

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ELLINGTON LLOYD ELLIS
(CRD No. 4287959),

Respondent.

Disciplinary Proceeding
No. 2010024310601

Hearing Officer—David R. Sonnenberg

DEFAULT DECISION

June 7, 2013

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

Appearances

For the Department of Enforcement, Complainant: Dale A. Glanzman, Esq.

For Ellington Lloyd Ellis, Respondent: no appearance.

DECISION

Ellington Lloyd Ellis was formerly registered with FINRA and associated as a General Securities Representative with Cambridge Investment Research, Inc., a FINRA-registered firm, until December 1, 2010. Thereafter, FINRA sent Ellis four requests for information and documents in connection with an investigation into the nature and extent of his outside business activities. Ellis did not respond to any of the requests.

Enforcement filed a complaint with the Office of Hearing Officers charging Ellis with violating FINRA Rules 8210 and 2010. FINRA Rule 8210 grants FINRA staff the right to require a person subject to FINRA's jurisdiction to provide information with respect to any matter involved in an investigation, complaint, examination, or proceeding. FINRA Rule 2010

requires persons associated with FINRA member firms to observe high standards of commercial honor and just and equitable principles of trade.

Ellis did not answer or otherwise respond to the Complaint. Accordingly, Enforcement filed a motion for entry of default decision. The motion is supported by Dale A. Glanzman's sworn Declaration and Supplemental Declaration Supporting a Motion for Entry of Default Decision and 11 exhibits. Ellis did not file a response to Enforcement's motion.

For the reasons discussed below, the Hearing Officer grants Enforcement's motion.

I. Jurisdiction

FINRA has jurisdiction over this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws¹ because (1) the Complaint was filed within two years after Ellis's last registration with FINRA terminated,² and (2) the Complaint charges him with failing to respond to requests for information and documents that FINRA staff issued during the two-year period following the termination of his FINRA registration.

II. Enforcement's Motion for Entry of a Default Decision is Granted

Enforcement filed the attached Complaint with the Office of Hearing Officers on November 27, 2012, and the same day served Ellis with a copy of the Notice of Complaint and Complaint by certified mail (return receipt requested) at his residential address recorded in the Central Registration Depository ("CRD Address") and at Ellis's last known address ("Last Known Address").³ The certified mailing sent to the CRD Address was returned, not deliverable

¹ 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").

² FINRA terminated his last registration effective December 1, 2010. Decl. ¶ 6; CX-2, at 3.

³ Decl. ¶ 7; CX-3. The staff obtained the Last Known Address through a LexisNexis search, Compl. ¶ 6, and Ellis confirmed to the staff that this was his current address. *Id.* ¶ 9.

as addressed, and unable to forward.⁴ The certified mailing sent to the Last Known Address was returned, unclaimed.⁵ The answer filing deadline set in the Notice of Complaint was December 26, 2012.⁶ Respondent did not answer the Complaint.

On January 4, 2013, Enforcement served Ellis with a copy of the Second Notice of Complaint and Complaint by certified mail (return receipt requested) to Ellis at his CRD Address and his Last Known Address.⁷ The certified mailing sent to Ellis's CRD Address was returned, not deliverable as addressed, and unable to forward.⁸ The receipt for the certified mailing to Ellis's Last Known Address was returned bearing a partially legible hand-written name and signature, though clearly not the name "Ellis."⁹ The Second Notice of Complaint required Ellis to file an answer with the Office of Hearing Officers on or before January 22, 2013.¹⁰ To date, Ellis has not answered the Complaint.¹¹

On February 25, 2013, Enforcement filed a motion for entry of default decision with the Office of Hearing Officers. Ellis did not respond to the motion. The Hearing Officer concludes that Ellis received valid constructive service of this proceeding in accordance with the provisions of FINRA Rules 9134(a)(2) and (b)(1) and that he defaulted by not answering the Complaint. Accordingly, the Hearing Officer grants Enforcement's motion.

⁴ Decl. ¶ 7; CX-5; Suppl. Decl. ¶ 1; CX-10.

⁵ Decl. ¶ 7; CX-6.

⁶ CX-3.

⁷ Decl. ¶ 8; CX-7.

⁸ Decl. ¶ 8; CX-8; Suppl. Decl. ¶ 2; CX-11.

⁹ Decl. ¶ 8; CX-9.

¹⁰ Decl. ¶ 9; CX-7.

¹¹ Decl. ¶ 9.

III. Findings of Fact

The Hearing Officer treats the allegations in the attached Complaint as admitted, pursuant to FINRA Rules 9215(f) and 9269(a).

A. Ellington Lloyd Ellis

Ellis began his career in the securities industry in October 2000.¹² From October 1, 2010, to December 1, 2010, he was registered as a General Securities Representative at Cambridge Investment Research, Inc.¹³ His last registration with FINRA terminated on December 1, 2010.¹⁴

B. Ellis's Failure to Provide Information and Documents

Beginning in September 2011, FINRA staff attempted to obtain information and documents from Ellis in connection with an investigation into his conduct concerning a possible private securities transaction and possible outside business activities.¹⁵ On or about September 21, 2011, FINRA staff sent Ellis a request for information and documents pursuant to Rule 8210. The staff sent the request to Ellis's CRD Address and to an address Ellis provided to the staff in June 2011.¹⁶ Ellis did not respond to the request letter.¹⁷

¹² CX-2, at 5.

¹³ CX-2, at 3.

¹⁴ *Id.*

¹⁵ The Complaint alleges that FINRA staff sent Ellis a September 21, 2011 request to obtain "information and documents concerning a possible private securities transaction and possible outside business activities." Compl. ¶ 4. The Declaration states that FINRA sent the requests for information described in the Complaint—including the September 21, 2011 request—"to investigate the nature and extent of Ellis' outside business activity." Decl. ¶ 10.

¹⁶ Compl. ¶ 4.

¹⁷ *Id.* ¶ 5.

On or about October 6, 2011, FINRA staff sent Ellis a second Rule 8210 request letter.¹⁸ The staff sent the letter to Ellis's CRD Address and to the address he had provided in June 2011.¹⁹ When Ellis did not respond to the second request, on April 27, 2012, FINRA sent him a Notice of Suspension pursuant to Rule 9552.²⁰ The Notice of Suspension was sent to Ellis's CRD Address and his Last Known Address.²¹ The Notice of Suspension informed Ellis that on May 21, 2012, he would be suspended for failing to respond to the first and second request letters.²² On May 21, 2012, FINRA sent Ellis a letter informing him that he was now suspended and advised him of the circumstances under which the suspension would convert to a bar.²³

Four days before his suspension was scheduled to become a bar, on or about July 26, 2012, the staff received a letter from Ellis requesting that FINRA terminate his suspension. He said he had mistakenly thought he had provided the requested information but now realized that he had to submit additional information. FINRA then immediately terminated his suspension.²⁴ The next day, Ellis confirmed to FINRA that the Last Known Address was his current address.²⁵

On or about August 10, 2012, pursuant to Rule 8210, FINRA staff sent Ellis a third request for production of information and documents. The request was sent to Ellis's CRD Address and his Last Known Address.²⁶ On the day the response was due, August 17, 2012, Ellis

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* ¶ 6.

²¹ *Id.* The Last Known Address [REDACTED] was slightly different from the address Ellis had given FINRA staff in June 2011 [REDACTED]. *Id.* ¶¶ 4, 6.

²² *Id.* ¶ 6.

²³ *Id.* ¶ 7.

²⁴ *Id.* ¶ 8.

²⁵ *Id.* ¶ 9.

²⁶ *Id.* ¶ 10.

told FINRA staff that he could not provide the information and documents by day's end because they were in storage. He represented, however, that he would produce the information and documents by August 22, 2012. Ellis also again confirmed that his Last Known Address was his current address.²⁷ Three days later, on August 20, 2012, he reiterated to the staff that he would provide the information and documents by August 22, 2012.²⁸

When the staff did not receive the information and documents, on or about August 22, 2012, they sent Ellis a fourth request, pursuant to Rule 8210, seeking information and documents.²⁹ The request was sent to Ellis's CRD Address and his Last Known Address.³⁰ On September 17, 2012, Ellis informed FINRA that he was hiring counsel to help him with the information and document requests.³¹ Nevertheless, thereafter, he neither contacted the staff nor produced the information and documents sought by the four Rule 8210 requests.³²

IV. Conclusions of Law

FINRA Rule 8210 requires FINRA members and their associated persons to cooperate with FINRA investigations by providing information when requested by FINRA staff. Pursuant to Rule 8210, FINRA may require an associated person "to provide information orally, in writing, or electronically . . . and to testify at a location specified by FINRA Staff, under oath or affirmation" in connection with any investigation. The Rule is crucial to FINRA's ability to oversee and regulate member firms and associated persons because FINRA does not have subpoena power. Instead, FINRA must depend on member firms and associated persons to

²⁷ *Id.* ¶ 11.

²⁸ *Id.* ¶ 12.

²⁹ *Id.* ¶ 13.

³⁰ *Id.*

³¹ *Id.* ¶ 14.

³² *Id.* ¶ 15.

cooperate fully and promptly with requests for information.³³ A failure to cooperate in an investigation frustrates FINRA's ability to detect misconduct and protect investors and markets.³⁴ It is well established that a violation of the duty to cooperate and provide information pursuant to Rule 8210 is also a violation of Rule 2010.³⁵

In this case, Enforcement made four attempts to obtain information and documents from Ellis pursuant to FINRA Rule 8210. Each time, FINRA staff sent a written request to Ellis's CRD Address. It also sent the first and second requests to an address Ellis had provided, and the third and fourth requests to an address he confirmed as his current address. Ellis likely received one or both of the first two requests because when he contacted the staff requesting termination of his Rule 9552 suspension, he said he thought he had provided the information that FINRA had requested. Ellis was aware of the third request because after it was sent to him, he twice discussed the request with the staff. And finally, Ellis was aware of the fourth request because he informed the staff five days after a response was due that he would be hiring counsel to help him respond to the requests. Additionally, Ellis received constructive notice of the requests.³⁶

The Hearing Officer concludes that Ellis violated FINRA Rule 8210 by failing to provide the requested information and documents pursuant to that Rule. In addition, the Hearing Officer concludes that Ellis violated FINRA Rule 2010.

³³ See, e.g., *Dep't of Enforcement v. Valentino*, No. FPI010004, 2003 NASD Discip. LEXIS 15, at *12 (NAC May 21, 2003), *aff'd*, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD [FINRA's predecessor] lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted). See also *Morton Bruce Erenstein*, 316 Fed. App'x 865, 871, 2008 U.S. App. LEXIS 19746, at *13 (11th Cir. Sept. 16, 2008) ("[I]t is critically important to the self-regulatory system that members and associated persons cooperate with NASD investigations, especially because the NASD lacks subpoena power.").

³⁴ *PAZ Sec., Inc.*, 2008 SEC LEXIS 820, at *13 (Apr. 11, 2008), *petition for review denied sub nom. Paz Sec. v. SEC*, 566 F.3d 1172, 2009 U.S. App. LEXIS 11500 (D.C. Cir. May 29, 2009).

³⁵ See *CMG Inst. Trading, LLC*, Exchange Act Rel. No. 59325, 2009 SEC LEXIS 215, at *30 (Jan. 30, 2009).

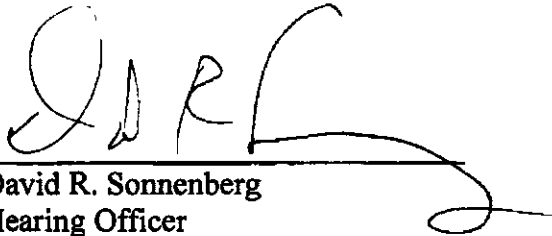
³⁶ See Rule 8210(d).

V. Sanctions

For failing to respond in any manner to a Rule 8210 request for information, the FINRA Sanction Guidelines provide that a bar should be the standard sanction.³⁷ A principal consideration in determining sanctions for a failure to respond is the “[i]mportance of the information requested as viewed from FINRA’s perspective.”³⁸ Here, Ellis’s failure to respond interfered with the staff’s ability to investigate fully his outside business activity.³⁹ The record does not disclose any mitigating factors that would warrant permitting Ellis to remain in the securities industry. Accordingly, a bar is the appropriate sanction for his failure to provide information and documents.

VI. Order

Ellington Lloyd Ellis is barred from associating with any member firm in any capacity for failing to provide information and documents, in violation of Rules 8210 and 2010. The bar shall become effective immediately if this Default Decision becomes FINRA’s final action in this disciplinary proceeding.



David R. Sonnenberg
Hearing Officer

Copies to:

Ellington Lloyd Ellis (*via overnight courier and first-class mail*)
Dale E. Glanzman, Esq. (*via electronic and first-class mail*)
Mark A. Koerner, Esq. (*via electronic mail*)
Jeffrey D. Pariser, Esq. (*via electronic mail*)
Mark P. Dauer, Esq. (*via electronic mail*)

³⁷ FINRA Sanction Guidelines 33 (2011), *available at* www.finra.org/sanctionguidelines.

³⁸ *Id.*

³⁹ Decl. ¶ 10.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Ellington L. Ellis (CRD No. 4287959),

Respondent.

DISCIPLINARY PROCEEDING
No. 2010024310601

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Ellington L. Ellis ("Ellis") failed to respond to requests for information and documents, made pursuant to FINRA Rule 8210. Such conduct constitutes a violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Respondent Ellington L. Ellis ("Ellis") was registered with Chase Investment Services Corp. ("Chase"), a FINRA-registered firm, as a General Securities Representative between March 2008 and September 2010. Between October 2010 and December 1, 2010, Ellis was registered in the same capacity with Cambridge Investment Research, Inc. ("Cambridge"), a FINRA-registered firm. Ellis is not currently registered with a FINRA-registered firm. Although Ellis is no longer registered or associated with a FINRA member, he 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 effective date

of Ellis' termination; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

**FIRST CAUSE OF ACTION
Failure to Respond
Violation of FINRA Rules 8210 and 2010**

3. The Department realleges and incorporates by reference paragraphs 1-2 above.

4. On or about September 21, 2011, FINRA staff sent a request to Ellis that he provide certain information and documents, pursuant to and in accordance with the provisions of FINRA Rule 8210. Specifically, FINRA requested that Ellis provide information and documents concerning a possible private securities transaction and possible outside business activities. The request for information was sent by first class mail and by certified mail, return receipt requested, to [REDACTED] which was Ellis' address of record as contained in the records of the Central Registration Depository ("CRD address"), and to [REDACTED] which was Ellis' "last known address."¹ The first class mailings were not returned. The certified mailings were returned, marked "Return to Sender; Unclaimed; Unable to Forward." A response was due October 5, 2011.

5. FINRA staff received no response to the September 21, 2011 mailings. Accordingly, on or about October 6, 2011, FINRA staff sent to Ellis a second request that he provide the same information and documents, pursuant to and in accordance with the provisions of FINRA Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Ellis' CRD address and his last known address. The first class mailings were not returned. The certified mailings were returned, marked "Return to Sender; Unclaimed; Unable to Forward." A response was due by October 20, 2011.

¹ Ellis provided this address to FINRA staff during a telephone conversation on June 23, 2011.

6. On or about April 27, 2012, FINRA sent to Ellis a Notice of Suspension Letter ("Letter") via FedEx Overnight Delivery and First Class Mail to Ellis' CRD address and to ■■■■■ which was Ellis's his last known address as per LexisNexis ("LexisNexis address"). The Letter informed Ellis that he would be suspended on May 21, 2012, pursuant to FINRA Rule 9552, for failing to respond to the requests for information and documents dated September 21, 2011 and October 6, 2011. The first class and FedEx mailings to his CRD address were returned. The first class mailing to his LexisNexis address was not returned. The FedEx mailing to his LexisNexis address was picked up at the FedEx office on April 30, 2012, and signed for by "E. Ellis."

7. On or about May 21, 2012, FINRA sent to Ellis a letter, via FedEx Overnight Delivery and First Class Mail to Ellis' CRD address and his LexisNexis address, informing him that he was suspended on May 21, 2012, pursuant to FINRA Rule 9552, from associating with any FINRA member in any capacity. He also was informed that, if he failed to request termination of the suspension within three months, he would be barred from associating with any FINRA member in any capacity on July 30, 2012. The first class and certified mailings to his CRD address were returned. The first class and FedEx mailings to his LexisNexis address were not returned.

8. Ellis received FINRA's letter dated May 21, 2012, because, on or about July 26, 2012, FINRA received a letter from Ellis, in which he requested termination of his suspension under FINRA Rule 9552. He alleged that he thought he had submitted the information that FINRA had requested, but he was mistaken and realized that he had to submit additional information. Accordingly, on the same day, FINRA terminated his suspension under FINRA Rule 9552.

9. On July 27, 2012, FINRA also received an email from Ellis, in which he wrote that his current address was his LexisNexis address.

10. On or about August 10, 2012, FINRA staff sent to Ellis a third request that he provide nearly all of the information and documents requested on September 21, 2011 and October 6, 2011, pursuant to and in accordance with the provisions of FINRA Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Ellis' CRD address and his LexisNexis address. The first class and certified mailings to Ellis' CRD address were returned, marked "Return to Sender; Moved Left No Address Unable to Forward." The first class and certified mailings to Ellis' LexisNexis address were not returned. A response was due by August 17, 2012.

11. On or about August 17, 2012, FINRA staff spoke by telephone with Ellis. During that conversation, Ellis stated that he could not provide the information and documents to FINRA by the end of the day, because the documents were in storage, but he would have the information and documents to FINRA by August 22, 2012. Ellis again confirmed that his last known address was his current address.

12. On or about August 20, 2012, FINRA staff again spoke with Ellis, and Ellis confirmed that he would provide the information and documents by August 22, 2012.

13. FINRA did not receive any information or documents from Ellis on August 22, 2012. Accordingly, on or about August 22, 2012, FINRA staff sent to Ellis a fourth request that he provide nearly all of the information and documents requested on September 21, 2011 and October 6, 2011, and the same information and documents requested on August 10, 2012, pursuant to and in accordance with the provisions of FINRA Rule 8210. That request for information was sent by first class mail and by FedEx to Ellis' CRD address and his LexisNexis

address. The first class mailing to Ellis' CRD address was returned, marked "Return to Sender; Moved Left No Address; Unable to Forward." The first class mailing to Ellis' last known address was not returned. The LexisNexis mailings were returned to FINRA. A response was due by September 12, 2012.

14. On or about September 17, 2012, Ellis sent an email to FINRA, in which he stated that he would be hiring counsel to help him with FINRA's requests for information and documents.

15. From September 17, 2012 to date, Ellis has not contacted FINRA and has failed to respond to the request for documents and information described above, and the dates for responding to the requests have passed.

16. The acts, practices and conduct described above constitute violations of FINRA Rules 8210 and 2010 by Ellis.

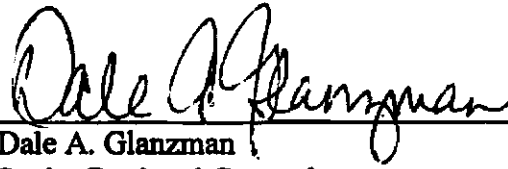
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. Order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. Order that Respondent bears such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: November 27, 2012

A handwritten signature in black ink, appearing to read "Dale A. Glanzman", written over a horizontal line.

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