

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Robert Blake Ellender
(CRD No. 2345532),

Respondent.

DISCIPLINARY PROCEEDING
No. 2015045846502

HEARING OFFICER -

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Robert Blake Ellender failed to timely respond to multiple requests for documents and information, and subsequently completely failed to respond to additional requests for information and documents, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Ellender first entered the securities industry in March 1993 when he became associated with a FINRA member. Between 1993 and 2013, Ellender was associated with several FINRA member firms. On November 25, 2013, Ellender became associated with FINRA member firm Invesco Distributors, Inc. Ellender remained associated with Invesco until June 15, 2015. On that day, Invesco filed a Uniform Termination Notice for Securities Industry Registration (Form U5), which disclosed that Ellender was terminated as of June 1, 2015.

3. Although Ellender 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 Ellender's registration with Invesco, namely, June 15, 2015; and (2) the Complaint charges Ellender with failing to timely respond to FINRA requests for information and documents and with failing to respond to additional requests during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

FIRST CAUSE OF ACTION

Failure to Timely Respond to Requests for Information and Documents Violations of FINRA Rules 8210 and 2010

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

5. On July 17, 2015, in order to investigate allegations disclosed in the Form U5, FINRA staff sent its first letter to Ellender, pursuant to FINRA Rule 8210, requesting that he provide information and documents regarding the expense reimbursements that he received and potential failures to disclose information on his Form U4 (First Request Letter).

6. The First Request Letter advised Ellender that he was "obligated to respond to this request fully, promptly, and without qualification" and that "[a]ny failure on your part to satisfy these obligations could expose you to sanctions, including a permanent bar from the securities industry."

7. The First Request Letter was sent by both Certified Mail and First Class Mail to Ellender's residential address, reflected in FINRA's Central Registration Depository (CRD

address) and required him to respond and provide the requested documents and information on or before July 31, 2015.

8. The First Request Letter sent by First Class Mail was not returned to FINRA staff by the United States Postal Service (USPS). According to the USPS, the First Request Letter sent by Certified Mail was not signed for, but it was not returned to FINRA staff by the USPS.

9. Ellender did not respond to the First Request Letter or provide the requested documents and information.

10. On August 3, 2015, the Staff sent a second request letter to Ellender (Second Request Letter), pursuant to FINRA Rule 8210, requesting that he provide the same documents and information that had been requested in the First Request Letter and included a copy of the First Request Letter. The Second Request Letter advised Ellender that "Failure to comply with this request may subject you to disciplinary action."

11. The Second Request Letter was sent by both Certified Mail and First Class Mail to Ellender's CRD address and required him to respond and provide the requested documents and information on or before August 17, 2015.

12. The Second Request Letter sent by First Class Mail was not returned to FINRA Staff by the USPS. The USPS returned the Second Request Letter sent by Certified Mail unclaimed to FINRA staff on September 11, 2015.

13. Ellender did not respond to the Second Request Letter or provide the requested documents and information.

14. On October 26, 2015, FINRA sent Ellender a Notice of Suspension, pursuant to FINRA Rule 9552, which enclosed copies of the First and Second Request Letters. The Notice

of Suspension informed Ellender that if he failed to take corrective action by complying with the requests by November 19, 2015, he would be suspended and if he failed to comply by January 29, 2016, he would be barred.

15. The Notice of Suspension was sent by both Certified Mail and First Class Mail to Ellender's CRD address and another address obtained from public records (the Second address). The Notice of Suspension sent by First Class Mail was not returned by the USPS. FINRA staff is unable to ascertain whether the Notice of Suspension sent by Certified Mail was returned to FINRA staff or not.

16. On November 19, 2015, FINRA sent Ellender a FINRA Rule 9552 Suspension from Association letter that notified him that as of that day he was suspended from associating with any FINRA member in any capacity.

17. The 9552 Suspension from Association letter was sent by both Certified Mail and First Class Mail to Ellender's CRD address and the Second address and again informed Ellender that if he failed to respond and fully comply with the requests, he would be barred on January 29, 2016.

18. On January 25, 2016, Ellender faxed a letter to FINRA staff providing a partial response to the First Request Letter, and admitting that, in November 2015, he received the 9552 Suspension from Association letter, which included the First and Second Request Letters.

19. On January 26, 2016 FINRA staff wrote to Ellender confirming a telephone conversation during which he was informed that he had still failed to fully comply with the First Request Letter because he failed to respond to questions 3, 5, and 6.

20. On January 28, 2016 Ellender provided additional documents and information in response to the First Request Letter, but Ellender failed to provide any supporting documents relating to certain judgments and liens, as required by the First Request Letter.

21. On February 2, 2016, FINRA lifted Ellender's suspension.

22. Ellender's failure to timely respond to the First and Second Request Letters impeded the staff's investigation.

23. By failing to timely respond to the First and Second Request Letters, Ellender violated FINRA Rules 8210 and 2010.

SECOND CAUSE OF ACTION

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

24. The Department realleges and incorporates by reference paragraphs 1 through 23 above.

25. On July 25, 2016 FINRA staff spoke with Ellender to follow-up regarding the outstanding documents relating to certain judgments and liens and specifically requested documents regarding each of the judgments and liens. FINRA staff sent an email to Ellender confirming the conversation.

26. On July 25, 2016 Ellender responded by email stating that although he lost the records of two older financial items, he could get information on more recent ones.

27. On July 26, 2016, FINRA staff again spoke with Ellender regarding the need for the records. He confirmed that his current address was his CRD address.

28. On July 27, 2016 the Staff sent a third letter, pursuant to FINRA Rule 8210, to Ellender at his CRD address (Third Request Letter). The Third Request Letter requested information regarding his failure to timely respond to the First and Second Request Letters and also requested documents regarding the more recent lien and judgment.

29. The Third Request Letter was sent by First Class Mail, Certified Mail, and email and required Ellender to respond to the requests and provide documents no later than August 10, 2016.

30. The USPS did not return the Third Request Letter that was sent by First Class Mail. According to the USPS, the Third Request Letter sent by Certified Mail was returned to FINRA unclaimed.

31. Ellender did not respond to the Third Request Letter or provide the requested documents and information.

32. On August 11, 2016, the Staff sent Ellender a fourth letter, pursuant to FINRA Rule 8210, requesting that he provide the same documents and information that had been requested in the Third Request Letter and enclosing a copy of the Third Request Letter (Fourth Request Letter). The Fourth Request Letter informed Ellender that if he failed to respond on or before August 26, 2016, he could be subject to the institution of an expedited or formal disciplinary proceeding leading to sanctions, including a bar from the securities industry.

33. The Fourth Request Letter was sent by email and by Certified Mail and First Class Mail to Ellender's CRD address.

34. The Fourth Request Letter sent by First Class Mail was not returned to FINRA by USPS. According to the USPS, the Fourth Request Letter sent by Certified Mail was delivered and signed for on August 16, 2016. The signature is illegible.

35. Ellender did not respond to the Fourth Request Letter or provide the requested documents and information.

36. Ellender's failure to respond to the Third and Fourth Request Letters impeded the Staff's ability to investigate whether the liens and judgments against Ellender should have been disclosed on his Form U4.

37. By wholly failing to respond to the Third and Fourth Request Letters, Ellender 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 Respondent(s) 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(s) 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: 11/30/2014

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