

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Gaby Delisme
(CRD No. 4533627),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013036799902

COMPLAINT

The Department of Enforcement ("Enforcement") alleges:

SUMMARY

1. Gaby Delisme ("Delisme" or "Respondent"), a former registered representative at Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill" or the "Firm"), a FINRA-registered firm, was terminated by the Firm for misconduct surrounding an audit of the Firm's account review process, including backdating documents and certain misrepresentations she made to Firm personnel.

2. Enforcement initiated an investigation into this potential misconduct by Delisme and requested, on two occasions, pursuant to FINRA Rule 8210, that she appear and provide testimony. Delisme failed to comply with these requests, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Delisme entered the securities industry in May 2001 when she became employed in a non-registered capacity at a FINRA-registered broker dealer.

4. In May 2001, Delisme became employed with the Firm, and in October 2004 became associated with the Firm as a registered representative. While associated with the Firm, she was registered as a General Securities Representative (Series 7), a General Securities Principal (Series 24), and a General Securities Sales Supervisor (Series 9 and 10).

5. On April 30, 2013, Merrill filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") with FINRA, stating that Delisme's association with the Firm was terminated on March 31, 2013 for "loss of management's confidence due to her conduct in connection with active account review procedures and her failure to be forthcoming in discussions with management."

6. Although Respondent is no longer registered or associated with a FINRA regulated broker-dealer, 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) the Complaint was filed within two years after the effective date of termination of Respondent's registration with the Firm, namely, April 30, 2013, and (2) the Complaint charges her with failing to respond to repeated requests for on-the-record testimony during the two-year period after the date upon which she ceased to be registered or associated with a FINRA regulated broker-dealer.

FIRST CAUSE OF ACTION

Failure to Respond to FINRA Enforcement's Requests to Appear and Provide Testimony Violation of FINRA Rules 8210 and 2010

7. The Department realleges and incorporates by reference paragraphs 1 through 6 above.

8. FINRA Rule 8210(a) (1) requires a "member, person associated with a member, or any other person subject to FINRA's jurisdiction to provide information orally, in writing, or

electronically ... and to testify at a location specified by FINRA staff...with respect to any matter involved in the investigation, complaint, examination, or proceeding...”

9. FINRA Rule 2010 states that a member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

10. A violation of FINRA Rule 8210 is a violation of FINRA Rule 2010.

11. FINRA opened an investigation into Delisme on June 12, 2013 after receiving a Form U5 from Merrill. Enforcement sent Delisme a letter dated April 14, 2014 (“April 14th Letter”) requesting, pursuant to Rule 8210, that she appear and provide testimony regarding the information in the Form U5. In accordance with FINRA Rule 8210(d), the April 14th Letter was mailed to Delisme’s current address of record as reflected in the Central Registration Depository (“CRD”) by both certified mail, return receipt requested, and first class mail. The April 14th Letter requested that Delisme appear for testimony at FINRA’s offices at 200 Liberty Street, New York, New York on April 24, 2014.

12. The copy of the April 14th Letter sent via certified mail to Delisme’s CRD Address was returned to Enforcement on May 15, 2014 by the U.S. Postal Service with notations “Return to Sender—Unclaimed—Unable to Forward.” The copy of this letter sent by first class mail to Delisme’s CRD Address was not returned. Delisme failed to appear for testimony on April 24, 2014.

13. On April 28, 2014 (“April 28th Letter”) Enforcement sent a second letter to Delisme notifying her that she had not complied with the April 14th Letter and requested, pursuant to Rule 8210, that Delisme appear at FINRA’s offices at 200 Liberty Street, New York New York on May 8, 2014 to provide sworn testimony concerning the information in the Form U5 filed by the Firm and the related matters investigated by the Firm. The April 28th Letter,

together with a copy of Enforcement's April 14th Letter, was sent to Delisme's CRD Address by certified mail, return receipt requested, and by first class mail.

14. The April 28th Letter sent via certified mail to Delisme's CRD Address was delivered on May 2, 2014. The certified mail receipt that accompanied the April 28th Letter was returned to FINRA with the signature of "E. Delisme." The copy of the letter sent by first class mail to Delisme's CRD Address was not returned to Enforcement. Delisme failed to appear for testimony on May 8, 2014.

15. Enforcement has sent multiple requests for Delisme to appear and provide testimony pursuant to FINRA Rule 8210 to her CRD Address, as described above. To date, Delisme has failed to appear and provide sworn testimony to Enforcement as requested.

16. The acts, practices and conduct described above demonstrate Delisme's failure to cooperate with this investigation and constitute violations of FINRA Rules 8210 and 2010.

* * * * *

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 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:

3/24/15



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