

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

EVELY DE JESUS VIVENES DE VILLALON
(CRD No. 2957650),

Respondent.

Disciplinary Proceeding
No. 2010025127601

Hearing Officer – MC

DEFAULT DECISION

May 10, 2011

Respondent is barred from associating with any FINRA member firm in any capacity for violating FINRA Rules 2010 and 8210 by failing to respond to requests for documents and information FINRA staff issued to her pursuant to Rule 8210.

Appearances:

Sean W. Firley, Senior Regional Counsel, Boca Raton, Florida, for the Department of Enforcement.

No appearance by or on behalf of Respondent Evely de Jesus Vivenes de Villalon.

DECISION

I. Introduction

The Department of Enforcement filed the attached Complaint on December 9, 2010. The sole cause of action charges that Respondent Evely de Jesus Vivenes de Villalon violated FINRA Conduct Rule 2010 and Procedural Rule 8210 by failing to respond to requests for documents and information FINRA staff sent her pursuant to Rule 8210.

Enforcement served the Complaint and Notices of Complaint upon Vivenes de Villalon by means of a courier service at her residential address as it appears in FINRA's Central Registration Depository. She failed to respond to the Complaint. As a result, on March 9, 2011,

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Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion") supported by the Declaration of Sean W. Firley and three exhibits.¹

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Between January 1999 and December 2008, Vivenes de Villalon was associated with former FINRA member firm Stanford Group Company ("Stanford").² Vivenes de Villalon has not been associated with any FINRA member firm since her termination by Stanford, which took effect on December 31, 2008.³

FINRA staff issued requests for information and documents to Vivenes de Villalon pursuant to FINRA Procedural Rule 8210 in October and November of 2010. Enforcement filed the Complaint in this disciplinary proceeding on December 9, 2010. Because Enforcement filed the Complaint within two years of the last date of Vivenes de Villalon's registration, FINRA retains jurisdiction over her for the purposes of this disciplinary proceeding.⁴

B. Default

As noted above, Enforcement filed the Complaint against Vivenes de Villalon on December 9, 2010. Enforcement served the Complaint and Notice of Complaint on Vivenes de Villalon at her CRD address in Caracas, Venezuela, by first-class mail and FedEx.⁵ The first-class mailing was not returned. FedEx tracking documentation reflects that FedEx attempted to deliver the Complaint and Notice of Complaint at Vivenes de Villalon's CRD address but was unsuccessful. Entries on the FedEx tracking record dated December 14, 15, and 16, 2010, state

¹ Enforcement's exhibits will be referred to as "CX-__" with the appropriate exhibit and page numbers. The Declaration of Sean W. Firley will be referred to as "Decl." or "Firley Declaration" with citation to specific paragraphs.

² The firm filed a Form BDW on March 12, 2009. Complaint, p. 2, n.1.

³ Complaint ¶ 2; Decl. ¶¶ 5-6.

⁴ Decl. ¶ 7; Article V, Section 4, FINRA By-Laws.

⁵ Decl. ¶ 12. FINRA Rule 9134(a)(3) provides that "[s]ervice by courier may be accomplished by sending the papers through a courier service that generates a written confirmation of receipt or of attempts at delivery."

“customer not available or business closed.” Additional entries reflect that from December 16-29, 2010, FedEx held the package at a local facility for Vivenes de Villalon to pick up, and that on December 29, FedEx deemed it undeliverable.⁶ Vivenes de Villalon failed to file an Answer or otherwise respond to the Complaint.

Enforcement served the Complaint and Second Notice of Complaint by first-class mail and FedEx on January 11, 2011, upon Vivenes de Villalon at her CRD address. Once again the first-class mailing was not returned. FedEx tracking documentation reflects four delivery attempts from January 14-24, 2011. The entry for the first attempt states “Incorrect address – Recipient moved.” The entry for the second attempt states “Incorrect address – Apartment/Suite number” and the final two entries state simply “Incorrect address.” The tracking record reflects “Package returned to shipper” on January 26, 2011.⁷ Vivenes de Villalon has not filed an Answer or otherwise responded to the Complaint.

By serving the Complaint, Notice of Complaint, and Second Notice of Complaint upon Vivenes de Villalon by a courier service that created a written confirmation of the attempts to deliver the Complaint at her CRD address, Enforcement complied with the requirements of Rule 9134 and provided her with constructive notice that the Complaint had been filed.⁸ By failing to file an Answer, Vivenes de Villalon defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), and for the reasons set forth below, the Default Motion is granted.⁹

⁶ Decl. ¶¶ 13-14; CX-2, pp. 13-14.

⁷ Decl. ¶¶ 15-18; CX-3, p. 14.

⁸ FINRA Procedural Rule 9134(a); *Dep’t of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent’s most recent CRD address) (*citing Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

⁹ The factual determinations in this Default Decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the Firley Declaration and the exhibits filed by Enforcement.

C. Vivenes de Villalon Failed to Respond in Any Manner to Requests for Documents and Information in Violation of FINRA Rules 2010 and 8210

In order to conduct an investigation into her sales of Stanford International Bank, Ltd. certificates of deposit, FINRA staff sent letters by first-class mail and FedEx to Vivenes de Villalon at her CRD address on October 7 and November 12, 2010, pursuant to FINRA Rule 8210, requesting her to provide information and documents.¹⁰ Neither of the first-class mailings was returned. FedEx tracking documentation reflects that neither FedEx mailing was delivered. Vivenes de Villalon did not respond in any manner to the requests.¹¹

For these reasons, as alleged in the Complaint and supported by the Firley Declaration, Enforcement has established, for the purposes of this Default Decision, that Vivenes de Villalon violated FINRA Rules 2010 and 8210.

III. Sanctions

For failure to respond to a request for information issued pursuant to Procedural Rule 8210, the Sanction Guidelines recommend a bar. If there are mitigating factors, the Guidelines recommend consideration of a suspension in any or all capacities for up to two years.¹² In this case, there are no mitigating factors. Vivenes de Villalon did not respond in any manner to requests for information properly issued by FINRA pursuant to Procedural Rule 8210.

Conduct Rule 2010 and Procedural Rule 8210 are “crucial components of [FINRA’s] examinations and investigations. ... Procedural Rule 8210 gives [FINRA] the right to require a member or person associated with a member to provide information, orally or in writing, in connection with an examination or investigation. The rule further states that no member or

¹⁰ Complaint ¶¶ 2, 5; Decl. ¶ 10.

¹¹ Decl. ¶ 11.

¹² *FINRA Sanction Guidelines* at 33 (2011).

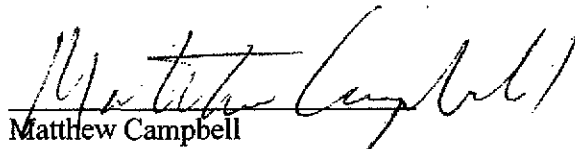
person shall fail to provide such information.”¹³ As for sanctions, “[t]he Guidelines treat a failure to respond ... as egregious.”¹⁴

For these reasons, Enforcement’s recommendation of a bar from the securities industry is appropriate for Vivenes de Villalon’s failure to respond to FINRA’s requests for information.

IV. Order

Respondent Evelyn de Jesus Vivenes de Villalon is barred from associating with any FINRA member firm in any capacity for violating FINRA Conduct Rule 2010 and Procedural Rule 8210 by failing to respond in any manner to requests for information issued to her pursuant to Rule 8210.

If this Decision becomes FINRA’s final disciplinary action, the bar shall be effective immediately.


Matthew Campbell
Hearing Officer

Copies to:

Evelyn de Jesus Vivenes de Villalon (*via FedEx and first-class mail*)
Sean W. Firley, Esq. (*via e-mail and first-class mail*)
Mark P. Dauer, Esq. (*via e-mail*)
David R. Sonnenberg, Esq. (*via e-mail*)

¹³ *Dep’t of Enforcement v. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at *35-36 (N.A.C. Dec. 18, 2006).

¹⁴ *Id.* at *41.

**FINRA
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DEPARTMENT OF ENFORCEMENT,

Complainant,

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EVELY DE JESUS VIVENES DE
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(CRD No. 2957650),

Respondent.

Disciplinary Proceeding
No. 2010025127601

Hearing Officer – TBD

COMPLAINT

The Department of Enforcement alleges:

Summary

1. Evelyn de Jesus Vivenes de Villalon (“Vivenes de Villalon”) failed to respond to requests for information and documents from FINRA staff, in violation of FINRA Rules 8210 and 2010.

Respondent and Jurisdiction

2. Vivenes de Villalon entered the securities industry in August of 1997 when she became associated with a FINRA member. Vivenes de Villalon holds Series 7 and 63 licences. Between January 1999 and December 2008, Vivenes de Villalon was associated with former FINRA member Stanford Group Company (“Stanford”). On December 22, 2008, Stanford filed a Form U5 for Vivenes de Villalon, terminating her association with the firm as of December 31,

2008. Vivenes de Villalon has not been associated with any FINRA member since her termination from Stanford.¹

3. Under Article V, Section 4 of FINRA's By-Laws, FINRA retains jurisdiction over Vivenes de Villalon until December 30, 2010, two years after she was last associated with Stanford.

**Cause of Action
Failure to Respond to Requests for Documents and Information
Violations of FINRA Rules 8210 and 2010**

4. The Department realleges and incorporates Paragraphs 1 through 3 by reference.

5. In order to investigate Vivenes de Villalon's sale of Stanford International Bank, Ltd. Certificates of Deposit, on October 7, 2010, FINRA staff ("Staff") sent a letter to Vivenes de Villalon, pursuant to FINRA Rule 8210, requesting that she provide various documents and information ("First Request").

6. The First Request was sent by first class mail and Federal Express to Vivenes de Villalon's residential address reflected in FINRA's Central Registration Depository ("CRD Address") and required her response on or before October 18, 2010.

7. The First Request sent by first class mail was not returned to FINRA.

8. The First Request sent by Federal Express was returned to FINRA. Online tracking records from www.fedex.com reflect the following delivery exception - "incorrect address - recipient moved." Federal Express records do not reflect a more current address for Vivenes de Villalon and the Staff is not aware of a more current address for Vivenes de Villalon.

9. To date, Vivenes de Villalon has not responded to the First Request.

¹ Stanford filed Form BDW on March 12, 2009.

10. On November 12, 2010, the Staff sent a second letter to Vivenes de Villalon, pursuant to FINRA Rule 8210, requesting that she provide the same documents and information that were requested in the First Request ("Second Request").

11. The Second Request was sent by first class mail and Federal Express to Vivenes de Villalon's CRD Address and required her response on or before November 26, 2010.

12. The Second Request sent by first class mail was not returned to FINRA.

13. The Second Request sent by Federal Express was returned to FINRA. Online tracking records from www.fedex.com reflect the following delivery exception - "incorrect address - recipient moved."

14. To date, Vivenes de Villalon has not responded to the Second Request.

15. By failing to respond to the First and Second Requests, Vivenes de Villalon violated FINRA Rules 8210 and 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; and
- B. order that 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

Dated: December 9, 2010



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