

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Shakela Carter (CRD No. 4321231),

Respondent.

DISCIPLINARY PROCEEDING
No. 20160492021-01

COMPLAINT

The Department of Enforcement (“Enforcement”) alleges:

SUMMARY

1. In 2016, Enforcement opened an investigation into whether Shakela Carter (“Respondent”), a former General Securities Representative with Merrill Lynch, Pierce, Fenner & Smith Incorporated (the “Firm”), a FINRA-regulated broker-dealer, participated in an undisclosed private securities transaction. In connection with the investigation, on multiple occasions, pursuant to FINRA Rule 8210, Enforcement requested that Respondent appear and provide testimony. Respondent failed to comply with those requests in violation of FINRA Rules 8210 and 2010.

RESPONDENT(S) AND JURISDICTION

2. Respondent entered the securities industry in December 2000 and has been associated with three FINRA-regulated broker-dealers, including the Firm. Respondent received her Series 7 (General Securities Representative or “GSR”) license in November 2009, and her Series 63 (Uniform Securities Agent State Law Examination) and Series 65 (Uniform Investment Adviser Law Examination) licenses in July 2009.

3. In January 2009, Respondent became associated with the Firm as a non-registered fingerprint person. In November 2009, Respondent became registered with the Firm as a GSR. On February 9, 2016, the Firm filed a Form U5 stating that Respondent had resigned on February 8, 2016.

4. On March 9, 2016, the Firm filed an Amended Form U5 stating that, at the time of her resignation, Respondent had been under internal review for fraud or wrongful taking of property, or violating investment-related statutes, regulations, rules, or industry standards of conduct. The Amended Form U5 further stated that the investigation concerned Respondent’s participation in clients’ outside business activities.

5. On April 22, 2016, the Firm filed another Amended Form U5 stating that it had concluded its internal review of Respondent on March 24, 2016, and that the review found that she had helped to facilitate a client’s outside investment arrangement via the preparation of due diligence on same. The Amended Form U5 further noted that Respondent was found to have assisted a client with an outside credit arrangement.

6. Respondent has not been associated with any FINRA-regulated broker-dealer since the Firm terminated her employment.

7. Although Respondent is no longer registered or 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) the Complaint was filed within two years after the filing of an Amended Form U5 on March 9, 2016, that disclosed Respondent may have engaged in conduct actionable under applicable statutes, rules or regulations; and (2) the Complaint charges her with failing to appear for on-the-record testimony during the two-year period after the filing of the Amended Form U5 on March 9, 2016.

FIRST CAUSE OF ACTION

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

8. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 7 above.

9. 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 . . ." FINRA Rule 8210(c) similarly provides that "[n]o member or person shall fail to provide information or testimony . . . pursuant to this Rule."

10. FINRA Rule 2010 states that "[a] member, in the conduct of [her] business, shall observe high standards of commercial honor and just and equitable principles of trade." A failure to comply with a request for testimony pursuant to FINRA Rule 8210 is also a violation of FINRA Rule 2010.

11. In June, 2016, Enforcement commenced an investigation into Respondent's conduct as described in the Forms U-5 filed by the Firm.

12. As part of its investigation, on November 27, 2017, Enforcement sent a letter to Respondent (the "November 27 Request") requesting, pursuant to FINRA Rule 8210, that she appear and provide sworn testimony on December 20, 2017 at a location to be determined. The November 27 Request was sent by Certified Mail Return Receipt Requested ("CMRR") and First Class Mail to Respondent's address of record in the Central Registration Depository ("CRD"), located in Florida (the "CRD Address"). Enforcement also sent a copy of the November 27 Request to Respondent via the e-mail address she had previously used to correspond with FINRA staff (the "Email Address"). Enforcement did not receive a CMRR delivery receipt for the November 27 Request. The copy of the November 27 Request sent via First Class Mail was not returned to Enforcement.

13. On November 29, 2017, Respondent e-mailed FINRA staff in response to the November 27 Request, from the Email Address, stating, in substance, that she was no longer interested in working in the securities industry and would not be testifying.

14. On December 14, 2017, Enforcement sent a letter to Respondent (the "December 14 Request") again requesting, pursuant to FINRA Rule 8210, that she appear and provide sworn testimony on December 20, 2017 at FINRA's offices in Boca Raton, FL. The December 14 Request was sent by CMRR and First Class Mail to Respondent's CRD Address. Enforcement also sent a copy of the December 14 Request to Respondent's Email Address. Enforcement did not receive a CMRR delivery receipt for the December 14 Request. The copies of the December 14 Request sent via First Class Mail and e-mail were not returned to Enforcement.

15. Respondent failed to appear and provide testimony on December 20, 2017.

16. On December 20, 2017, Enforcement sent another letter to Respondent (the “December 20 Request”) requesting, pursuant to FINRA Rule 8210, that she appear and provide sworn testimony on January 4, 2018 at FINRA’s offices in Boca Raton, FL. The December 20 Request was sent by CMRR and First Class Mail to Respondent’s CRD Address. Enforcement also sent a copy of the December 20 Request to Respondent’s Email Address. Enforcement did not receive a CMRR delivery receipt for the December 20 Request. The copies of the December 20 Request sent via First Class Mail and e-mail were not returned to Enforcement.

17. Respondent failed to appear and provide testimony on January 4, 2018.

18. Enforcement has sent multiple requests for Respondent to appear and provide testimony pursuant to FINRA Rule 8210 to her CRD Address and Email Address. To date, Respondent has failed to appear and provide testimony to Enforcement as requested.

19. By failing to appear and provide testimony as requested by Enforcement pursuant to FINRA Rule 8210, Respondent violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement 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: January 31, 2018



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