

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

STEVEN BARBOT
(CRD No. 5647121),

Respondent.

Expedited Proceeding
No. FPI120012

STAR No. 20110282052

Hearing Officer – SNB

HEARING PANEL DECISION

December 6, 2012

For completely failing to respond to requests for information and documents made pursuant to FINRA Rule 8210, Respondent is suspended from FINRA membership, and, if he has not completely responded to the requests for information and documents within 30 business days after the date of this Decision, Respondent’s suspension will automatically convert to a bar. Respondent is also assessed costs.

Appearances

Kathleen S. Lynch, Esq., appeared for the Department of Enforcement.

Steven Barbot appeared on his own behalf.

DECISION

I. Background

On July 9, 2012, the Department of Enforcement issued a Notice of Suspension to Steven Barbot (“Respondent”) pursuant to FINRA Rule 9552 for failing to provide information in response to five requests pursuant to FINRA Procedural Rule 8210. CX-1.¹ The

¹ In this Decision, “CX” refers to Complainant’s exhibits and “Tr.” refers to the transcript of the hearing. CX-1-CX-6 were admitted into evidence. Tr. 87-88.

Notice informed Respondent that the suspension would take effect on August 2, 2012, unless he responded to the requests for information.

On July 30, 2012, in response to the Notice, Respondent filed a request for a hearing, which stayed the suspension and initiated this expedited proceeding. Pursuant to Rule 9559, a Hearing Panel convened and held the hearing by telephone on October 4, 2012.

After careful consideration of the evidence, the Hearing Panel concludes that Respondent failed to respond to requests for information by FINRA Staff (“Staff”). Accordingly, the Hearing Panel imposes the sanctions detailed below.

II. Findings of Fact

On June 1, 2011, Respondent’s former firm, Multi-Financial Securities Corporation (the “Firm”), filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”), reporting that Respondent’s employment was terminated for failing to disclose an outside business activity. CX-6; Tr. 25-26. Staff investigated this disclosure. On July 15, 2011, Staff issued a request for information and documents pursuant to Rule 8210. The deadline for a response was July 29, 2011. CX-1. On July 29, 2011, Respondent provided a narrative response but did not provide any documents. Respondent stated that he did not believe any documents needed to be produced. CX-2; Tr. 33-34.

On the same day, Staff issued a second request for documents and information, specifically requesting (1) bank statements from Barbot Venture Capital Corporation (“BVCC”) and the identity of individuals with signing authority on the BVCC bank account; (2) a list of private investments involving BVCC, including the amount raised in each investment and the names of the investors, copies of investment applications, and filings with state regulators; and (3) an explanation of whether Respondent provided written notice to his firm of his involvement with BVCC, along with supporting documentation. CX-1; Tr. 38. Respondent failed to provide

any of the requested information or documents. The request was sent by first-class and certified mail to Respondent's CRD address. Respondent did not respond to the request by August 5, 2011, the due date set forth in the request. CX-1; Tr. 40.

On August 8, August 16, September 27, and October 17, 2011, Staff sent letters to Respondent at his CRD address reiterating its Rule 8210 request for the same documents and information. The requests were again sent by first-class and certified mail. Again, Respondent did not provide the requested documents and information. CX-1; Tr. 41-45.

Staff also attempted to contact Respondent by telephone, but found that Respondent's telephone had been disconnected. Tr. 44-45. On October 5, 2011, Staff received a letter from Respondent indicating that he had retained counsel. In that letter, Respondent requested additional time to respond, asserted a claim of attorney-client privilege, and stated that his attorney would be contacting Staff about its request "in the next week or so." CX-2; Tr. 52.

When Staff did not hear from Respondent's counsel, it attempted to contact the counsel and left a voicemail message. The counsel left a return voicemail indicating that while he had spoken with Respondent, he had not been retained to represent him. Tr. 54.

Having received no response to its repeated requests, Staff issued a Notice of Suspension to Respondent on July 9, 2012. The Notice stated that Respondent would be suspended effective August 2, 2012, for failing to respond to Staff requests for information. CX-1.

On July 30, 2012, Respondent requested a hearing. CX-3. In the request, Respondent asserted that he was cooperating with the United States Attorney, the Federal Bureau of Investigation, and the Securities and Exchange Commission in investigations relating to Staff's requests. Respondent claimed that the United States Attorney's office informed him that information given to any party may hamper its investigation. *Id.* When Staff followed up with

the people identified by Respondent at these agencies, each denied instructing Respondent not to respond to Staff's requests for information. Tr. 62-66.

At the hearing, Respondent acknowledged that he had not responded to Staff's July 29, 2011 request for documents and information and the subsequent letters reiterating that request. Tr. 85-86. He offered no evidence that he had been instructed by any governmental agency not to respond to Staff's requests. At the hearing, he testified that he has now received confirmation that it is permissible for him to provide information to FINRA. Tr. 84, 95-96. Although Respondent also testified that he is now willing to respond to Staff's requests, he has not done so.

III. Sanctions

There is no dispute that Respondent completely failed to respond to Staff's Rule 8210 request dated July 29, 2011, as well as Staff's August 8, August 16, September 27, and October 17, 2011 letters reiterating that request. The Notice of Suspension informed Respondent that, pursuant to FINRA Rule 9552, he would be suspended from associating with any FINRA member in any capacity for failing to respond to requests for information and documents issued pursuant to Rule 8210, unless Respondent took corrective action by complying with the requests. He did not comply. At the hearing, Respondent admitted that he has not responded to Staff's Rule 8210 requests for information and documents. Having failed to present a defense, Respondent is no longer entitled to the stay of the effective date of the suspension resulting from his request for a hearing.²

Accordingly, Respondent is suspended from FINRA membership. In addition, pursuant to the Hearing Panel's authority under Rule 9559(n) to modify sanctions imposed by the Notice,

² The Notice also informed Respondent that even if he complied with the Rule 8210 requests, he may still be subject to a disciplinary action for his failure to respond timely to a request for information under FINRA Rule 8210.

if Respondent has not completely responded to Staff's requests for information and documents within 30 business days after the date of this Decision, Respondent's suspension will automatically convert to a bar. Respondent is also assessed costs.

IV. Conclusion

Respondent is suspended from associating with any FINRA member firm in any capacity for completely failing to respond to Staff's requests for information and documents. The suspension shall remain in effect until Respondent fully complies with the requests for information and documents. If Respondent has not fully complied with Staff's Rule 8210 requests within 30 business days after the date of this decision, Respondent's suspension will automatically convert to a bar. In addition, Respondent is ordered to pay costs of \$1,493.25, which include an administrative cost of \$750 and the cost of the hearing transcript. The costs shall be due as of a date established by FINRA.³

HEARING PANEL

By: Sara Nelson Bloom
Hearing Officer

Copies to:

Steven Barbot (via electronic and first-class mail)
Kathleen S. Lynch, Esq. (via electronic and first-class mail)
David R. Sonnenberg, Esq. (via electronic mail)

³ The Hearing Panel has considered and rejects without discussion all other arguments of the parties.