

BEFORE THE NATIONAL ADJUDICATORY COUNCIL
FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of

Department of Enforcement,

Complainant,

Gary James Lundgren
Panama City, Panama,

Respondent.

DECISION

Expedited Proceeding No. FPI150009

Dated: February 18, 2016

Respondent is suspended from associating with any FINRA member firm in any capacity for failing to provide information and documents in response to FINRA Rule 8210 requests issued to him by FINRA staff. The suspension will automatically convert to a bar if he fails to fully comply with the outstanding requests within 10 days after the date of this decision.

Appearances

For the Complainant: Sandra J. Harris, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Pro Se

Decision

In 2014, FINRA staff began investigating trading and money movement activity in the brokerage accounts of several entities affiliated with respondent, Gary James Lundgren, a resident of Panama. In connection with that investigation, FINRA staff sent Lundgren three requests for information and documents. After Lundgren partially responded to these requests, the staff sent him two more requests for information and documents. Lundgren did not provide the requested information and documents. Therefore, FINRA sent Lundgren a Notice of Suspension informing him that he would be suspended from associating with any FINRA member firm for failing to respond to the requests. Lundgren stayed the suspension by requesting a hearing. By agreement of the parties, in lieu of a hearing, the case was decided on the record, through written submissions. After reviewing the parties' submissions, the Hearing Panel prepared a proposed decision, which a subcommittee for the National Adjudicatory Council ("NAC") called for review pursuant to FINRA Rule 9559(q).

The NAC issues this written decision, which is the final FINRA action. We reject Lundgren's defenses and order him to comply fully with the outstanding requests for information. Lundgren is hereby suspended as of the date of this decision. The suspension shall automatically convert to a bar if Lundgren does not fully comply with the outstanding requests within 10 days after the date of this decision.

I. Findings of Fact

A. Gary James Lundgren

Gary James Lundgren, a resident of the Republic of Panama, entered the securities industry in 1981, when he became associated with FINRA member firm, Interpacific Investors Services, Inc. ("Interpacific" or the "Firm"). After Lundgren left Interpacific in 1981, he was associated with other FINRA member firms before again becoming associated with Interpacific from September 2000 through June 2015. During his most recent association with Interpacific, he was registered at various times as a Corporate Securities Representative, General Securities Principal, and Financial Operations Principal. Since leaving Interpacific, he has not been registered or associated with a FINRA member Firm. Lundgren is the majority owner of Interpacific. He also owns an interest in the Firm through Interpacific Investor Services, LLC ("Interpacific LLC"), of which he is the majority owner.

B. Lundgren Fails to Produce Information and Documents Requested by FINRA

1. The Three Initial Requests

As part of routine surveillance activities in 2014, FINRA staff reviewed internet blog postings by an individual named KR. Some of those postings referenced Lundgren and his affiliated entities. As a result, in late 2014 and early 2015, the staff began investigating Lundgren and sent him three requests for information and documents under FINRA Rule 8210. The staff issued the first request in November 2014, and Lundgren gave a partial response. Following up on the partial response, the staff sent Lundgren a second request on March 13, 2015. Lundgren did not provide the requested information. Therefore, on March 25, 2015, the staff sent him a third request seeking a response to the outstanding requests. Again, Lundgren only partially responded. During 2014 and 2015, FINRA staff also sent FINRA Rule 8210 requests to Interpacific and received documents in response.

According to FINRA staff, the documents produced by Interpacific and Lundgren showed significant movement of funds in various accounts. Consequently, the staff issued two additional FINRA Rule 8210 requests to Lundgren in May and June 2015. These two requests form the basis of this expedited proceeding.

2. The May and June 2015 Requests

On May 22, 2015, FINRA staff sent Lundgren, through his attorney,¹ a FINRA Rule 8210 request seeking (1) a list of all bank and brokerage accounts maintained by Lundgren or any entity he controlled, (2) copies of Interpacific LLC's monthly bank account statements and cancelled checks it issued exceeding \$100,000, (3) copies of Report of Foreign Bank and Financial Accounts ("FBAR") filings made by Lundgren to three U.S. government agencies, and (4) copies of Lundgren's personal U.S. tax returns. The request advised Lundgren that he was required to respond "fully, promptly, and without qualification." It also warned him that failing to comply could result in "sanctions, including expulsion from the securities industry." Finally, the letter requested that in either the event that any of the requested documents or items did not exist or that Lundgren otherwise was unable to produce them, he should provide a signed and dated statement detailing why he was unable to comply.

Lundgren received the request before the June 5, 2015 response deadline, but he did not provide any information or documents. Instead, Lundgren's lawyer emailed the staff on that date explaining that "[t]he sheer volume of documents make the task burdensome, impracticable [sic] and not designed to produce any result other than the continuing never-ending harassment of . . . Lundgren."

Because Lundgren provided no information or documents in response to the May 22 request, the FINRA staff sent a follow-up FINRA Rule 8210 request on June 9, 2015, seeking the same information and documents. The June 9 request, which the staff again sent to Lundgren's attorney, informed Lundgren that he had violated FINRA Rule 8210 by not providing the information and documents sought by the May 22 request. Further, the June 9 request directed Lundgren to comply with the May 22 request by June 23, 2015. It also warned him that if he did not comply, he "may be subject to the institution of an expedited or formal disciplinary proceeding leading to sanctions, including a bar from the securities industry." Although Lundgren received the June 9 request before the response date, he did not provide any information or documents. As a result, FINRA Department of Enforcement ("Enforcement") staff advised Lundgren's attorney that it intended to institute an expedited proceeding against Lundgren for failing to comply with the May and June 2015 FINRA Rule 8210 requests.

Nevertheless, Lundgren did not comply with the requests. Instead, his lawyer wrote to Enforcement on July 13, 2015, and, among other things, accused FINRA's Florida office of "working 'hand in hand' with two convicted felons . . . who have been personally attacking [Lundgren] on the internet" attempting to dissuade Lundgren from pursuing criminal charges in Panama against one of these persons and his wife. The letter did not explain why Lundgren could not comply with the requests. Also, unlike the lawyer's June 5 email to the staff, the July 13, 2015 letter did not claim that it would be unduly burdensome for Lundgren to produce the requested documents.

¹ At Lundgren's request, the staff sent the request to his lawyer.

C. FINRA Issues a Notice of Suspension to Lundgren

Because Lundgren did not provide the information and documents requested in the May and June 2015 FINRA Rule 8210 letters, Enforcement staff issued Lundgren a Notice of Suspension dated July 17, 2015 (the “Notice”).² The Notice informed Lundgren that he would be suspended from associating with any FINRA member firm in any capacity on August 10, 2015, unless, before then, he requested a hearing or complied with the outstanding requests. The Notice further informed Lundgren that any hearing request must “state with specificity any and all defenses.” The Notice also advised him that if he failed to request termination of the suspension within three months of July 17, 2015, he would automatically be barred from association with any FINRA member in any capacity on October 20, 2015. Enforcement sent the Notice to Lundgren’s lawyer, and Lundgren received it before the suspension was scheduled to take effect.

D. Lundgren Requests a Hearing and Asserts Defenses

Lundgren timely requested a hearing on August 7, 2015, thereby staying his suspension. In his hearing request, Lundgren raised certain defenses. First, he re-asserted his previous accusation that FINRA staff “appears to be working directly with, hand in hand, or under the control of, two convicted felons [MF and KR]” who, he claimed, posted false information about him on the internet to dissuade him “from pursuing criminal charges in Panama against [MF] and his wife for attempted mortgage fraud.” Second, Lundgren asserted that “[t]he sheer volume of documents [sought by FINRA staff] make the task burdensome, impracticable [sic] and not designed to produce any result other than [his] continuing never-ending harassment.” Lundgren also asserted that he had a clean disciplinary record, that he was minimally involved with Interpacific for the past 17 years, and that he recently had resigned from Interpacific and sold his interest in Interpacific LLC. The hearing request represented that it contained “all defenses to the suspension.”

E. By Agreement of the Parties, the Hearing Officer Orders the Case Decided on Written Submissions

A telephonic hearing was scheduled to begin on September 8, 2015. On August 31, 2015, Lundgren filed a motion requesting that this proceeding “be dismissed, modified, withdrawn and/or stayed pending an investigation of the FINRA surveillance Boca Raton Florida office for possible irregularities” (the “Motion”). In his Motion, Lundgren submits that FINRA seeks “hundreds of bank account records that are third-party documents, documents containing third-party information unrelated to securities transactions, and documents that are illegal to produce in their respective country of judicial jurisdiction [i.e. Panama].” Also, he asserts that FINRA seeks documents that are not in his possession custody or control, are irrelevant, and are located in a country where FINRA lacks jurisdiction. He also reiterated his claim that the

² FINRA Rule 9552(a) provides that, if an associated person fails to provide any information, material, or testimony requested pursuant to the FINRA rules, FINRA may provide written notice specifying the nature of the failure and stating that a failure to take corrective action within 21 days after service of the notice will result in a suspension.

requests are burdensome and unwarranted, and that FINRA has improperly partnered with, and come under the influence of, two “career criminal felons” who have posted negative information about him on the internet.

The next day, the Hearing Officer held a telephonic pre-hearing conference at which the parties jointly requested that the case be decided based on their written submissions.³ The Hearing Officer granted the request and issued a briefing schedule recommended by the parties governing both the Motion and the merits of the case. Briefing on the Motion concluded on September 24, 2015, and briefing on the merits concluded on October 16, 2015. Pursuant to FINRA Rule 9559(q), a review subcommittee for the NAC called the matter for review on January 5, 2016.

II. Conclusions of Law

A. The Motion to Dismiss is Denied

As an initial matter, we deny the Motion for two reasons. First, the rules governing these proceedings provide a streamlined, expedited adjudicatory process. That process begins with a request for hearing in which the respondent must assert his defenses, and it culminates in a prompt hearing at which the respondent presents those defenses. *See* FINRA Rule 9559(f)(4) (requiring that the hearing be held within 30 days after a respondent files his hearing request). *Cf.* FINRA Rule 9559(d)(6) (authorizing the Hearing Officer, for good cause shown or with the parties’ consent, to extend or shorten any time limits prescribed for this proceeding). The rules do not provide an alternative, pre-hearing means for adjudicating defenses. Specifically, the rules do not authorize dispositive motions, such as motions to dismiss, motions for summary disposition, or similar procedural devices. Indeed, allowing such motions would inject an increased level of procedural complexity inconsistent with the expedited nature of these proceedings.

Second, Lundgren has not provided good cause to stay this proceeding pending an investigation into “possible [staff] irregularities” regarding its investigation of him. Lundgren has made only vague and unsupported accusations of staff misconduct, which are unsupported by the record. We, therefore, deny the Motion.

B. The Applicable Law

In this case, FINRA staff requested information and documents from Lundgren in accordance with FINRA Rule 8210. FINRA Rule 8210 authorizes the staff, with respect to any matter involved in an investigation, complaint, examination or proceeding, to (1) request

³ At the conference, the Hearing Officer disqualified Lundgren’s attorney from representing Lundgren in this proceeding because the attorney stated that he was only licensed to practice law in the Republic of Panama. Contrary to Lundgren’s assertions, the requirement of FINRA Rule 9141 that any attorney representing a person before a FINRA adjudicator must be an attorney admitted to practice in the United States cannot be waived by Enforcement’s failure to challenge the attorney’s qualifications.

information from associated persons and (2) inspect their books, records, and accounts that are in their possession, custody or control. FINRA Rule 8210(a)(1), (2). These requirements are “unequivocal” and “unqualified,” and compliance is mandatory. FINRA Rule 8210(c) (“No member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule.”). *See also CMG Inst. Trading, LLC*, No. 2008012026601, 2010 FINRA Discip. LEXIS 22, at *13 (NAC Oct. 7, 2010) (holding that firms and associated persons must cooperate fully in providing requested information); *see also Dep’t of Enforcement v. North Woodward Fin. Corp.*, Complaint No. 2010021303301, 2014 FINRA Discip. LEXIS 32, at *19 (NASD NAC July 21, 2014), *aff’d*, Exchange Act Release No. 74913, 2015 SEC LEXIS 1867 (May 8, 2015), *appeal docketed*, Case No. 15-3729 (6th Cir. July 7, 2015) (citing *Dep’t of Enforcement v. Asensio Brokerage Servs., Inc.*, Complaint No. CAF030067, 2006 NASD Discip. LEXIS 20, at *44 (NAC July 28, 2006), *aff’d*, Exchange Act Release No. 62315, 2010 SEC LEXIS 2014 (June 17, 2010)); *accord Blair C. Mielke*, Exchange Act Release No. 75981, 2015 SEC LEXIS 3927, at *54 (Sept. 24, 2015) (quoting *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008), *aff’d*, 347 F. App’x 692 (2d Cir. 2009)) (holding that “the language of Rule 8210 is ‘unequivocal’ regarding an associated person’s responsibility to cooperate with FINRA information requests.”).

The importance of FINRA Rule 8210 is paramount. According to the Commission, FINRA Rule 8210 “is the principal means by which FINRA obtains information from member firms and associated persons in order to detect and address industry misconduct.” *Mielke*, 2015 SEC LEXIS 3927, at *55 n.46; *see also Dep’t of Enforcement v. Jarkas*, Complaint No. 2009017899801, 2015 FINRA Discip. LEXIS 50, at *46 (FINRA NAC Oct. 5, 2015), *appeal filed*, (Nov. 10, 2015) (“Rule 8210 is the primary means by which FINRA investigators obtain the information necessary to conduct investigations and determine compliance with FINRA rules”). Thus, the Commission considers the Rule “essential to FINRA’s ability to investigate possible misconduct by its members and associated persons.” *Mielke*, 2015 SEC LEXIS 3927, at *54. This is especially true given that FINRA lacks subpoena power. *See Charles C. Fawcett, IV*, Exchange Act Release No. 56770, 2007 SEC LEXIS 2598, at *23 (Nov. 8, 2007). As a result, failing to provide information “frustrates [FINRA’s] ability to detect misconduct, and such inability in turn threatens investors and markets.” *North Woodward Fin.*, 2014 FINRA Discip. LEXIS 32, at *20 (citing *PAZ Sec., Inc.*, Exchange Act Release No. 57656, 2008 SEC LEXIS 820, at *13 (Apr. 11, 2008)).

C. Lundgren’s Defenses Are Without Merit

Lundgren does not dispute that FINRA had jurisdiction to issue the May and June 2015 requests. Nor does he dispute that he received them. Instead, he offers various justifications for his failure to comply, several of which he did not assert in his hearing request. We begin with the defenses Lundgren raised in his hearing request.

1. The Defenses Asserted in the Hearing Request

First, Lundgren argues that he was not required to comply with the FINRA Rule 8210 requests because the FINRA staff issued them without vetting the persons who posted unfavorable information about him on the internet. He also claims that these individuals have a

vendetta against him and that they conspired with the staff in its investigation. This argument does not constitute a valid defense. The Commission has made it clear that “associated persons ‘may not ignore NASD inquiries; nor take it upon themselves to determine whether information is material to an NASD investigation of their conduct.’” *Mielke*, 2015 SEC LEXIS 3927, at *56 n.48 (quoting *CMG Inst. Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *21 (Jan. 30, 2009)). Stated another way, “recipients of Rule 8210 requests cannot second-guess whether compliance with a particular request is necessary.” *David K. Evansen*, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080, at *18-19 & n.19 (July 27, 2015) (citing *Gregory Evan Goldstein*, Exchange Act Release No. 71970, 2014 SEC LEXIS 1350, at *16 (Apr. 17, 2014)). Whether information and documents are needed in an investigation “is a determination made by the [FINRA] staff” and FINRA Rule 8210 “does not require that [FINRA] explain its reasons for making the information request or justify the relevance of any particular request.” *Morton Bruce Erenstein*, Exchange Act Release No. 56768, 2007 SEC LEXIS 2596, at *12-13 (Nov. 8, 2007), *aff’d*, 316 F. App’x 865 (11th Cir. 2008); *Evansen*, 2015 SEC LEXIS 3080, at *18. Nor may an associated person set conditions on his compliance. *Evansen*, 2015 SEC LEXIS 3080, at *18.

FINRA Rule 8210 authorizes FINRA staff to request information and documents in connection with an investigation. Here, the staff determined that it needed certain information and documents in connection with its investigation of Lundgren and his affiliated entities. Lundgren has not shown that Enforcement instituted the investigation for an improper purpose.⁴ Further, he may not question the relevance of the information sought, set pre-conditions on his compliance, or question the need to comply. The fact that Lundgren has never been charged with a securities violation other than a bookkeeping violation and was minimally involved with Interpacific over the past 17 years does not impede FINRA’s ability to seek information. Accordingly, we reject this defense.

Lundgren also contends that the requests are overly broad and burdensome. In his submissions, however, he failed to offer any evidence demonstrating that it would be excessively burdensome for him to comply. Instead, he simply asserts, with respect to one category, that the staff seeks “hundreds of bank account records for [2009–2015] in numerous countries (mostly all located in storage) [and] was so far over the line that it was designed knowingly that respondent couldn’t comply.” This response, without more, does not demonstrate that this request is overly burdensome. It is also inconsistent with Lundgren’s later representations that no such documents ever existed. *See infra* Part III.C.2. Moreover, Lundgren’s argument does not address why the remaining requests (seeking a list of all bank and brokerage accounts maintained by Lundgren or any entity he controlled, copies of FBAR filings, and copies of Lundgren’s personal U.S. tax returns) are likewise overly broad and burdensome.

Lundgren also asserts that he resigned from Interpacific, sold his interest in Interpacific LLC, and Interpacific has filed a Continuing Member Application seeking to transfer the firm’s security business to another FINRA member firm. Be that as it may, FINRA retains jurisdiction

⁴ In fact, FINRA staff specifically denies that he or his supervisor communicated with the two persons who Lundgren claims conspired with FINRA against him. Lundgren did not discredit that denial.

over Lundgren for the purposes of this proceeding, and he is obligated to comply fully with FINRA Rule 8210. Moreover, the requests specifically seek information and documents during the time period he was registered with Interpacific.

We conclude that Lundgren's defenses do not excuse his failure to comply with the May and June 2015 FINRA Rule 8210 requests.

2. Lundgren's Additional Defenses

In his written submissions, Lundgren asserts additional defenses that he did not raise in his hearing request. FINRA Rule 9552(c), however, precludes him from doing so. This Rule requires that a hearing request "set forth with specificity any and all defenses to the FINRA action." And, in his hearing request, Lundgren represented that it contained all defenses to the suspension. Nevertheless, we considered each of these additional defenses, and we find them meritless with respect to the outstanding requests.

Lundgren represents that for the period January 1, 2009, through April 30, 2015, Interpacific LLC had no bank accounts. Therefore, he claims, he had no monthly bank accounts or any checks to produce. In its filings, Enforcement acknowledges that "Respondent cannot produce documents if they do not exist." Thus, although Lundgren did not assert this defense in his hearing request, we do not find him liable for his failure to comply with the request seeking monthly bank account statements and certain checks for bank accounts in the name of Interpacific LLC.⁵ The other requests (seeking a list of all bank and brokerage accounts maintained by Lundgren or any entity he controlled, copies of FBAR filings, and copies of Lundgren's personal U.S. tax returns), however, remain at issue.

Lundgren argues that he does not have in his possession, custody, or control any responsive documents or information that he may legally produce to FINRA. More specifically, he argues that producing the documents would violate Article 89 and Article 93 of the Commercial Code of the Republic of Panama.⁶ We find Lundgren failed to show that Article 89 and Article 93 prohibit the production of the requested documents or otherwise excuse Lundgren's failure to comply with the FINRA Rule 8210 requests.

Article 89 prohibits a "merchant" from "furnishing a copy or reproductions of the contents of his books, correspondence and other documents in any action not duly authorized by a competent legal authority of the Republic of Panama." Violators of this article "shall be subject to the fines stipulated by law for such disclosure." Article 93 provides that "[c]ommercial books, correspondence and other documents required by law in the normal course

⁵ We note, however, Lundgren's assertion is inconsistent with other statements he previously made in this proceeding. Specifically, Lundgren represented that the bank records exist, were in numerous countries, and were largely in storage, such that they were overly burdensome to produce.

⁶ Lundgren previously raised this argument in connection with earlier FINRA Rule 8210 requests that are not the subject of this proceeding.

of operations shall be kept in the corporation's place of business." The provision further provides that the documents, upon penalty of law, cannot be removed "outside of Panama." Lundgren has not provided any support for his convoluted interpretations of the provisions. Specifically, Lundgren has not shown that the outstanding requested documents—i.e., the FBAR filings and his personal tax returns—are documents of a "merchant" or a corporation, such that their production would be prohibited by these provisions. The remaining outstanding request asks Lundgren to provide information, not documents, and thus also would not be prohibited by the provisions.

Lundgren argues that he "replied to each and every document request inquiry to the extent that the Respondent had documents in his possession, custody or control."⁷ The remaining document requests at issue seek FBAR filings submitted by Lundgren and Lundgren's personal tax returns. Considering the personal nature of the requested documents, which Lundgren likely did possess at one time, Lundgren's general statement is insufficient to explain why the requested documents are not in his possession, custody, or control, or what efforts he made to obtain them. *See CMG Inst. Trading*, 2009 SEC LEXIS 215, at *22 (rejecting applicant's claim that he fully responded to NASD's Rule 8210 request for his firm's foreign exchange dealer account statements where applicant "merely stated" that he could not access the online account and did not explain his efforts to obtain the requested information or why, as an account holder, he did not possess hard copies of the statements).

Lundgren also argues that the FINRA Rule 8210 requests are seeking third-party documents and documents containing third-party information unrelated to securities transactions. But pursuant to FINRA Rule 8210, FINRA has the right to inspect the books, records, and accounts of any associated person with respect to any matter involved in the investigation, complaint, examination, or proceeding. FINRA Rule 8210 may be used "[f]or the purpose of an investigation, complaint, examination, or proceeding authorized by the FINRA By-Laws or rules," including investigating an associated person's outside business activities. *Dep't of Enforcement v. CMG Inst. Trading, LLC*, Complaint No. E8A20050252, 2008 FINRA Discip. LEXIS 3, at *26-27 (FINRA NAC Feb. 20, 2008), *aff'd*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215 (Jan. 30, 2009) (affirming FINRA's authority to request that an associated person produce documents of a non-member third-party entity that he owned and controlled and that was the indirect source of a \$3 million deposit into an account of the person's member firm); *accord Goldstein*, 2014 SEC LEXIS 1350, at *22 (affirming FINRA's authority to request information related to an associated person's outside consulting business). Thus, the fact that any requests are seeking third-party information or documents does not alleviate Lundgren's obligation under FINRA Rule 8210 to provide the information and documents.

In connection to his contention that the FINRA Rule 8210 requests are overly broad, Lundgren also makes general arguments that FINRA is a state actor. To the extent that Lundgren is asserting a constitutional challenge to the requests, it is well established that constitutional protections are inapplicable to FINRA proceedings. *See, e.g., Lugar v.*

⁷ Lundgren asserts, and Enforcement does not dispute, that Lundgren previously provided the accounting records of Interpacific for the years 2011-2015 in response to earlier FINRA Rule 8210 requests.

Edmondson Oil Co., 457 U.S. 922, 936-37 (1982) (noting that the Fifth and Fourteenth Amendments to the United States Constitution protect individuals only against violation of constitutional rights by the government, not private actors); *Desiderio v. NASD*, 191 F.3d 198, 206 (2d Cir. 1999) (finding that NASD is not a state actor, and constitutional requirements generally do not apply to it).

Finally, Lundgren asserts that he cannot defend this proceeding because Enforcement did not give him the documents pertaining to this action contained in the files of FINRA's Boca Raton Office. Enforcement, however, is not required to give Lundgren all documents pertaining to this proceeding. Rather, under FINRA Rule 9559(h), Enforcement must provide to the respondent "all documents that were considered in issuing the notice unless a document meets the criteria of Rule 9251(b)(1)(A), (B), (C) or (b)(2)." And the record establishes that Enforcement indeed provided these documents to Lundgren.

In sum, we conclude that Lundgren violated FINRA Rule 8210 by not producing the information and documents sought by the FINRA staff in the May and June 2015 FINRA Rule 8210 requests.

III. Sanctions

The Hearing Panel has broad discretion to impose an appropriate sanction in this expedited proceeding. FINRA Rule 9559(n) provides that the Hearing Panel "may approve, modify or withdraw any and all sanctions, requirements, restrictions or limitations imposed by the notice and . . . may also impose any other fitting sanction . . . and may impose costs." The NAC, in turn, through its call for review, may affirm, modify or reverse the proposed decision of the Hearing Panel, impose any fitting sanction, and impose costs. FINRA Rule 9559(q). We hereby suspend Lundgren as of the date of this decision. The suspension shall automatically convert to a bar if Lundgren does not fully comply with the outstanding requests within 10 days after the date of this decision. In imposing these sanctions, we took into account the nature of this proceeding and the facts and circumstances in to this case.

Expedited proceedings under FINRA Rule 9552 generally involve straightforward issues and limited defenses. The streamlined procedures and specified, shortened timeframe under the rules support the swift resolution of these matters. *Notice of Filing of Proposed Rule Change*, Exchange Release 48887, 2003 SEC LEXIS 2919, at *16 (Dec. 5, 2003), *adopted by Order Approving Proposed Rule Change*, Exchange Release No. 49380, 2004 SEC LEXIS 552 (Mar. 2004). Although Lundgren was able to stay a suspension by requesting a hearing, he has received full consideration of his defenses and further delays are unwarranted.

These requests for information and documents were issued more than eight months ago and remain unanswered, frustrating FINRA's investigation about the significant movement of funds in various accounts of Lundgren and Interpacific. Despite the well settled jurisprudence that respondents must fully and promptly cooperate with FINRA and cannot second guess FINRA information requests, Lundgren made no meaningful attempt to comply with the May and June 2015 FINRA Rule 8210 requests. Moreover, during this proceeding, Lundgren offered

conflicting defenses and failed to defend his inability and unwillingness to produce the information.

Although we have the authority to impose a bar immediately—and some reason to, given the facts of this proceeding—we choose to start with a short suspension to encourage Lundgren to provide the requested information. We impose a 10-day suspension as of the date of this decision. The suspension shall automatically convert to a bar, however, if Lundgren does not comply fully with the outstanding May and June 2015 FINRA Rule 8210 requests within 10 days after the date of this decision.

IV. Conclusion

Lundgren is suspended from associating with any FINRA member firm in any capacity for failing to provide information and documents pursuant to FINRA Rule 8210. The suspension shall take effect as of the date of this decision. The suspension shall automatically convert to a bar if Lundgren does not comply fully with the May and June 2015 FINRA Rule 8210 requests within 10 days after the date of this decision.

On Behalf of the National Adjudicatory Council,

Marcia E. Asquith,
Senior Vice President and Corporate Secretary