

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SHLOMI S. EPLBOIM
(CRD No. 2417002),

Respondent.

Disciplinary Proceeding
No. 2011025674101

Hearing Officer – AWL

HEARING PANEL DECISION

March 12, 2013

Respondent is barred from associating with any member in any capacity for failing to comply with FINRA’s request to provide information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010.

Appearances

For Complainant: Sean W. Firley, Esq. and Christina L. Stanland, Esq.

For Respondent: Shlomi S. Eplboim, *pro se*.

DECISION

I. Introduction

Respondent Shlomi S. Eplboim was formerly a broker with Brookstone Securities, Inc. In 2011, in connection with an examination of Brookstone Securities, FINRA staff sought documents from Eplboim regarding his business activities involving two entities he created and managed, Epancco Real Estate, LLC and Epancco Holdings, LLC (collectively referred to as “Epancco”).¹ FINRA staff sent him three requests for documents, each pursuant to FINRA Rule 8210. Eplboim received the requests but failed to provide the requested documents, which led the

¹ Throughout this proceeding the parties used the term Epancco when referring to one or both of the entities. This decision likewise does not distinguish between the Epancco entities.

Department of Enforcement to file the Complaint initiating this disciplinary proceeding.

Enforcement filed the Complaint on March 14, 2012, and Eplboim filed his Answer on April 10, 2012, requesting a hearing. The hearing was conducted on November 15, 2102, in Los Angeles, California.²

The Hearing Panel determined that Eplboim violated FINRA Rules 8210 and 2010 and that a bar from association with any FINRA member in any capacity was the appropriate sanction.

II. Findings of Fact

A. Shlomi S. Eplboim and His Outside Business Activities with Epancco

Eplboim entered the securities industry in 1993 and thereafter worked with several FINRA member firms before he joined Brookstone in March 2009.³ He was registered as a General Securities Representative with Brookstone from March 23, 2009, to August 19, 2011.⁴ Eplboim has not associated with any other member since he left Brookstone.⁵

Eplboim formed Epancco Real Estate in 2004 before he joined Brookstone. At some point after Eplboim joined Brookstone, he disclosed and Brookstone approved his outside business activities with Epancco.⁶ Under a heightened supervision plan that Brookstone put in place for Eplboim, Brookstone required that monthly he provide copies of Epancco's and his

² In this decision, "Tr." refers to the transcript of the hearing; "CX" to Enforcement's exhibits; and "RX" to Respondent's exhibits.

³ CX-1, at 3-4.

⁴ *Id.* at 4.

⁵ The Hearing Panel has jurisdiction in this matter although Eplboim's last registration with FINRA terminated on August 19, 2011. Enforcement filed the Complaint within two years following the termination of his registration with FINRA. Further, the Complaint charges Eplboim with failing to respond to FINRA's requests for information made during the two-year period following the termination of his registration. *See* Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/rules.

⁶ Tr. 172.

own account statements.⁷ As a result, FINRA staff obtained some of Eplboim's and Ebandco's bank statements directly from Brookstone.⁸

Eplboim formed Ebandco Real Estate to invest in rental housing.⁹ Eplboim estimated that approximately 20 of his clients and friends invested in Ebandco Real Estate, which owned low-income rental income properties in Tennessee.¹⁰ Eplboim managed Ebandco Real Estate.¹¹

In May 2011, both Ebandco entities filed for bankruptcy to protect their assets and properties from foreclosure.¹² In October 2011, Eplboim filed for personal bankruptcy because he and his wife had guaranteed a large loan for Ebandco.¹³ By the time of the hearing, Ebandco had emerged from bankruptcy protection,¹⁴ but Eplboim's personal bankruptcy was still pending.¹⁵

B. FINRA Investigates Eplboim and Ebandco

FINRA's Los Angeles office previously reviewed Eplboim's activities with Ebandco for the period of 2007 through March 2009.¹⁶ In connection with that review, FINRA staff sought

⁷ Tr. 55, 70.

⁸ CX-8 (chart reflecting documents Brookstone produced and those Eplboim failed to produce).

⁹ Tr. 15-16, 137.

¹⁰ Tr. 15-16, 59, 83, 137.

¹¹ Tr. 16, 83, 87.

¹² Tr. 134-35, 171.

¹³ Tr. 135-36; CX-5, at 3.

¹⁴ Tr. 183.

¹⁵ Tr. 135. Eplboim stated in his opening statement that he was still "under Chapter 11 bankruptcy probation." Tr. 10. However, the automatic stay is not an issue in this proceeding since the filing of a bankruptcy petition does not operate as a stay of "the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self-regulatory organization to enforce such organization's regulatory power." 11 U.S.C. § 362(b)(25).

¹⁶ Tr. 15-16.

and obtained information from Eplboim regarding his outside business activities.¹⁷ In particular, FINRA staff was concerned with Eplboim's financial transactions with Ebandco.¹⁸

In 2011, FINRA's Florida office determined to exam Eplboim's dealings with Ebandco because it had been two years since the previous examination had been conducted by the Los Angeles office.¹⁹ In addition, during its preliminary review, the Florida staff found that a complaint posted on the Internet site called the "Ripoff Report," claimed that Ebandco and Eplboim had taken \$100,000 from an investor.²⁰ The Florida staff decided to examine Eplboim's financial activities with Ebandco as part of its examination covering May 2010 through August 31, 2011.²¹

C. FINRA's Document Requests and Eplboim's Failure to Respond

John Robinson, FINRA's lead examiner for the 2011 Florida examination, had several conversations with the staff in FINRA's Los Angeles office who had conducted the 2009 examination to ensure that the new examination would not overlap with the earlier examination.²² In addition, Robinson looked over the documents in FINRA's possession from the prior examination.²³ On September 9, 2011, pursuant to Rule 8210, Robinson sent a document request to Eplboim seeking documents regarding Eplboim's Brookstone branch office and his outside

¹⁷ Tr. 16-17, 131.

¹⁸ Tr. 77-78. The 2009 examination was still open as of the date of the hearing, with the Los Angeles staff looking at potential borrowing and co-mingling of Ebandco funds by Eplboim.

¹⁹ Tr. 15.

²⁰ Tr. 75.

²¹ Tr. 21.

²² Tr. 17.

²³ *Id.*

business activities with Epancco for the period September 2010 through August 2011.²⁴ The Rule 8210 request listed 17 categories of documents that Eplboim was to provide. These documents included copies of Epancco's securities accounts; copies of Eplboim's and Epancco's bank account statements for specific bank accounts at four banks; supporting documents related to Eplboim's and Epancco's bank statements; copies of monthly and quarterly customer statements representing investor account balances in Epancco and its related investments; Epancco's general ledger and audited financial statements; lists of the investors in Epancco; and copies of Eplboim's emails.²⁵ Robinson wanted the documents so he could trace the flow of money into and out of Epancco and determine if Eplboim had engaged in misconduct.²⁶

Eplboim received the Rule 8210 request and requested additional time to respond. FINRA staff granted his request and extended the deadline from September 23, 2011, to October 7, 2011.²⁷ Eplboim, however, failed to provide any documents by the extended deadline.²⁸

Because Eplboim did not supply the documentation sought in the September 9, 2011 letter, Robinson sent Eplboim two follow-up requests on October 11 and October 25, 2011.²⁹ FINRA warned Eplboim that his failure to provide the requested documents could result in disciplinary action.³⁰ Eplboim responded to the October 11 letter by email on October 17, 2011,

²⁴ CX-2, at 1; Tr. 21-22. FINRA's 8210 requests sought documents from Eplboim regarding both Epancco Holdings LLC and Epancco Real Estate LLC, although some of the requests just listed "Epancco" or "Epancco and its related entities." *See, e.g.* CX-2, at 2 (requests 9-16).

²⁵ CX-2.

²⁶ Tr. 15-17, 49.

²⁷ Tr. 24; CX-2, at 1, CX-3, at 4.

²⁸ Tr. 24.

²⁹ CX-4; CX-6.

³⁰ *Id.* FINRA explicitly warned Eplboim in its October 25 letter that his failure to produce the requested documentation by November 2, 2011 could expose him to sanctions, including a permanent bar from the securities industry. CX-6, at 4.

but he did not produce any documents.³¹ For many of the specific requests, Eplboim stated that the documents had been produced in the past to FINRA's Los Angeles office and that Eplboim did not have the resources, time, or money to handle the requests.³² As to the request that he produce copies of his emails, Eplboim objected on the grounds that the email address "contains privileged [sic], private, and intimate personal info."³³ Robinson responded by reminding Eplboim that the documents FINRA obtained during the 2009 examination covered a different period than the pending requests and that Eplboim was obligated to provide all of the requested documents.³⁴ Brookstone's Chief Compliance Officer similarly advised Eplboim to provide the requested documents.³⁵ Despite these admonitions, Eplboim failed to provide any of the requested documents.³⁶

FINRA staff's October 25 letter did more than reiterate the previous two requests. To assist Eplboim in complying with the outstanding requests,³⁷ FINRA staff clarified that his responses and objections to the items in the original request letter were insufficient.³⁸ For example, FINRA staff advised Eplboim in response to several of the requested items that he

³¹ Tr. 27; CX-5.

³² CX-5, at 2; Tr. 28-29.

³³ CX-5, at 2. Eplboim also advised that he had filed for personal bankruptcy on October 10, 2011.

³⁴ Tr. 29, 110.

³⁵ Tr. 158; RX-2.

³⁶ Tr. 48, 162-163.

³⁷ CX-6. FINRA staff dropped Items 1, 2, 4, and 10 from the original request letter dated September 9, 2011, which items requested (i) a list of discretionary accounts, (ii) Brookstone's general ledger for Eplboim's branch office, (iii) a list of offerings Eplboim and others were involved in, and (iv) copies of customer statements representing investor account balances in Eplboim and any of its related entities. In addition, Robinson testified at the hearing that he considered Eplboim to have satisfied Items 1-4. Tr. 124.

³⁸ CX-6, at 1. Robinson testified at the hearing that Eplboim's response may have provided answers but not the requested documents and was substantially incomplete. Tr. 103, 112, 126-27.

could not ignore the document requests because he believed FINRA had obtained the documents from another source or because it would be costly and time consuming to comply with the requests. In addition, FINRA staff explained that it was entitled to copies of Eplboim's emails sent and received from his personal email account because he had used that email address to conduct his securities business.³⁹ Eplboim was directed to provide all of the documents for the outstanding requests no later than the close of business on November 2, 2011.⁴⁰

Upon receiving the October 25 letter, Eplboim sent FINRA staff an email stating that he would be unable to meet the November 2 deadline because he was in Tennessee and would not return to California until late November.⁴¹ He further stated that he had contacted his bank about FINRA's request for copies of bank statements and that the bank told Eplboim that it would charge a fee⁴² and take up to four weeks to get the documents.⁴³ As an alternative, Eplboim directed the staff to ask Brookstone for some of the documents to save time and money.⁴⁴ Eplboim failed to produce any of the requested documents.⁴⁵ Although Eplboim said he would obtain an estimate of what the banks would charge to supply the statements and supporting documentation, he never did.⁴⁶

³⁹ CX-6, at 4.

⁴⁰ *Id.*

⁴¹ CX-3, at 3.

⁴² Eplboim later learned that Bank of America charged \$3 per item copied and Chase charged \$4. Tr. 85, 155; RX-1, at 2.

⁴³ Tr. 33; CX-3, at 3.

⁴⁴ CX-3, at 3.

⁴⁵ Tr. 117, 126-27. FINRA still was trying to get the documents as late as September 21, 2012. *See* CX-11.

⁴⁶ Tr. 36, 117-18. FINRA requested a cost estimate because Eplboim had filed for bankruptcy. Tr. 113.

In emails dated October 26 and 27, 2011, FINRA staff told Eplboim that he was obligated to produce the requested documents no later than November 2, 2011.⁴⁷ Nonetheless, FINRA staff offered to “entertain alternative measures in order to get the documents and information.”⁴⁸ FINRA staff extended this offer in response to a telephone call with Eplboim during which Eplboim made the point that Eplboim did not have the resources to get the requested documents.⁴⁹

Instead of providing a complete cost estimate, Eplboim demanded that FINRA staff circle the items it was missing on the incomplete set of statements in FINRA’s possession in order to figure out the cost of providing the missing information.⁵⁰ Eplboim’s demand did not address the missing bank statements at all.⁵¹ FINRA staff rejected this piecemeal approach because the staff needed a complete set of account statements and the requested supporting documentation in order to review the source and trace the funds.⁵²

Eplboim adamantly refused to provide a signed third-party authorization, contending that he would not give FINRA “free range” over the accounts and that FINRA was not entitled to the bank statements.⁵³ In Eplboim’s view, FINRA staff was acting like “a gestapo.”⁵⁴

After Enforcement filed the Complaint instituting this proceeding, Eplboim and FINRA staff had further communications regarding the outstanding document requests and the cost of

⁴⁷ CX-3, at 1-2.

⁴⁸ CX-3, at 1.

⁴⁹ Tr. 36.

⁵⁰ Tr. 155.

⁵¹ The chart at CX-8 detailed the vast number of missing statements.

⁵² Tr. 48-49, 116-17.

⁵³ Tr. 44-45, 86-89, 96, 169, 175.

⁵⁴ Tr. 141.

obtaining the bank statements. Robinson sent an email to Eplboim on August 30, 2012, again requesting that Eplboim supply a cost estimate and asking if he would authorize FINRA to obtain the statements directly from the bank.⁵⁵ Eplboim, however, never provided either the cost estimate or the requested authorization.

In summary, Brookstone provided FINRA with copies of monthly account statements⁵⁶ for Ebandco Holdings, Ebandco Real Estate, and Eplboim for January through June 2011. Brookstone also provided FINRA with copies of Ebandco Holdings securities account statements for October, November, and December 2010. Eplboim provided these statements to Brookstone pursuant to the requirements of his heightened supervision plan. Eplboim did not provide any documents to FINRA in response to the three Rule 8210 requests. Specifically, Eplboim failed to provide (1) any bank account statements for Ebandco Holdings, Ebandco Real Estate, and himself for the months of September through December 2010, and for the months of July and August 2011, (2) Ebandco Real Estate's bank account statements for its account at Wilson Bank & Trust for the months of September 2010 through August 2011, (3) Ebandco Holdings' securities account statements for the months of September 2010, January through March 2011, and July and August 2011.⁵⁷ Additionally, Eplboim failed to provide any of the requested supporting documentation for items over \$1000 on the account statements.⁵⁸

⁵⁵ CX-7, at 1; Tr. 41-42.

⁵⁶ CX-8; Tr. 38-39. Four of the monthly account statements were missing pages.

⁵⁷ CX-8. FINRA staff requested copies of Ebandco Real Estate's securities account statements for the months of September 2010 through August 2011. However, Enforcement did not present evidence that Ebandco Real Estate had any securities accounts. Therefore, the Hearing Panel did not consider this allegation in reaching its decision.

⁵⁸ Tr. 161-67.

III. Conclusions of Law

A. FINRA Rule 8210

FINRA Rule 8210(a)(1) provides in relevant part that FINRA staff shall have the right to require a member, associated person, or other person subject to FINRA's jurisdiction "to provide information orally, in writing, or electronically" or to testify under oath or affirmation "with respect to any matter involved in the investigation, complaint, examination, or proceeding." Rule 8210(a)(2) provides that FINRA staff shall have the right to "inspect and copy the books, records, and accounts of such member or person with respect to any matter involved in the investigation." The Rule applies to anyone subject to FINRA's jurisdiction, including members and associated persons.⁵⁹ Rule 8210 unequivocally grants FINRA broad authority to obtain information concerning an associated person's securities-related business ventures.⁶⁰

FINRA Rule 8210(c) requires compliance with any Rule 8210 request. Rule 8210(c) prohibits any member or person from failing to provide information or testimony or access to books, records, or accounts pursuant to a Rule 8210 inquiry. This provision contains no exceptions. The Securities and Exchange Commission ("SEC") describes the Rule as "'unequivocal' with respect to an associated person's obligation to cooperate with [FINRA's] information requests."⁶¹ Associated persons may not second-guess or determine whether the information requested is material to the investigation.⁶²

⁵⁹ Under FINRA Rule 0140, associated persons are subject to all rules applicable to FINRA firms.

⁶⁰ *Dep't of Enforcement v. Fawcett*, No. C9A040024, 2007 NASD Discip. LEXIS 2, at *11-12 (NAC Jan. 8, 2007), *aff'd*, Exchange Act Rel. No. 56770, 2007 SEC LEXIS 2598 (Nov. 8, 2007).

⁶¹ *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008), *pet. denied*, 347 Fed. App'x 692 (2d Cir. 2009).

⁶² *Dennis A. Pearson, Jr.*, Exchange Act Rel. No. 54913, 2006 SEC LEXIS 2871, at *17 (Dec. 11, 2006); *CMG Inst. Trading, LLC*, Exchange Act Rel. No. 593225, 2009 SEC LEXIS 215, at *21 (Jan. 30, 2009) ("associated persons may not ignore [FINRA] inquiries; nor take it upon themselves to determine whether the information is material to [a FINRA] investigation of their conduct").

Rule 8210 enables FINRA to conduct meaningful examinations and investigations in order to detect misconduct and protect the public interest. FINRA relies heavily on Rule 8210, and the SEC has “repeatedly stressed the importance of cooperation in [FINRA’s] investigations ... [and] emphasized that the failure to provide information undermines [FINRA’s] ability to carry out its self-regulatory functions.”⁶³ Indeed, Rule 8210 is widely accepted as an important tool for investigating potential wrongdoing primarily because FINRA lacks subpoena authority and has limited power to compel the production of evidence from its members.⁶⁴ A failure to provide information requested pursuant to Rule 8210 is regarded as “a serious violation because it subverts [FINRA’s] ability to execute its regulatory responsibilities”⁶⁵ and “threatens investors and markets.”⁶⁶ FINRA is therefore entitled to the “full and prompt cooperation” of all persons subject to its jurisdiction when investigative requests are made by members of its staff.⁶⁷

B. Eplboim’s Failure to Provide Documents

In September 2011, FINRA staff had questions concerning Eplboim’s financial dealings with his disclosed outside businesses, Ebandco Real Estate and Ebandco Holdings, including whether he had misappropriated any investor funds. FINRA staff therefore sent Eplboim a Rule 8210 request for documents. The examiner requested documents concerning Eplboim’s and

⁶³ *Joseph Patrick Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998) (internal citations omitted).

⁶⁴ See *John B. Busacca, III*, Exchange Act Rel. No. 63312, 2010 SEC LEXIS 3787, at *57 n.67 (Nov. 12, 2010), *appeal docketed*, No. 10-15918 (11th Cir. Dec. 23, 2010).

⁶⁵ *Joseph Ricupero*, Exchange Act Rel. No. 62891, 2010 SEC LEXIS 2988, at *20-21 (Sept. 10, 2010) (“Without subpoena power, NASD must rely on Rule 8210 to obtain information from its members necessary to carry out its investigations and fulfill its regulatory mandate.”).

⁶⁶ *PAZ Sec., Inc.*, Exchange Act Rel. No. 57656, 2008 SEC LEXIS 820, at *13 (Apr. 11, 2008), *petition for review denied sub nom. Paz Sec. v. SEC*, 566 F.3d 1172 (D.C. Cir. May 29, 2009).

⁶⁷ *Michael David Borth*, Exchange Act Rel. No. 31602, 1992 SEC LEXIS 3248, at *7 (Dec. 16, 1992).

Ebandco's bank accounts and securities accounts to determine the sources of Ebandco's funds and to trace the flow of funds between Eplboim and Ebandco.

Eplboim refused to cooperate and provide any of the requested documentation, even after the examiner reminded him that a failure to cooperate violated FINRA's rules. Eplboim refused to give FINRA copies of his personal bank account statements, despite FINRA staff offering alternatives to address his concerns regarding the cost of production. Eplboim also objected to providing copies of his personal emails, claiming that they contained privileged, private information. However, Eplboim did not dispute the examiner's assertion that he had used his personal email in connection with his securities business. The Hearing Panel therefore finds no justification for Eplboim's failure to provide the requested bank documents and no merit in Eplboim's objections to providing his emails.

Eplboim additionally refused to provide missing copies of Ebandco Real Estate's bank statements and securities accounts statements on two grounds. First, he claimed that he lacked the authority to release the statements, even though he was its manager. Second, Eplboim contended that both he and Ebandco lacked the financial resources to comply with the examiner's requests, stating instead that the requested documents were already in FINRA's possession or that FINRA could obtain them faster and more cheaply from Brookstone. The Hearing Panel rejected both arguments.

First, Eplboim's argument that he lacked authority to obtain and produce Ebandco's bank statements and other records is belied by his testimony and actions. Eplboim admitted that he had provided such documents to Brookstone as required by the terms of his heightened supervision. In addition, Eplboim admitted that he was the manager and an officer of the outside businesses, and he contacted Ebandco's banks to determine what the banks would charge to make the

requested copies. The Hearing Panel concludes that Eplboim had the requisite authority to obtain and produce the requested bank records, but he nonetheless refused to do so.

The Hearing Panel also rejects Eplboim's argument that he was unable to produce the bank statements because he and Eplandco lacked the financial resources to cover the bank charges. FINRA staff repeatedly asked Eplboim for a cost estimate so that the staff could evaluate his claim and possibly have FINRA pay the copying costs. FINRA staff also offered to have Eplboim sign authorizations so that the examiner could get the needed statements and related records directly from the banks. Eplboim, however, refused these requests. Eplboim refusals to provide documents related to his disclosed outside businesses were without merit.

Eplboim's refusals to provide any of the requested documents violated FINRA Rules 8210 and 2010.⁶⁸

IV. Sanctions

The FINRA Sanction Guidelines ("Guidelines") provide that if a person does not respond in any manner to a request for information made pursuant to Rule 8210, a bar should be the standard sanction.⁶⁹ A partial, but incomplete, response to FINRA's request for information, documents, or testimony presents the functional equivalent of a failure to respond in any manner because individuals have selectively kept certain information from FINRA. Under such

⁶⁸ See *Paz Secs.*, 2008 SEC LEXIS 820, at *13; *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, at *19, n. 28 (July 1, 2008); *Dep't of Enforcement v. Reichman*, No. 200801201960, 2011 FINRA Discip. LEXIS 18, at *28-29 (NAC July 21, 2011) (refusal to respond to 8210 request violated Rule 2010).

⁶⁹ FINRA Sanction Guidelines 33 (2011), available at www.finra.org/sanctionguidelines.

circumstances, the Guidelines state that “a bar is standard unless the person can demonstrate that the information provided substantially complied with all aspects of the request.”⁷⁰

The Guidelines advise adjudicators to consider several factors to determine the appropriate sanctions for a violation of FINRA Rule 8210, including the importance of the requested information not provided when viewed from FINRA’s perspective, whether the information that was provided was relevant and responsive to the request, the number of requests made, the time the respondent took to respond, the degree of regulatory pressure required to obtain a response, and whether the respondent thoroughly explained valid reasons for the deficiencies in the response.⁷¹

Because the examiner testified that Eplboim satisfied some of the requests by his October 17, 2011 email,⁷² the Hearing Panel applied the Guidelines’ considerations for a partial, but incomplete, response and analyzed the record to determine whether Eplboim substantially complied with all aspects of FINRA’s requests. He did not.

In this case, FINRA staff had concerns about Eplboim’s possible misappropriation of investors’ funds. Consequently, the examiner needed complete account statements with supporting documentation to enable him to trace the funds received and disbursed by Eplboim. The importance of these documents directly impacted FINRA’s ability to protect investors from potential serious misconduct. The existence of the online complaint raised the suspicion that

⁷⁰ Guidelines at 33. The Guidelines also recommend a fine of \$10,000 to \$50,000. *Id.*

⁷¹ Guidelines at 33.

⁷² Since Enforcement tried the case to the theory that Eplboim’s October response “satisfied” the requests for some items, the panel did not reach the issue of whether Eplboim’s response to those items fulfilled his obligation under FINRA Rule 8210.

Eplboim might have wrongfully taken \$100,000 from an investor, and the examiner knew that the Los Angeles staff had unresolved concerns that Eplboim had borrowed and co-mingled investors' funds with his own. In response to this information, the examiner reasonably sought information from Eplboim to determine whether he was engaged in fraudulent conduct. This was not a routine examination of Eplboim's outside business activities. Rather, the examiner sought documentation that might implicate serious infractions of FINRA's rules.

Despite the seriousness of the potential misconduct under investigation, Eplboim delayed and frustrated FINRA's investigation with empty promises of producing the documents along with demands that the staff obtain the documents from other sources. When his strategy of delay and misdirection stopped working, Eplboim misled FINRA staff into believing that he was going to produce the documents or arrange for the staff to obtain the documents directly from the banks. However, Eplboim never followed through. He never took responsibility for producing the requested information under Rule 8210. The extent of his lack of cooperation and disregard for his responsibility echoed clearly in the disrespectful words he used at the hearing to describe FINRA and its employees and undercut his argument that he had made a good faith attempt to respond completely to the document requests. Eplboim's refusal to provide the documents thwarted FINRA's investigation.

FINRA staff sent three document requests, and yet Eplboim only partially responded once, without any documents. Eplboim never substantively responded again, despite extensions and statements that he was getting the documents from the banks. Even with FINRA's offer of alternatives to ease concerns about the cost or access to the documents, Eplboim refused to provide any of the requested documents. Under these circumstances, we conclude that Eplboim

did not substantially comply with all aspects of the document requests and that a bar is the appropriate sanction.

V. Order

For violating FINRA Rules 8210 and 2010, Respondent Shlomi S. Eplboim is barred from associating with any member in any capacity. If this decision becomes FINRA's final disciplinary action, the bar will take effect immediately.⁷³

Anne W. Larkin
Hearing Officer
For the Hearing Panel

⁷³ The Hearing Panel has considered and rejects without discussion all other arguments of the parties.