

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KEITH A. HALSNIK  
(CRD No. 5018189),

Respondent.

Disciplinary Proceeding  
No. ~~2011029300800~~

Hearing Officer—RLP

**DEFAULT DECISION**

October 11, 2013

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

**Appearances**

Jonathan Golomb, Esq., Rockville, MD, for the Department of Enforcement.

No appearance by or for Keith Halsnik.

**DECISION**

**I. Introduction**

FINRA staff began its investigation of Respondent Keith Halsnik following Woodbury Financial Services, Inc.'s filing of a Uniform Termination Notice for Securities Industry Registration ("Form U5") disclosing that Halsnik "was permitted to resign after engaging in trading practices inconsistent with Woodbury's policies."<sup>1</sup> After Halsnik failed to timely respond to requests for information made as part of that investigation and wholly failed to respond to additional requests for information and a request for testimony, Enforcement initiated

<sup>1</sup> Statement in Support of Motion for Entry of Default Decision at 1; Complainant's Exhibit ("CX")-2, at 2 (attached to Jonathan Golomb's Declaration in Support of Motion for Entry of Default Decision ("Decl.")).

this proceeding on July 3, 2013. The complaint's first cause of action charges that Halsnik failed to respond to Central Review Group requests for information, in violation of FINRA Rules 8210 and 2010. The second cause charges that Halsnik failed to respond to Enforcement's requests for information, in violation of Rules 8210 and 2010, and the third cause charges that Halsnik failed to appear for testimony, in violation of Rules 8210 and 2010.<sup>2</sup>

Halsnik did not answer or otherwise respond to the complaint. Consequently, on September 11, 2013, Enforcement filed a motion for entry of default decision, supported by the Declaration of Jonathan Golomb and four exhibits. Halsnik has not responded to the motion.<sup>3</sup> For the reasons set forth below, Enforcement's motion is granted.

## **II. Jurisdiction**

Halsnik joined the securities industry in 2005 and, on November 3, 2010, he became employed by Woodbury, registering through the firm with FINRA as a General Securities Representative.<sup>4</sup> On August 29, 2011, his registration was terminated after Woodbury filed the Form U5 reporting his resignation.<sup>5</sup> Although Halsnik is not currently registered or associated with a FINRA member, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the complaint (1) was filed within two years following the termination of Halsnik's registration, and (2) charges Halsnik with failing to

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<sup>2</sup> The complaint charges violations of Rule 2110. However, Rule 2110 was superseded by Rule 2010 in December 2008 as part of the first phase of the formulation of the new consolidated rulebook.

<sup>3</sup> Given that Halsnik is in default as detailed below, the factual determinations in this decision are based on allegations in the attached complaint, which are deemed admitted, as well as on the Golomb Declaration and its exhibits.

<sup>4</sup> Complaint ¶ 2; Decl. ¶ 2; CX-1, at 4.

<sup>5</sup> Complaint ¶ 2; Decl. ¶ 2; CX-1, at 4; CX-2, at 2.

respond to FINRA's requests for information and testimony made during the two-year period following that termination.<sup>6</sup>

### **III. Respondent's Default**

Enforcement staff served the notice of complaint and complaint on Halsnik on July 3, 2013, by certified mail, return receipt requested, addressed to Halsnik's residential address as reflected in the Central Registration Depository ("CRD address"). Although the return receipt was signed by someone whose last name appears to be Halsnik, Halsnik did not respond. Accordingly, on August 1, 2013, Enforcement staff served a second notice of complaint and complaint by certified mail addressed to Halsnik's CRD address. The mailing was returned as unclaimed and, to date, Halsnik has not filed an answer with the Office of Hearing Officers or otherwise responded to the complaint.<sup>7</sup>

Halsnik has received valid constructive notice of this proceeding and, therefore, the Hearing Officer concludes that he has defaulted by failing to answer the complaint.

### **IV. Violations**

#### **A. Failure to Respond to Central Review Group Requests for Information**

The first cause of action alleges that Halsnik violated Rules 8210 and 2010 by failing to respond to Central Review Group requests for information.

Following the receipt of the Form U5 reporting the termination of Halsnik's employment with Woodbury, the Central Review Group of FINRA's Office of Fraud Detection and Market Integrity began an inquiry to determine, among other things, whether Halsnik engaged in excessive trading in customer accounts. Accordingly, on October 3, 2011, the Central Review

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<sup>6</sup> See Article V, Sec. 4(a), FINRA By-Laws, available at [www.finra.org/Rules](http://www.finra.org/Rules) (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

<sup>7</sup> Decl. ¶¶ 4-9; CX-3; CX-4.

Group sent Halsnik a Rule 8210 request seeking: (1) a signed statement in response to allegations of excessive trading; (2) correspondence and memoranda relating to the allegations; and (3) information regarding any other complaints against him. The request directed Halsnik to provide this information no later than October 17, 2011. The request was sent by certified mail, among other means, to Halsnik's CRD address. Although Halsnik signed for the certified mailing on October 7, 2011, he failed to respond by October 17, 2011.<sup>8</sup>

Accordingly, on November 8, 2011, the Central Review Group sent Halsnik a second Rule 8210 request requiring him to provide the previously requested information by November 22, 2011. This request also was sent by certified mail to Halsnik's CRD address and, although Halsnik signed for the certified mailing on November 10, 2011, he failed to respond by November 22, 2011.<sup>9</sup>

Based on Halsnik's failure to respond, Enforcement sent Halsnik a notice of suspension pursuant to FINRA Rule 9552 on March 14, 2012. The notice stated that Halsnik would be suspended from associating with any FINRA-registered firm in any capacity unless he provided the information and documents requested before April 9, 2012. In response to the notice of suspension, Halsnik provided a letter dated March 29, 2012, stating that he had not engaged in excessive trading, asserting that he had no documents responsive to the request, and stating that there were no customer complaints against him.<sup>10</sup>

FINRA staff properly served Halsnik with requests for information and documents on October 3 and November 8, 2011. Despite receiving those requests, Halsnik did not respond for months and then only after FINRA staff issued a notice of suspension pursuant to Rule 9552. By

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<sup>8</sup> Complaint ¶¶ 5-8.

<sup>9</sup> Complaint ¶¶ 9-11.

<sup>10</sup> Complaint ¶¶ 12-13.

providing this untimely response to FINRA's requests, Halsnik violated FINRA Rule 8210. His violation of Rule 8210 also constitutes conduct inconsistent with just and equitable principles of trade, and therefore violates FINRA Rule 2010.<sup>11</sup>

**B. Failure to Respond to Additional Requests for Information**

The second cause of action alleges that Respondent failed to respond in any manner to additional requests for information, in violation of Rules 8210 and 2010.

On March 28, 2013, Enforcement sent Halsnik a Rule 8210 request seeking documents and information regarding mutual fund transactions in the accounts of two customers. The request was sent to Halsnik's CRD address by certified mail and, on April 1, 2013, Halsnik signed the return receipt. Halsnik nevertheless failed to respond to the request by the April 15, 2013 due date. Therefore, on April 18, 2013, Enforcement sent Halsnik a second request for documents and information, requiring him to immediately produce the documents requested on March 28, 2013. This request also was sent to Halsnik's CRD address by certified mail. Halsnik did not provide the requested documents or respond in any other manner to the requests.<sup>12</sup>

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

**C. Failure to Appear for Testimony**

On May 7, 2013, Enforcement sent Halsnik a letter, pursuant to Rule 8210, requiring him to appear for testimony on May 28, 2013 in Rockville, Maryland. The request was sent to Halsnik by certified mail to his CRD address and, despite signing the return receipt on May 14,

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<sup>11</sup> See *Joseph Ricupero*, Exchange Act Rel. No. 62891, 2010 SEC LEXIS 2988, at \*13, n.12 (Sept. 10, 2010), *aff'd*, 436 F. App'x 31 (2d Cir. 2011).

<sup>12</sup> Complaint ¶¶ 16-21.

2013, Halsnik failed to appear for testimony on May 28, 2013. He did not respond in any manner to the request for testimony.<sup>13</sup>

By failing to respond to the request for testimony, Halsnik violated Rules 8210 and 2010.

## **V. Sanctions**

Since FINRA lacks subpoena power, it must rely upon Rule 8210 "to police the activities of its members and associated persons."<sup>14</sup> The "failure to respond to . . . information requests frustrates [FINRA's] ability to detect misconduct, and such inability in turn threatens investors and markets . . . ."<sup>15</sup>

Under the sanction guideline applicable to violations of Rule 8210, if an individual does not respond in any manner, a bar should be standard. When an individual provides a partial but incomplete response, a bar is standard unless the person can demonstrate that the information provided substantially complied with all aspects of the request. The principal considerations specific to determining sanctions for a partial but incomplete response 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.<sup>16</sup>

Halsnik responded to one of FINRA's multiple requests for information and testimony in connection with its investigation of Halsnik's alleged excessive mutual fund trading. Accordingly, under the applicable sanction guideline, a bar is the appropriate sanction unless the

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<sup>13</sup> Complaint ¶¶ 24-27.

<sup>14</sup> *Joseph Patrick Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at \*9 (Sept. 14, 1998).

<sup>15</sup> *PAZ Sec., Inc.*, Exchange Act Rel. No. 57656, 2008 SEC LEXIS 820, at \*13 (Apr. 11, 2008), *petition denied*, 566 F.3d 1172 (D.C. Cir. 2009).

<sup>16</sup> FINRA Sanction Guidelines 33 (2011).

evidence shows that he substantially complied with all aspects of the requests.<sup>17</sup> The evidence shows otherwise. Halsnik entirely failed to respond to the 2013 document requests and he failed to appear for requested testimony.

Accordingly, the Hearing Officer finds that a bar from associating with any FINRA-registered firm in any capacity is the appropriate sanction for the violations alleged in Enforcement's complaint.

#### VI. Order

For violating FINRA Rules 8210 and 2010 by failing to timely and fully respond to initial requests for information, failing to respond to additional requests for information, and failing to provide requested testimony, Halsnik is barred from associating with any FINRA-registered firm in any capacity. The bar shall become effective immediately if this decision becomes FINRA's final disciplinary action.

Rada Lynn Potts

Rada Lynn Potts  
Hearing Officer

Copies to:

Keith A. Halsnik (*via overnight courier and first-class mail*)  
Jonathan Golomb, Esq. (*via email and first-class mail*)  
Jeffrey D. Pariser, Esq. (*via email*)

<sup>17</sup> The Hearing Officer has assessed a unitary sanction because the violations can be understood to be attributable to a common underlying cause. See *John Joseph Plunkett*, Exchange Act Rel. No. 69766, 2013 SEC LEXIS 1699 (June 14, 2013), remanded in part, *Kent M. Houston*, Exchange Act Rel. No. 66014, 2011 SEC LEXIS 4491 (Dec. 20, 2011).

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

**DEPARTMENT OF ENFORCEMENT,**

**Complainant,**

**v.**

**KEITH A. HALSNIK (CRD No. 5018189)**

**Respondent.**

**DISCIPLINARY PROCEEDING  
No. 2011029300801**

**RECEIVED**

**JUL 09 2013**

**FINRA OFFICE OF  
HEARING OFFICERS**

**COMPLAINT**

**The Department of Enforcement alleges:**

**SUMMARY**

1. Respondent Keith A. Halsnik repeatedly failed to provide information and failed to appear for testimony three times during the period October 2011 through May 2013. By so doing, he violated FINRA Rules 8210 and 2110.

**RESPONDENT AND JURISDICTION**

2. Respondent has been registered with four firms since entering the securities industry in August 2005. He has held General Securities Representative (Series 7) and Combined State Law (Series 66) licenses. His registration was terminated on August 29, 2011 when his employing firm, Woodbury Financial Services, Inc., permitted him to resign after it found that he engaged in trading practices inconsistent with the firm's policies.

3. Although Respondent 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 termination of Respondent's registration with Woodbury Financial Services,

Inc., namely, August 29, 2011; and (2) the Complaint charges him with failing to respond to FINRA requests for information and with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered with a FINRA member.

**FIRST CAUSE OF ACTION**  
***Failure to Respond to Central Review Group Requests for Information***  
**(Violation of FINRA Rules 8210 and 2110)**

4. The Department realleges and incorporates by reference paragraphs 1-3 above.
5. Following the receipt of a Form U5 disclosing the termination of Halsnik's registration, the Central Review Group of FINRA's Office of Fraud Detection and Market Integrity began an inquiry to determine, among other things, whether Halsnik engaged in excessive trading in customer accounts.
6. On October 3, 2011, the Central Review Group sent Halsnik a request for information pursuant to FINRA Rule 8210. Specifically, the request sought: (1) a signed statement in response to the allegations; (2) all correspondence and memoranda relating to the matter; and (3) information regarding any other complaints against him. It required him to provide this information no later than October 17, 2011.
7. The October 3, 2011 request was sent by regular first class mail and certified mail to Halsnik's address in the Central Registration Depository (CRD) system. Halsnik signed for the certified mailing on October 7, 2011, and the first class mailing was not returned to FINRA.
8. Halsnik failed to respond in any manner to the request by October 17, 2011.
9. On November 8, 2011, the Central Review Group sent Halsnik a second request pursuant to FINRA Rule 8210 requiring him to provide the previously-requested information by November 22, 2011.

10. The November 8, 2011 request was sent by regular first class mail and certified mail to Halsnik's CRD address. Halsnik signed for the certified mailing on November 10, 2011, and the first class mailing was not returned to FINRA.

11. Halsnik failed to respond in any manner to the request by November 22, 2011.

12. Based on Halsnik's failure to respond, on March 14, 2012, the Department of Enforcement sent Halsnik a notice of suspension pursuant to FINRA Rule 9552, with a suspension date of April 9, 2012.

13. In response to the notice of suspension, Halsnik provided a letter dated March 29, 2012 stating that he had not engaged in excessive trading, asserting that he had no documents responsive to the request, and stating that there were no customer complaints against him.

14. By failing to provide the requested information in response to the requests by the Central Review Group prior to the initiation of a FINRA Rule 9552 proceeding, Halsnik violated FINRA Rule 8210. He thereby failed to observe high standards of commercial honor and just and equitable principles of trade, thereby violating FINRA Rule 2010.

SECOND CAUSE OF ACTION  
*Failure to Respond to Enforcement Requests for Information*  
(Violation of FINRA Rules 8210 and 2110)

15. The Department realleges and incorporates by reference paragraphs 1-14 above.

16. On March 28, 2013, the Department of Enforcement sent Halsnik a request pursuant to FINRA Rule 8210 seeking documents and information regarding mutual fund transactions in the accounts of two customers.

17. The March 28, 2013 request was sent to Halsnik's CRD address by certified mail, with production due on April 15, 2013.

18. Halsnik signed the certified mail card on or about April 1, 2013.

19. On April 18, 2013, the Department of Enforcement sent Halsnik a second request for documents and information pursuant to Procedural Rule 8210 requiring him to immediately produce the documents requested on March 28, 2013. This request was sent to Halsnik's CRD address by certified mail.

20. The April 18, 2013 mailing was returned with handwritten notations on the envelope indicating that three notices were left at the delivery address.

21. As of the date of this Complaint, Halsnik has not provided the requested documents or responded in any other manner to the requests.

22. By failing to provide the requested information, Halsnik violated FINRA Rule 8210. He thereby failed to observe high standards of commercial honor and just and equitable principles of trade, thereby violating FINRA Rule 2010.

**THIRD CAUSE OF ACTION**  
***Failure to Appear for Testimony***  
**(Violation of FINRA Rules 8210 and 2110)**

23. The Department realleges and incorporates by reference paragraphs 1-22 above.

24. On May 7, 2013, the Department of Enforcement sent Halsnik a letter requiring him, pursuant to FINRA Rule 8210, to appear for testimony on May 28, 2013 in Rockville, Maryland.

25. The May 7, 2013 request was sent to Halsnik by certified mail to his CRD address.

26. Halsnik signed for the certified mailing on May 14, 2013.

27. Halsnik failed to appear for testimony on May 28, 2013. He has not responded in any other manner to the May 7, 2013 request for testimony.

28. By failing to appear for testimony, Halsnik violated FINRA Rule 8210. He thereby failed to observe high standards of commercial honor and just and equitable principles of trade, thereby violating FINRA Rule 2010.

### **RELIEF REQUESTED**

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed; and
- C. 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**

Date: July 3, 2013

  
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