

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RASHIMA THOMAS
(CRD No. 5046829),

Respondent.

Disciplinary Proceeding
No. 2011029913301

Hearing Officer – MC

DEFAULT DECISION

January 4, 2013

For failing to provide information upon request, in violation of FINRA Rules 8210 and 2010, Respondent Rashima Thomas is barred from associating with any FINRA member firm in any capacity.

Appearances

Allen D. Boyer, Senior Appellate Counsel, and Susan Light, Chief Counsel, for the Department of Enforcement.

No appearance by or on behalf of Respondent.

DECISION

I. Introduction

This is a simple case. FINRA learned of possible misconduct involving improper rebills of trades from customer accounts into the account of a registered representative of a member firm. To investigate, FINRA staff issued a request for information, pursuant to FINRA Rule 8210, to Respondent Rashima Thomas. Thomas did not respond. FINRA staff issued a second Rule 8210 request. Again, Thomas did not respond. On August 22, 2012, the Department of Enforcement issued a Complaint that charged Thomas with violating FINRA Rules 8210 and 2010 by failing to respond to the two requests for information. Enforcement served the Complaint, Notice of Complaint, and Second Notice of Complaint on Thomas at her residential

address listed in the Central Registration Depository (“CRD address”). When Thomas failed to file an Answer, Enforcement filed a Motion for Entry of Default Decision and Request for Sanction (“Default Motion”), supported by the Declaration of Allen D. Boyer and seven exhibits.¹

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

A FINRA member firm first employed Thomas in a non-registered capacity in 2005. When Thomas applied for registration in 2010, the firm filed a Form U4 on her behalf, and she became an associated person pursuant to Article 1, Section (rr) of FINRA’s By-Laws. The firm terminated her on September 15, 2010, after she failed to pass the Series 7 examination. Thereafter, she has not been associated with any FINRA member firm. Pursuant to Article V, Section 4 of FINRA’s By-Laws, FINRA retains jurisdiction over Thomas for the purposes of this disciplinary proceeding because Enforcement filed the Complaint less than two years after the firm terminated Thomas’s employment, and Enforcement charged Thomas with failing to respond to Rule 8210 requests for information issued within two years after the termination of her association with the firm.²

B. Default

On August 22, 2012, Enforcement served Thomas with the Complaint and Notice of Complaint by Express Mail on Thomas’s CRD address. The Postal Service returned the unopened envelope containing the Complaint and Notice of Complaint to Enforcement; Postal

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its Default Motion, which included the Declaration of Allen D. Boyer in Support of Motion for Entry of Default Decision and the exhibits attached to the Declaration. The Declaration will be referred to as “Decl.” and the exhibits as “CX-.”

² Complaint (“Compl.”) ¶¶ 2- 4. By the terms of Article 1, Section (rr) of the By-Laws, Thomas was (a) a natural person engaged in the investment banking or securities business, directly controlled by a member; and (b) a natural person who had applied for registration with the member firm.

Service records state that the mailing was unclaimed. On September 20, 2012, Enforcement served the Second Notice of Complaint, along with the Complaint and Notice of Complaint, by Express Mail upon Thomas at her CRD address. On October 3, 2012, the Postal Service returned the unopened mailing, and its records indicate it was unclaimed. Thomas has not filed an Answer or otherwise responded to the Complaint.³

By serving the Complaint, Notice of Complaint and Second Notice of Complaint by Express Mail upon Thomas at her CRD address, Enforcement complied with the requirements of Rule 9134 and provided Thomas with constructive notice that the Complaint had been filed. By not filing an Answer, Thomas defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), and for the reasons set forth below, the Default Motion is granted.

C. Thomas Failed to Provide Information

Enforcement conducted an investigation of possible improper cancelations and rebills of trades from customer accounts into the account of a registered representative at the FINRA member firm that employed Thomas.⁴ Seeking to determine whether Thomas may have engaged in the suspected misconduct, on April 5, 2012, Enforcement staff sent Thomas a request for information pursuant to FINRA Rule 8210. The request asked Thomas to provide a detailed written statement about transactions she canceled and rebilled to the representative's account, and to disclose whether she had accepted compensation from the registered representative for doing so. Enforcement sent the request by letter to Thomas' CRD address by certified and first-class mail. The certified mailing was returned unclaimed.⁵

³ Decl. ¶¶15-20. On both occasions, Enforcement mailed the Complaint and Notice of Complaint by first-class Priority Mail as well. These mailings were not returned.

⁴ Compl. ¶ 1.

⁵ Compl. ¶¶ 6-7.

When Thomas failed to respond by the deadline set in the information request letter, on June 12, 2012, Enforcement sent a second Rule 8210 request asking Thomas to provide the information. Enforcement sent the request to Thomas at her CRD address by Express Mail, first-class certified mail, and first-class mail. The Express Mail and certified mailing were returned unclaimed. Thomas did not respond to the request.⁶

FINRA Rule 8210 requires that a person associated with a FINRA member firm provide information relating to “any matter involved” in an investigation, and mandates that “[n]o member or person shall fail to provide information ... pursuant to this Rule.” Furthermore, Rule 8210 explicitly provides that a request for information made pursuant to Rule 8210 “shall be deemed received by the member or person to whom it is directed by mailing ... to ... the last known residential address of the person as reflected in the Central Registration Depository.” In this case, because Thomas is deemed to have received the two requests for information Enforcement sent to her CRD address, and has failed to respond to the requests, Thomas violated her obligation under Rule 8210 to provide the information Enforcement requested relating to its investigation. By doing so, Thomas also violated her obligation to conform her conduct to the high standards of commercial honor and just and equitable principles of trade imposed by Rule 2010.

III. Sanctions

FINRA’s Sanction Guidelines regard a bar as the standard appropriate sanction for failure to respond in any manner to a request from FINRA staff to provide information.⁷ This is because FINRA lacks subpoena power, and therefore must rely on Rule 8210 to fulfill its regulatory responsibility to police the activities of members and associated persons. “The rule is at the

⁶ Compl. ¶¶ 8-11.

⁷ *FINRA Sanction Guidelines* 33 (2011), available at www.finra.org/sanctionguidelines.

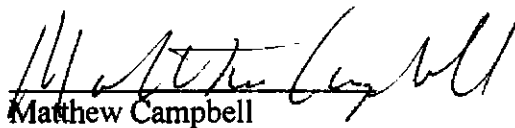
heart of the self-regulatory system for the securities industry” and imposes an “unequivocal responsibility” to comply with information requests.⁸

The first Principle Consideration in Determining Sanctions for a failure to respond to a request for information pursuant to Rule 8210 is the “[i]mportance of the information requested as viewed from FINRA’s perspective.”⁹ As set forth above, Enforcement requested Thomas provide information directly relating to its investigation into possible improper cancelation and rebills of customer transactions, and sought to determine whether Thomas had received compensation for facilitating such improper conduct. Her complete failure to respond, an abdication of her obligation to cooperate with FINRA’s requests for information, was “so fundamentally incompatible” with FINRA’s self-regulatory function that, in the absence of mitigating factors, the appropriate remedial sanction is a bar.¹⁰

IV. Conclusion

Respondent Rashima Thomas is barred for failing to respond to requests for information issued to her by FINRA in the course of an investigation, in violation of FINRA Rules 8210 and 2010.

If this default decision becomes FINRA’s final action in this disciplinary proceeding, the bar shall become effective immediately.


Matthew Campbell
Hearing Officer

⁸ *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008).

⁹ *Guidelines*, at 33.

¹⁰ *Joseph Ricupero*, Exchange Act Rel. No. 62891, 2010 SEC LEXIS 2988, at *21 (Sept. 10, 2010), *aff’d*, 436 F. App’x 31 (2d Cir. 2011)(citing *Paz Securities, Inc.*, Exchange Act Rel. No. 57656, 2008 SEC LEXIS 820, at *9 (Apr. 11, 2008) quoting *Charles C. Fawcett, IV*, Exchange Act Rel. No. 56770, 2007 SEC LEXIS 2598, at *21-22 (Nov. 8, 2007)).

Copies to:

Rashima Thomas (*via overnight courier and first-class mail*)
Allen D. Boyer, Esq. (*via electronic and first-class mail*)
Steven F. Korostoff, Esq. (*via electronic mail*)
Susan Light, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Rashima Thomas
CRD No. 5046829

Respondent

DISCIPLINARY PROCEEDING
No. 2011029913301

COMPLAINT

The Department of Enforcement ("Enforcement") alleges:

SUMMARY

1. Respondent Rashima Thomas, a former non-registered operations staffer with Wells Fargo Advisors, LLC ("Wells Fargo" or "the Firm"), failed to provide information requested by FINRA's Department of Enforcement, pursuant to FINRA Rule 8210, in connection with an investigation concerning potential improper rebills of trades from customer accounts into the account of a registered representative.

RESPONDENT AND JURISDICTION

2. Thomas became employed by FINRA registrant Wells Fargo in 2005, in a non-registered capacity. In her position with Wells Fargo, Thomas processed transactions in the Firm's operations hub office at 10900 Wilshire Boulevard, in Los Angeles, California. In 2010, Thomas applied for registration, and a Form U-4 was filed on her behalf on March 24, 2010. Thomas's employment with Wells Fargo was

terminated on September 15, 2010, following her failure to pass the Series 7 examination. Since her termination from the Firm, Thomas has not been associated with any FINRA registrant.

3. Pursuant to Article I, Section (rr) of the FINRA By-Laws, Thomas was an associated person of Wells Fargo, in that she was (a) a natural person engaged in the investment banking or securities business who was directly or indirectly controlled by a member; and (b) a natural person who had applied for registration with the Firm
4. Although Thomas is no longer associated with a FINRA member, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) this Complaint is being filed within two years after the effective termination of Thomas's employment with the Firm, namely September 15, 2010, and (2) the complaint charges Thomas with failure to respond to FINRA requests for information during the two-year period after the date upon which she ceased to be associated with a FINRA member.

CAUSE OF ACTION

Failure to Comply with Rule 8210 Request for Information (Violation of FINRA Rules 8210 and 2010)

5. Enforcement realleges and incorporates by reference Paragraphs 1 through 4 above.
6. On April 5, 2012, in connection with its investigation relating to possible misconduct by a registered representative employed by the Firm ("the RR") and by Thomas, among others, Enforcement staff sent Thomas a request for information, pursuant to FINRA Rule 8210. Enforcement requested that Thomas supply a detailed written statement concerning the possibility that she might have improperly canceled and

rebilled transactions from one or more customers to an account that the RR owned or controlled, and/or canceled and rebilled transactions between accounts controlled by customers. Enforcement also requested that Thomas's written statement address whether Thomas had accepted compensation from the RR for improperly canceling and rebilling transactions between customer accounts. Thomas's response was due by April 20, 2012.

7. Enforcement sent this letter to Thomas's address of record on the Central Registration Depository ("CRD") by first-class certified mail, with a copy by first-class mail. Subsequently, Enforcement staff received back the certified letter, with the receipt card attached, showing that delivery had been attempted but that the letter had been returned "unclaimed." The copy of the letter sent by first-class mail has not been returned.
8. To date, Enforcement staff has not received a response to this letter.
9. On June 12, 2012, Enforcement staff sent to Thomas a second request pursuant to FINRA Rule 8210. In this letter, Enforcement again requested that Thomas provide her detailed written statement as requested by the first letter. Enforcement sent this letter to Thomas's CRD address by first-class mail, first-class certified mail, and United States Postal Service Express Mail. Thomas's response to this letter was due by June 22, 2012.
10. The copy of the letter sent by first-class mail has not been returned. The copy sent by first-class certified mail has been returned, again "unclaimed." The copy sent by Express Mail was also returned unclaimed.
11. To date, Enforcement staff has not received a response to this letter.

12. FINRA Rule 8210 provides, in relevant part, that a person associated with a FINRA registrant is required to provide information with respect to any investigation conducted by FINRA staff and that no person may fail to provide information pursuant to this rule.
13. FINRA Rule 2010 provides, in relevant part, that a person associated with a FINRA registrant shall observe high standards of commercial honor and just and equitable principles of trade.
14. By failing to provide information requested by FINRA staff, Thomas violated FINRA Rules 8210 and 2010.

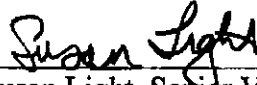
RELIEF REQUESTED

WHEREFORE, Enforcement 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 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: August 22, 2012


Susan Light, Senior VP and Chief Counsel
Steven F. Korostoff, Director, Enforcement
Center
Allen D. Boyer, Senior Appellate Counsel

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