

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

THOMAS J. BAUMANN
(CRD No. 5254392),

Respondent.

Disciplinary Proceeding
No. 2018056490310

Hearing Officer–MC

DEFAULT DECISION

September 20, 2024

Respondent Thomas J. Baumann is barred from associating with any FINRA member firm in any capacity for failing to provide documents and information requested in connection with a FINRA investigation, in violation of FINRA Rules 8210 and 2010.

Appearances

For the Complainant: Michael Dorfman-Gonzalez, Esq., Kay Lackey, Esq., and Adam Balin, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

DECISION

I. Introduction

FINRA staff twice requested that Respondent Thomas J. Baumann provide documents and information related to an investigation. When Baumann did not comply with the requests, the Department of Enforcement issued a Complaint charging him with violating FINRA Rules 8210 and 2010. Enforcement properly served Baumann with the Complaint. He did not file an answer or respond in any manner. Consequently, Enforcement filed a motion for entry of a default decision (“Default Motion”) with supporting documents: a memorandum of law (“Enforcement’s Memorandum”); a declaration of Enforcement’s counsel (“Decl.”); and exhibits. Baumann did not respond to the Default Motion.

Therefore, as explained below, I find Baumann in default, deem the allegations in the Complaint admitted, and grant Enforcement’s Default Motion.¹ After considering the facts, Enforcement’s recommendations, and applying FINRA’s Sanction Guidelines, I find it appropriate to bar Baumann from associating in any capacity with any FINRA member firm.

II. Findings of Fact and Conclusions of Law

A. Respondent’s Background and FINRA’s Jurisdiction

From February 2007 to February 2013, Baumann was registered with FINRA as a General Securities Representative through five member firms that employed him in succession.² He then registered as a General Securities Representative through member firm Spartan Capital Securities, LLC.³ In March 2022, Spartan terminated Baumann’s employment and registrations when it filed a Uniform Termination Notice for Securities Industry Registration (Form U5) stating that he owed the firm \$97,122. Later, in July 2022, the firm amended Baumann’s Form U5 to disclose a customer complaint alleging that Baumann had engaged in unauthorized trading.⁴

In July 2023, Enforcement sent him a letter pursuant to FINRA Rule 8210 requesting him to provide information and documents.⁵ When Baumann did not respond, Enforcement sent a second, identical request.⁶ Again, Baumann did not respond.⁷

Consequently, Enforcement filed its Complaint on April 10, 2024, charging him with failures to respond to the Rule 8210 requests for information and documents.

Although Baumann is no longer registered or associated with a FINRA member firm,⁸ FINRA continues to have jurisdiction over him for the purposes of this proceeding. The dates of both the Complaint’s filing and Baumann’s alleged misconduct occurred within two years of July 22, 2022, when Spartan’s amended Form U5 filing disclosed the customer complaint of unauthorized trading. Because Spartan filed the amended Form U5 less than two years after

¹ Baumann is notified that he may move to set aside the default pursuant to FINRA Rule 9269(c) upon a showing of good cause.

² Complaint (“Compl.”) ¶ 2.

³ Compl. ¶ 3; Decl. ¶ 7.

⁴ Compl. ¶¶ 4–5.

⁵ Compl. ¶ 15.

⁶ Compl. ¶¶ 21– 22.

⁷ Compl. ¶ 28.

⁸ Compl. ¶ 6.

terminating Baumann’s employment and registrations, Baumann remains subject to FINRA’s jurisdiction under Article V, Section 4(a) of FINRA’s By-Laws.⁹

B. Origin of the Proceeding

FINRA staff initiated an investigation of Baumann before Spartan filed its amended Form U5 in July 2022. It focused on Baumann’s potentially excessive and unsuitable trading in 12 of his Spartan customer accounts. During the investigation, Baumann appeared for on-the-record interviews (“OTRs”) in October 2021, and January and February 2022.¹⁰

The amended Form U5 disclosed potential unauthorized trading by Baumann in the account of another customer, not one of the 12 then under review.¹¹ Further investigating Baumann’s trading in this newly disclosed customer account, FINRA staff issued the two information requests relevant here.¹² When Baumann failed to respond to those requests, Enforcement initiated this disciplinary proceeding.¹³

C. The First Request for Information

In its first FINRA Rule 8210 request letter issued on July 20, 2023, Enforcement staff sought information, documents, and other evidence relevant to determining whether Baumann traded without authorization in the customer’s account.¹⁴ FINRA requested Baumann to provide “evidence that he contacted the customer, such as telephone records, text messages, and electronic communications,” and asked him to explain whether he engaged in any discretionary or unauthorized trading in the account.¹⁵

The staff sent this request letter to two locations via certified mail, return receipt requested, as well as first-class mail. The first location was Baumann’s address as it appears in the Central Registration Depository (“CRD”).¹⁶ That address is Baumann’s only residence listed in CRD since November 2013.¹⁷ The second location was an address for an apparently current residence that the staff discovered by conducting a Lexis-Nexis search.¹⁸ And, because the staff

⁹ Compl. ¶ 6.

¹⁰ Decl. ¶ 6.

¹¹ Decl. ¶ 6.

¹² Decl. ¶ 4.

¹³ Decl. ¶ 5.

¹⁴ Compl. ¶ 15.

¹⁵ Compl. ¶ 15; Complainant’s Exhibit (“CX-”) 3, at 3–4.

¹⁶ Compl. ¶ 16.

¹⁷ Decl. ¶ 24.

¹⁸ Compl. ¶ 16.

and Baumann had previously communicated via his personal email address, the staff sent a third copy of the request letter by email to that address as well.¹⁹

Both of the certified mailings were returned undelivered. The one sent to Baumann's CRD address was returned with the explanation that the "Addressee" was "Unknown" and although it was to be forwarded to Baumann's Lexis-Nexis address, the "Forward Time" had expired.²⁰ The certified mailing to Baumann's Lexis-Nexis address was initially delivered but subsequently returned to FINRA staff with a notation that the Lexis-Nexis address was a closed mailbox.²¹

Although the certified mailings were returned, the request letters sent by email and first-class mail to Baumann's CRD and Lexis-Nexis addresses were not.²²

Enforcement staff did not receive a request from Baumann for an extension of the August deadline for responding,²³ or any other response from Baumann to the first Rule 8210 request letter.²⁴

D. The Second Request for Information

Enforcement staff sent the second Rule 8210 request letter to Baumann on August 16, 2023, seeking the same information as in the first request letter.²⁵ As before, the staff sent it by certified and first-class mail to Baumann's CRD and Lexis-Nexis addresses, as well as to his email address.²⁶ The second certified mailing to Baumann's CRD address was returned with notations similar to the first.²⁷ The mailing to his Lexis-Nexis address was also returned, indicating that it was a closed commercial mailbox. But this time the tracking information showed Baumann had moved without leaving a forwarding address.²⁸

¹⁹ Compl. ¶ 16.

²⁰ Compl. ¶ 17.

²¹ Compl. ¶ 18.

²² Compl. ¶¶ 19–20.

²³ Compl. ¶ 21. A typographical error in the request letter incorrectly represented the deadline as being the *previous* August (2022). CX-3, at 3.

²⁴ Compl. ¶ 21.

²⁵ Compl. ¶ 22.

²⁶ Compl. ¶ 23.

²⁷ Compl. ¶ 24.

²⁸ Compl. ¶ 25.

The first-class mailings were returned to FINRA staff in late August and early September 2023,²⁹ however, the request letter sent to Baumann’s email address was not returned.³⁰

Again, Baumann did not respond in any way to the second Rule 8210 request.³¹

E. FINRA Staff Satisfied the Requirements of FINRA Rule 8210

FINRA Rule 8210(a)(1) authorizes FINRA staff conducting an investigation to require any person within FINRA’s jurisdiction “to provide information . . . with respect to any matter involved in the investigation.” Rule 8210(c) reiterates unambiguously that nobody subject to FINRA’s jurisdiction “shall fail to provide information” when requested.

FINRA Rule 8210(d) states that a request to provide information “shall be deemed received” when, as here, it is mailed to “the last known residential address of the person as reflected in the Central Registration Depository.” In this case, FINRA staff met and exceeded this requirement by sending multiple copies of the request letter to other addresses linked to Baumann, in addition to his CRD address. Thus, FINRA staff properly served him with its Rule 8210 requests.³²

F. Respondent’s Default

Before filing its Complaint, Enforcement succeeded in contacting Baumann by email. On March 16 and 21, 2024, Enforcement emailed him to ask when he would be available for a call to discuss the matter. On March 23, Baumann replied by email; he did not agree to confer, but instead questioned what Enforcement wanted and who wished to speak with him.³³

The Complaint’s single cause of action charges Baumann with failing to provide information and documents as required by FINRA Rules 8210 and 2010. On April 10, 2024, Enforcement served Baumann with the Complaint and Notice of Complaint by sending them to Baumann’s CRD and Lexis-Nexis addresses via FedEx and U.S. Postal Service, first-class certified mail, return receipt requested, with a courtesy copy sent to his email address.³⁴ The mailing to Baumann’s CRD address was delivered on April 12, 2024;³⁵ the copy sent by FedEx to the CRD address was returned to FINRA undelivered.³⁶ The copies sent by certified mail and

²⁹ Compl. ¶ 26.

³⁰ Compl. ¶ 27.

³¹ Compl. ¶ 28.

³² *David Kristian Evansen*, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080, at *16 (July 27, 2015).

³³ Decl. ¶ 26; CX-11. The exhibit does not disclose any further email exchange between Enforcement and Baumann or indicate whether a phone call occurred.

³⁴ Decl. ¶ 28.

³⁵ *Id.* ¶ 30.

³⁶ *Id.* ¶ 31.

Federal Express to the Lexis-Nexis address were both delivered; the courtesy copy sent by email was not returned.³⁷ Baumann did not respond to the Complaint by the deadline on May 8, 2024.³⁸

Consequently, on May 9, 2024, Enforcement served Baumann with the Complaint and a Second Notice of Complaint at the same addresses by the same means as before.³⁹ The certified mailing to Baumann's CRD address was returned to FINRA undelivered with tracking notations indicating that delivery was refused on May 16 and 17, 2024.⁴⁰ The FedEx mailing to Baumann's CRD address was successfully delivered on May 10, 2024.⁴¹ Both mailings to Baumann's Lexis-Nexis address were delivered in May 2024.⁴² The courtesy copy directed to Baumann's email address was not returned.⁴³

The Second Notice of Complaint set a deadline of May 28, 2024, for Baumann to file an answer.⁴⁴ It also informed Baumann that a failure to file an answer by the deadline would permit me to treat the allegations in the Complaint as admitted by him and to enter a default decision pursuant to FINRA Rules 9215 and 9269.⁴⁵

Once again, Baumann did not file an Answer or otherwise respond.⁴⁶

As these facts demonstrate, Enforcement's service of the Complaint and Notices of Complaint complied with FINRA Rules 9131(b), 9134(a), and 9134(b)(1).⁴⁷ By not filing an answer or any other response to the Complaint, Baumann defaulted.

III. Sanctions

For these violations, Enforcement asks that Baumann be barred from associating with any FINRA member firm in any capacity.⁴⁸

³⁷ *Id.* ¶¶ 32–33.

³⁸ *Id.* ¶ 35.

³⁹ *Id.* ¶ 37.

⁴⁰ Decl. ¶ 39.

⁴¹ Decl. ¶ 40.

⁴² Decl. ¶ 41.

⁴³ Decl. ¶¶ 39–42.

⁴⁴ Decl. ¶ 43.

⁴⁵ Decl. ¶ 43.

⁴⁶ Decl. ¶ 44.

⁴⁷ Decl. ¶¶ 29, 38.

⁴⁸ Enforcement's Memorandum 16–17.

FINRA’s Sanction Guidelines state that a bar is the standard sanction for failing to “respond in any manner” to a request made pursuant to Rule 8210.⁴⁹ In this case, Enforcement correctly characterizes Baumann’s failure to provide information as a “partial, but incomplete” response to the Rule 8210 requests because earlier he cooperated with the staff’s requests for him to provide OTR testimony.⁵⁰ But even in a case of a partial but incomplete response, “a bar is standard unless the person can demonstrate that the information provided substantially complied with all aspects” of the Rule 8210 request.⁵¹ Here, Baumann’s earlier cooperation with the staff by participating in OTRs, when the staff was reviewing potential excessive and unsuitable trading in the accounts of 12 customers, did not constitute any, much less substantial, compliance with the two Rule 8210 requests at issue here when the staff’s focus was on different conduct concerning a different customer.⁵²

For failing to respond to FINRA Rule 8210 requests, either wholly or partially, the Guidelines’ applicable Principal Considerations in Determining Sanctions are the same. In relevant part, they require an adjudicator to consider the importance of the information requested, but not provided, from FINRA’s perspective.⁵³

Enforcement represents that the staff needed the information it sought from Baumann to investigate potentially unauthorized trading by him in a customer account, unknown to the staff when it took Baumann’s OTR testimony in the earlier stage of the investigation, when the focus was on whether he had traded excessively in other customer accounts.⁵⁴ FINRA staff needed the information it sought from Baumann—evidence of his communications with the customer—to determine if Baumann could explain his trading in the account.⁵⁵ These were essential elements for FINRA staff to make a determination of whether Baumann traded in the account without authorization. By not responding to the requests, Baumann frustrated the staff’s effort to gather the facts to complete the investigation. From FINRA’s perspective, the information was important. There are no countervailing mitigating factors in the record of this case.

Therefore, I conclude that the appropriate sanction is a bar in all capacities.

⁴⁹ FINRA Sanction Guidelines 93 (March 2024), <https://www.finra.org/sanctionguidelines>.

⁵⁰ Enforcement’s Memorandum 16–17.

⁵¹ Guidelines 93.

⁵² Decl. ¶ 49.


⁵³ *Id.*

⁵⁴ Enforcement’s Memorandum 17–18; Decl. ¶ 49.

⁵⁵ *Id.* at 17.

IV. Order

By failing to respond to FINRA staff's requests for information in July and August 2023, Respondent Thomas J. Baumann violated FINRA Rule 8210. Furthermore, by violating FINRA Rule 8210, Baumann also violated his ethical obligations under FINRA Rule 2010.⁵⁶ For this misconduct, he is barred from associating with any FINRA member firm in any capacity. The bar shall become effective immediately if this Default Decision becomes FINRA's final disciplinary action.


Matthew Campbell
Hearing Officer

Copies to:

Timothy J. Baumann (via email, overnight courier, and first-class mail)
Michael Dorfman-Gonzalez, Esq. (via email)
Adam Balin, Esq. (via email and first-class mail)
Kay Lackey, Esq. (via email)

⁵⁶ *Dep't of Enforcement v. Vedovino*, No. 2015048362402, 2019 FINRA Discip. LEXIS 20, at *20–21 (NAC May 15, 2019).