respondent's real estate business activities while employed at the Firm, (iii) a description of her activities to obtain business funding for others while employed at the Firm, and (iv) her current residential address. Staff sent the letter by first-class and certified mail to Respondent at her CRD address, and requested a response by February 25, 2011.⁸

On February 22, 2011, Staff sent a second letter requesting the same information by first-class and certified mail to a newly obtained address (an "alternate address"). Respondent signed the receipt for the certified mailing. The United States Postal Service Track & Confirm website reflects delivery on February 26, 2011.⁹

When Respondent failed to respond, Staff sent a third request, dated March 7, 2011, by first-class and certified mail to the CRD and alternate addresses, requesting the same information by March 16, 2011. The mailings to the CRD address were returned to FINRA

⁸ Complaint ¶ 8.

⁹ Complaint ¶ 9.

indicating one of the alternate addresses as the forwarding address. The certified mailing to the alternate address was returned showing a delivery date of March 10, and an illegible signature. The first class mailing to the alternate address was not returned. Again, Respondent failed to respond.¹⁰

On May 23, 2011, Enforcement issued a Notice of Suspension advising Respondent that she would be suspended from associating with any FINRA member firm in any capacity because of her failure to provide information to FINRA. The Notice indicated that she would be suspended if she did not respond to FINRA's request letters by June 16, 2011. On the date that Respondent was to be suspended, she sent an email responding to Staff's requests.¹¹

The Hearing Officer finds that the foregoing facts establish that Respondent violated Rule 8210 by failing to respond in a timely manner to FINRA's requests for information. The fact that Respondent eventually responded to the 8210 Requests does not absolve her of liability for violating Rules 8210 and 2010. The submission of information *after* FINRA institutes suspension proceedings is not a defense.¹²

B. Failure to Respond in Any Manner to Requests for Information

The Second Cause of Action alleges that Respondent failed to respond in any manner to Staff's subsequent requests for information, in violation of Rules 8210 and 2010. On July 7, 2011, Enforcement sent Respondent a letter, first-class and certified mail, to Respondent's CRD Address, to the same alternate address used in its previous requests, and to the Email address. The letter requested, pursuant to Rule 8210, that Respondent provide federal and

¹⁰ Decl. ¶¶ 15-16.

¹¹ Complaint ¶ 12.

¹² Cf. *Joseph Ricupero*, Exchange Act Rel. No. 62891, 2010 SEC LEXIS 2988, at *12 (Sept. 10, 2010), *appeal filed*, No. 10-4566 (2d Cir. Nov. 15, 2010) ("We have emphasized repeatedly that NASD should not have to initiate a disciplinary action to elicit a response to its information requests made pursuant to Rule 8210."). A violation of Rule 8210 constitutes conduct inconsistent with just and equitable principles of trade and therefore also establishes a violation of Rule 2010. *Id.* at *13, n.12.

state tax returns for the years 2007 through 2009.¹³ The letter stated that the request was for the purpose of determining whether Respondent accepted compensation in connection with any outside business activity.¹⁴

On July 7, 2011, Respondent replied via email, stating “[p]lease be advised that I do not intend to provide you with the documents required due to FINRA’s inability to treat the documents as confidential.”¹⁵

On July 12, 2011, Staff re-sent the request to Respondent by first-class and certified mail, to Respondent’s CRD Address, to the same alternate address used in its previous requests, to a new alternate address provided by Respondent, and to the email address. The letter advised: “[y]ou are obligated to respond to the request fully, promptly, and without qualification . . . [a]ny failure on your part to satisfy these obligations could result in a non-summary or formal disciplinary action leading to sanctions, including a bar from the securities industry.”¹⁶

Respondent received and replied to Staff’s email request, stating “[p]lease refer to earlier correspondence.”¹⁷ To date, Respondent has not produced the requested tax returns.¹⁸

The Hearing Officer finds that the foregoing facts establish that Respondent violated Rules 8210 and 2010 by failing to respond to Staff’s requests for information.¹⁹

¹³ Decl. ¶ 24.

¹⁴ Complaint ¶ 17.

¹⁵ CX-17.

¹⁶ CX-18 – CX-21; Complaint ¶ 19.

¹⁷ CX-22; Complaint ¶ 20.

¹⁸ Complaint ¶ 21; Decl. ¶ 29.

¹⁹ A violation of Rule 8210 is also a violation of Rule 2010. *Dep’t of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (NAC Nov. 2, 2001) (applying former Rule 2110).

V. Sanctions

Since FINRA lacks subpoena power, it must rely upon Rule 8210 “to police the activities of its members and associated persons.”²⁰ “[A member’s] failure to respond to [FINRA’s] information requests frustrates [FINRA’s] ability to detect misconduct, and such inability in turn threatens investors and markets....”²¹

The FINRA Sanction Guidelines (“Sanction Guidelines”), as recently amended, state that where an individual does not respond until after FINRA files a complaint, adjudicators should apply the presumption that the failure constitutes a complete failure to respond.²² Where the individual fails to respond in any manner, a bar is standard.²³

The Principal Considerations specific to determining sanctions for this violation include: (1) the importance of the information requested as viewed from FINRA’s perspective, (2) the number of requests made and the degree of regulatory pressure required to obtain a response, and (3) the length of time to respond.

Here, the information requested followed a customer complaint and goes to the heart of FINRA’s regulatory obligation—investor protection. Altogether, Staff made five requests for information from February 2011 through July 2011. There is no question that Respondent received the requests. Nonetheless, the degree of regulatory pressure required to obtain a response was extreme; Staff was required to initiate suspension proceedings against Respondent in order to obtain an initial response. And Staff never received a response to its request for Respondent’s tax returns. Overall, Respondent’s actions demonstrate a

²⁰ *Joseph Patrick Hannan*, Exchange Act Rel. No. 40438; 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

²¹ *PAZ Securities, Inc., et al.*, Exchange Act Rel. No. 57656, 2008 SEC LEXIS 820, at *13 (Apr. 11, 2008), *aff’d sub nom, PAZ Sec. v. SEC*, 566 F.3d 1172, 2009 U.S. App. LEXIS 11500 (May 29, 2009).

²² *FINRA Sanction Guidelines* (2011 ed.) p. 33, note 1, www.finra.org/sanctionguidelines. Here, the Staff’s initiation of suspension proceedings can be viewed as analogous to the filing of a disciplinary complaint.

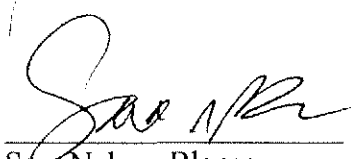
²³ *Guidelines* at 33.

fundamental unwillingness to comply with FINRA's rules. There is no evidence of any mitigating facts that would justify a sanction less than a bar.

Accordingly, The Hearing Officer finds that a bar from associating with any FINRA-registered firm in any capacity is the appropriate sanction for each violation.

VI. Order

For violating Rules 8210 and 2010 by failing to timely respond to Staff's initial requests for information and failing to respond in any manner to Staff's subsequent requests for information, Respondent is barred from associating with any FINRA-registered firm in any capacity. The bars shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.


Sara Nelson Bloom
Hearing Officer

Copies to: Azlina Harun (*via electronic and first-class mail*)
Dorian M. Gross, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Azlina Harun
(CRD No. 4676563)

Respondent.

DISCIPLINARY PROCEEDING
No. 20090198744-02

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Azlina Harun ("Harun") violated FINRA Rules 8210 and 2010 by failing to timely respond, and by failing to respond, to requests made pursuant to FINRA Rule 8210.

RESPONDENT AND JURISDICTION

2. Harun first became registered as a General Securities Representative in or about August 2003. On or about July 12, 2007, Harun became associated as a General Securities Representative with Princor Financial Services Corporation ("Princor"). Harun remained associated with Princor until her discharge.
3. On or about September 21, 2009, Princor filed a Full Form U5, which reported that Harun was discharged on September 18, 2009.

4. Although Harun has not been associated with a FINRA member since September 18, 2009, she still remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the date upon which she ceased to be associated with a FINRA member; and (2) the Complaint charges her with failing to timely respond, and with failing to respond, to certain FINRA requests during the two-year period after the date upon which she ceased to be associated with a FINRA member.

FIRST CAUSE OF ACTION

Failure to Timely Respond to FINRA Rule 8210 Request

FINRA Rules 8210 and 2010

5. The Department realleges and incorporates by reference paragraphs 2 through 4, above.
6. FINRA Rule 8210(a)(1) states, in relevant part, that FINRA staff have the right to "require a member, person associated with a member, or person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically . . . with respect to any matter involved in the investigation . . ." FINRA Rule 8210(c) states 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."
7. A violation of FINRA Rule 8210 constitutes a violation of FINRA Rule 2010, which states that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."
8. By letter dated February 9, 2011 (the "February 9th Letter") Harun was advised that the Department was conducting an investigation. Harun was requested to respond in writing

to information requests, and to produce documents in her possession or control in response to document requests. Among other things, Harun was requested: (i) to provide documents relating to any request made, or to any other notice given by her to Princor, of her intention to be engaged in any other business, (ii) to describe in detail the nature of her real estate agent business during her association with Princor, (iii) to describe the nature of any activity to obtain funding for persons or entities for business needs during her association with Princor, and (iv) to provide information about her residential address. Harun was requested to submit a written response and responsive documents by February 25, 2011. The letter was sent via certified mail return receipt requested, and first class mail, to [REDACTED] which was Harun's last known residential address, as reflected in the Central Registration Depository (the "CRD Address"). The certified mailing was returned unclaimed. The first class mailing was not returned.

9. Under cover of a letter dated February 22, 2011, FINRA staff sent a copy of the February 9th Letter to Harun to a new address via certified mail return receipt requested and first class mail. This new address was [REDACTED] Harun was requested in the cover letter to respond to each of the requests in the February 9th Letter by February 25, 2011. Harun has acknowledged that she received the certified mailing. The United States Postal Service Track & Confirm website reflects delivery on February 26, 2011. The certified receipt was returned to FINRA showing Harun's printed name and her signature.

10. As of March 7, 2011, Harun had not responded to the requests in the February 9th Letter. Under cover of a letter dated March 7, 2011, FINRA staff sent a copy of the February 9th

Letter to Harun via certified mail return receipt requested and first class mail. The mailings were sent to the CRD Address and to [REDACTED]

[REDACTED] Harun was requested in the cover letter to respond to each of the requests in the February 9th Letter by no later than March 16, 2011. The return receipt for the certified mailing sent to [REDACTED] was returned to FINRA. It appears to show a date of delivery of "3/10" and a signature that is not legible. The first class mailing to this same address was not returned. The certified and first class mailings sent to the CRD Address were returned to FINRA. A label affixed by the United States Postal Service to each respective envelope states, in part: "FORWARD TIME EXP RTN TO SEND" and [REDACTED] Harun failed to respond.

11. On May 23, 2011, pursuant to FINRA Rule 9552, FINRA issued a Notice of Suspension to Harun, via FedEx overnight delivery and first class mail. Harun was therein notified that on June 16, 2011 she would be suspended from associating with any FINRA member in any capacity because she failed to respond to requests for information and documents. Harun was further notified that if she took corrective action by complying with the requests before the suspension date, the suspension will not take effect, but that she may still be subject to a disciplinary action for her failure to respond timely to a request for information under FINRA Rule 8210. The Notice of Suspension was sent to Harun to the CRD Address and to [REDACTED] Harun has acknowledged that she received the FedEx delivery of the Notice of Suspension on or about May 24, 2011.

12. On June 16, 2011, which was the effective date of her suspension, Harun responded via e-mail to the Notice of Suspension. Among other things, Harun stated that “[t]his letter is in response to FINRA letters dated May 23, 2011 and February 9, 2011.” Harun also stated that “[p]lease also note that I am currently, and will remain, traveling until October, 2011. The best way to communicate with me will be via telephone [REDACTED] and email [REDACTED] (the “E-Mail Address”).
13. On June 17, 2011, Harun communicated with FINRA staff via e-mail using the E-Mail Address. Harun stated in these e-mail that “[m]y mailing adress (sic) is: [REDACTED] [REDACTED] She also stated that “the [REDACTED] [CRD Address] is no longer an address where I receive mailing since January 2010.” She further stated that she was currently staying at [REDACTED] in Laie, Hawaii.
14. Harun failed to respond until June 16, 2011. Harun’s failure to timely respond materially impeded the Department’s investigation.
15. By reason of the foregoing, Harun violated FINRA Rule 8210 and FINRA Rule 2010.

SECOND CAUSE OF ACTION

Failure to Respond to FINRA Rule 8210 Request

FINRA Rules 8210 and 2010

16. The Department realleges and incorporates by reference paragraphs 2 through 14, above.
17. By letter dated July 7, 2011 (the “July 7th Letter”) sent to Harun via certified mail return receipt requested, first class mail, and by e-mail, Harun was advised by the Department that its investigation included a review of possible outside business activities of Harun. The letter stated that in order for the Department to determine whether Harun accepted

compensation in connection with any outside business activity, Harun was requested to produce, and if necessary, arrange for others to produce to the Department, Federal and State tax returns for filing years 2007, 2008 and 2009, during which periods Harun was associated with Princor. Harun was requested to produce her tax returns by no later than July 15, 2011. The July 7th Letter was sent to Harun to the CRD Address, to [REDACTED] [REDACTED] and to the E-Mail Address.

18. Harun received the July 7th Letter. On July 7, 2011, Harun replied via e-mail from the E-Mail Address to the request made for her tax returns. Harun stated that “[p]lease be advised that I do not intend to provide you with the documents required due to FINRA’s inability to treat the documents as confidential.”

19. By letter dated July 12, 2011 (the “July 12th Letter”) sent to Harun via certified mail return receipt requested, first class mail, and by e-mail, the Department made a second request to Harun that she produce her tax returns by July 15, 2011. The letter was sent to Harun to the CRD Address, to [REDACTED] to [REDACTED] [REDACTED] to [REDACTED] and to the E-Mail Address.

20. Harun received the July 12th Letter. On July 15, 2011, Harun replied via e-mail from the E-Mail Address to the July 12th Letter. Harun’s reply, in its entirety was: “[p]lease refer to earlier correspondence.”

21. To date, Harun has not produced her tax returns. Harun’s failure to produce these documents has materially impeded the Department’s investigation.

22. By reason of the foregoing, Harun violated FINRA Rule 8210 and FINRA Rule 2010.

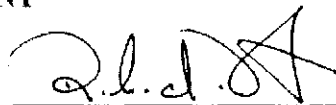
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- B. order that that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: September 14, 2011



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