

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

CLAY EMERSON HOFFMAN,
(CRD No. 4371162),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2015045207702

HEARING OFFICER:

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Since April 2016, Respondent Clay Emerson Hoffman has failed to respond to multiple requests by FINRA for information that he is obligated to provide pursuant to FINRA Rule 8210. As a result, Hoffman violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. At various times since 2001, Hoffman was associated with several FINRA member firms. During this time period, Hoffman obtained the Series 7 (General Securities Representative) and Series 26 (Investment Company and Variable Contracts Products Principal) FINRA licenses.
3. From May 6, 2013 through February 27, 2016, Hoffman was registered with FINRA through member firm Summit Brokerage Services, Inc. (Summit).

4. On March 1, 2016, Summit filed a Uniform Termination Notice for Securities Industry Registration (Form U5) with FINRA on behalf of Hoffman, stating that Hoffman voluntarily terminated his employment with Summit effective February 27, 2016.
5. Hoffman's FINRA registration was revoked pursuant to FINRA Rule 8320 as of the close of business on May 10, 2016 for failure to pay fines and/or costs in Matter Number 2014041921901.
6. Although Hoffman 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 Summit, February 27, 2016; and (2) the Complaint charges him with failing to respond to a request made pursuant to FINRA Rule 8210 during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

CAUSE OF ACTION
Failure to Provide Information to FINRA
(FINRA Rules 8210 and 2010)

7. The Department realleges and incorporates by reference paragraphs 1 through 6 above.
8. On April 8, 2016, FINRA Enforcement sent Hoffman a letter requesting that he provide documents and information for the purpose of an investigation pursuant to FINRA Rule 8210 (First Request Letter).
9. The First Request Letter informed Hoffman that he was obligated to provide the requested information pursuant to FINRA Rule 8210. The First Request Letter advised Hoffman that "[a] failure on your part to satisfy these obligations could expose you to sanctions, including a permanent bar from the securities industry."

10. The First Request Letter was sent pursuant to Rule 8210 by both First Class Mail and Certified Mail to Hoffman's address of record as reflected in the Central Registration Depository (CRD Address).
11. The First Request Letter sent by Certified Mail to Hoffman's CRD Address was returned by the U.S. Postal Service (USPS) and the envelope was marked, "Return to Sender, Unclaimed, Unable to Forward."
12. The First Request Letter sent by First Class Mail to Hoffman's CRD address was not returned by the USPS.
13. On April 26, 2016, FINRA Enforcement sent Hoffman a second letter requesting that he provide information for the purpose of an investigation pursuant to FINRA Rule 8210 (Second Request Letter).
14. The Second Request Letter informed Hoffman that he was obligated to provide the requested information pursuant to FINRA Rule 8210. The Second Request Letter advised Hoffman that "[a] failure on your part to satisfy these obligations could expose you to sanctions, including a permanent bar from the securities industry."
15. The Second Request Letter was sent pursuant to Rule 8210 by both First Class Mail and Certified Mail to Hoffman's CRD Address.
16. The Second Request Letter sent by Certified Mail to Hoffman's CRD Address was returned by the USPS and the envelope was marked, "Return to Sender, Unclaimed, Unable to Forward."
17. The Second Request Letter sent by First Class Mail to Hoffman's CRD address was not returned by the USPS.
18. Hoffman did not respond to either the First Request Letter or the Second Request Letter.

19. On June 10, 2016, FINRA Enforcement sent Hoffman a letter notifying him that, pursuant to FINRA Rule 9552, he would be suspended from association with any FINRA member firm effective July 5, 2016, because he failed to provide information requested by FINRA pursuant to FINRA Rule 8210 (Notice of Suspension). The Notice of Suspension advised Hoffman that “[i]f you take corrective action by complying with the requests before the Suspension Date, the suspension will not take effect. Nonetheless, you may still be subject to a disciplinary action for your failure to respond timely to a request for information under FINRA Rule 8210.”
20. The Notice of Suspension was sent by both First Class Mail and Certified Mail to Hoffman’s CRD Address.
21. The Notice of Suspension sent by Certified Mail to Hoffman’s CRD Address was returned by the USPS and the envelope was marked, “Return to Sender, Unclaimed, Unable to Forward.”
22. The Notice of Suspension sent by First Class Mail to Hoffman’s CRD address was not returned by the USPS.
23. Hoffman did not respond to the Notice of Suspension before the suspension date of July 5, 2016.
24. On July 5, 2016, FINRA Enforcement sent Hoffman a letter notifying him that as of that date he was suspended from associating with any FINRA member firm in any capacity. (Suspension Letter). The Suspension Letter advised Hoffman that “[u]nder FINRA Rule 9552(f), you may file a written Request for Termination of the Suspension on the grounds of full compliance with the Notice of Suspension.” It went on to state that “[i]f you fail

to request termination of the suspension within three (3) months of the date of the original Notice of Suspension, you will automatically be barred on September 13, 2016.”

25. The Suspension Letter was sent by both First Class and Certified Mail to Hoffman’s CRD Address, as well as to two other addresses associated with him.
26. The Suspension Letter sent by Certified Mail to Hoffman’s CRD Address was returned by the USPS and the envelope was marked, “Return to Sender, Unclaimed, Unable to Forward.” The Suspension Letters sent by Certified Mail to the other two addresses were not returned.
27. The Suspension Letters sent by First Class Mail were not returned by the USPS.
28. On September 13, 2016, Hoffman sent an email message to FINRA Enforcement requesting termination of his suspension, but failing to provide the information requested pursuant to FINRA Rule 8210.
29. On September 14, 2016, Hoffman sent an email message to FINRA Enforcement confirming that his CRD Address was his current residence.
30. On September 15, 2016, FINRA Enforcement sent Hoffman a letter by First Class and Certified Mail to his CRD Address and by email denying his request for termination of the suspension. FINRA Enforcement denied the request because Hoffman failed to comply with the Notice of Suspension by providing the information requested pursuant to FINRA Rule 8210, among other reasons. FINRA Enforcement advised Hoffman that “[a]s a result of this denial, you remain suspended under Rule 9552(f) until such time as you fully respond to all of the requested items.”
31. To date, Hoffman has provided none of the information requested pursuant to FINRA Rule 8210.

32. By failing to provide information requested pursuant to FINRA Rule 8210, Hoffman violated FINRA Rules 8210 and 2010.

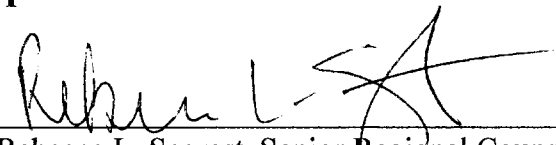
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Hoffman 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 Hoffman 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: November 1, 2016


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