

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOSEPH MICHAEL KEEGAN  
(CRD No. 5494745),

Respondent.

Disciplinary Proceeding  
No. 2012033201402

Hearing Officer—RLP

**DEFAULT DECISION**

May 27, 2014

**For delaying responses to requests for information and failing to supply requested bank account documents, in violation of Rules 8210 and 2010, Respondent is barred from associating with any FINRA member firm in any capacity.**

**Appearances**

David L. Fenimore, Esq., Rockville, Maryland, for the Department of Enforcement.

No appearance by or for Respondent.

**DECISION**

**I. Introduction**

On June 13, 2012, Wells Fargo Advisors, LLC (“Wells”) discharged Respondent Joseph Michael Keegan for making structured cash deposits and issuing and using a debit card to make deposits into a bank customer’s account.<sup>1</sup> A FINRA investigation followed and after Keegan delayed and failed to respond to the staff’s requests for information and documents, the Department of Enforcement filed a complaint on February 4, 2014, alleging that Keegan’s failure

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<sup>1</sup> David L. Fenimore’s Declaration in Support of Motion for Entry of Default Decision (“Fenimore Decl.”), ¶ 5; Complainant’s Exhibit (“CX”) 1, Form U-5 at 2, 6; Complaint ¶ 4. While he was associated with Wells, Keegan also was employed by Wells Fargo Bank. Complaint ¶ 3.

to timely and completely respond to requests for information and documents violated FINRA Rules 8210 and 2010.

Keegan did not answer the complaint. Consequently, on April 28, 2014, Enforcement filed a motion for entry of a default decision, together with the declaration of David L. Fenimore and seven exhibits. Keegan did not respond to the motion.

## **II. Jurisdiction**

Keegan entered the securities industry in March 2008 when he became associated with Wells, a FINRA member firm. He was registered with FINRA through Wells as an investment company products and variable contracts representative from May 2008 until July 5, 2012, when his registration was terminated. Since that date, Keegan has not been registered or associated with any FINRA member.<sup>2</sup> He remains subject to FINRA's jurisdiction, however, because the complaint: (1) was filed within two years after the effective date of termination of his registration; and (2) charges Keegan with failing to respond to FINRA requests for information during the two-year period after the termination of his registration.<sup>3</sup>

## **III. Respondent's Default**

On February 4, 2014, Enforcement served the notice of complaint and complaint on Keegan by first-class and first-class certified mail addressed to his residential address as reflected in FINRA's Central Registration Depository ("CRD address") and a second address Keegan had provided to Enforcement (the "updated address").<sup>4</sup> All mailings but that sent by first-class mail to the CRD address, which was not returned, were returned to Enforcement

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<sup>2</sup> Fenimore Decl. ¶ 6; CX-1, Registrations Summary at 1; Complaint ¶ 2.

<sup>3</sup> See Article V, Sec. 4(a), FINRA By-Laws, available at [www.finra.org/Industry/Regulation/FINRARules](http://www.finra.org/Industry/Regulation/FINRARules) (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

<sup>4</sup> Fenimore Decl. ¶ 7.

bearing Postal Service notations indicating that the Postal Service was unable to forward them.<sup>5</sup>

Although Keegan was required to file his answer by March 4, 2014, he failed to do so.<sup>6</sup>

Accordingly, on March 5, 2014, Enforcement served a second notice of complaint and complaint on Keegan, again by first-class and first-class certified mail addressed to his CRD address and the updated address he had provided. Although the mailings sent to Keegan's CRD address were returned, the mailings to the updated address were not. Tracking information concerning the certified mailing shows that on March 7, 2014, "Notice [was] Left (No Authorized Recipient Available)."<sup>7</sup> Although Keegan was required to file his answer by March 28, 2014, he failed to do so.<sup>8</sup>

Keegan received constructive notice of this proceeding and, therefore, the Hearing Officer finds that Keegan has defaulted by failing to answer the complaint.<sup>9</sup> Therefore, the Hearing Officer deems the allegations in the attached complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

#### **IV. Findings of Fact and Conclusions of Law**

##### **A. Keegan Delayed Responding to Requests for Information and Documents.**

During the course of FINRA's investigation of the activities reported by Wells, FINRA sent Keegan letters on July 27, 2012, and August 13, 2012, addressed to his CRD address, requesting, pursuant to Rule 8210, that he provide documents and information concerning the

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<sup>5</sup> Fenimore Decl. ¶ 8; CX-2-CX-4.

<sup>6</sup> See Fenimore Decl. ¶ 10.

<sup>7</sup> Fenimore Decl. ¶ 9; CX-5-CX-7.

<sup>8</sup> Fenimore Decl. ¶ 10.

<sup>9</sup> See FINRA Rules 9134(a)(2), (b)(1), and (b)(3); *Dep't of Enforcement v. Moore*, No. 2008015105601, 2012 FINRA Discip. LEXIS 45, at \*19-21 (NAC July 26, 2012) (respondent had constructive notice of complaint mailed to his CRD address); see also Notice to Members 99-77, available at [www.finra.org/Industry/Regulation/Notices/1999/P004087](http://www.finra.org/Industry/Regulation/Notices/1999/P004087).

structuring allegations.<sup>10</sup> After Keegan failed to respond, Enforcement initiated an expedited proceeding against Keegan pursuant to Rule 9552, notifying Keegan, by letter dated September 28, 2012, that, absent corrective action undertaken before October 22, 2012, he would be suspended from associating with any FINRA member firm in any capacity on October 22, 2012. Keegan failed to take corrective action and, as a consequence, he was notified by letter dated October 22, 2012, that he was suspended and would be barred on December 31, 2012, if he failed to request a termination of his suspension by that date. In November, Keegan requested by letter that his suspension be terminated, supplied a current mailing address, and provided what he labelled “necessary information that was requested.” Keegan’s suspension was terminated.<sup>11</sup>

Thereafter, Enforcement renewed its investigation. On April 30, 2013, pursuant to Rule 8210, Enforcement sent Keegan a letter, at his CRD address and the updated address, requesting that he provide documents and information concerning the structuring allegations and his change of address. The letter requested that Keegan supply the documents and information no later than May 21, 2013.<sup>12</sup> Notwithstanding Enforcement’s follow-up emails (sent to an email address supplied by Keegan) and voicemails (left at a telephone number provided by Keegan) that requested Keegan to respond to the information request, Keegan failed to timely respond. Instead, on May 29, 2013, Keegan informed Enforcement by email that he would “look [at the requests] and reply immediately.”<sup>13</sup>

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<sup>10</sup> Structuring occurs when a person conducts currency transactions at a financial institution, on one or more days, in any manner, for the purpose of evading the reporting requirements of the Bank Secrecy Act (that currency transactions of more than \$10,000 be reported to the Treasury Department). *See* 31 C.F.R. §1010.100(xx). One common method of structuring involves breaking down a single sum of currency exceeding \$10,000 into smaller sums at or below \$10,000 and making a series of deposits of such sums. *See id.*

<sup>11</sup> Complaint ¶¶ 5-9.

<sup>12</sup> Complaint ¶¶ 9, 10.

<sup>13</sup> Complaint ¶ 11.

Keegan did not reply immediately. Accordingly, on June 14, 2013, pursuant to Rule 8210, Enforcement sent another letter to Keegan requesting that he provide the documents and information previously requested no later than June 24, 2013. A copy of the April 30, 2013 letter was enclosed with the June 14, 2013 letter.<sup>14</sup> Although Keegan did not respond by June 24, he did ultimately supply a response, on July 10, 2013, to the questions first posed in the April 30 letter.<sup>15</sup>

**B. Keegan Failed to Respond to Requests for Documents.**

Following the July 10, 2013 response, Enforcement sent Keegan letters addressed to his CRD address and updated address on October 28, 2013, and November 20, 2013, requesting that he provide account statements for his Wells Fargo bank accounts during the period of the alleged structuring. The October 28 letter requested that Keegan provide the requested documents no later than November 19. The November 20 letter, which enclosed the October 28 letter, requested that Keegan provide the previously requested documents no later than December 4, 2013.<sup>16</sup>

As of April 28, 2014, Keegan had not provided Enforcement with any of the bank statements requested. According to Enforcement, Keegan's failure to supply these statements has significantly impeded Enforcement's investigation, particularly that aspect of the investigation seeking to discern whether, and to what extent, Keegan may have been personally involved in or benefitted from the structuring.<sup>17</sup>

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<sup>14</sup> Complaint ¶ 12.

<sup>15</sup> Complaint ¶ 13.

<sup>16</sup> Complaint ¶¶ 14-16.

<sup>17</sup> Fenimore Decl. ¶ 13.

### **C. Keegan Violated FINRA Rules 8210 and 2010.**

After Wells Fargo dismissed Keegan, alleging that he had structured bank deposits, Keegan failed to cooperate with FINRA's ensuing investigation. He responded to information requests only after Enforcement initiated a Rule 9552 proceeding and his failure to take corrective action had resulted in his suspension. Thereafter, Keegan delayed responding to additional information requests and, ultimately, wholly failed to respond to requests for bank account documents.

FINRA Rule 8210(c) sets forth an unequivocal requirement that registered persons comply with FINRA information requests, providing that "[n]o member or person shall fail to provide information" requested pursuant to the Rule. Untimely and incomplete responses fail to satisfy Rule 8210.<sup>18</sup> Such delay and neglect "undermine the ability of [FINRA] to conduct investigations and thereby protect the public interest."<sup>19</sup> Keegan repeatedly failed to respond in a timely manner to multiple requests for information and ultimately failed to respond in any manner to requests for bank account documents. Accordingly, the Hearing Officer finds that Keegan violated Rule 8210. His violation of Rule 8210 is also a violation of Rule 2010.<sup>20</sup>

### **V. Sanctions**

A violation of Rule 8210 is serious because Rule 8210 "provides a means, in the absence of subpoena power, for [FINRA] to obtain from its members information necessary to conduct investigations."<sup>21</sup> The rule thus "is at the heart of the self-regulatory system for the securities

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<sup>18</sup> *E.g., Dep't of Market Regulation v. Ryan & Co.*, No. FPI040002, 2005 NASD Discip. LEXIS 8, at \*12-21 (NAC Oct. 3, 2005).

<sup>19</sup> *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141, at \*13 (Nov. 14, 2008) (citing *Barry C. Wilson*, 52 S.E.C. 1070, 1075 (1996)), *petition denied*, 347 F. App'x 692 (2d Cir. 2009).

<sup>20</sup> *See Michael A. Rooms*, Exchange Act Rel. No. 51467, 2005 SEC LEXIS 728, at \*13-14 & n.14 (Apr. 1, 2005) (holding that efforts to impede NASD (now FINRA) investigations violate high standards of commercial honor and just and equitable principles of trade), *aff'd*, 444 F.3d 1208 (10th Cir. 2006).

<sup>21</sup> *Richard J. Rouse*, 51 S.E.C. 581, 584 (1993).

industry.”<sup>22</sup> For these reasons, FINRA’s Sanction Guidelines recommend a bar when an individual does not respond in any manner.<sup>23</sup>

Given that Keegan did respond to some of FINRA’s information requests, albeit in an untimely manner, his misconduct will be treated a partial but incomplete response. In such cases, a bar is standard unless the person can demonstrate that the information provided substantially complied with all aspects of the request. The principal considerations for determining sanctions for a partial but incomplete response include: (1) the importance of the information not provided, as viewed from FINRA’s perspective, and (2) the number of requests made, the length of time to respond, and the degree of regulatory pressure required to obtain a response.<sup>24</sup>

The first consideration is aggravating. The information requested was important. Structuring bank deposits is extremely serious illegal conduct. Keegan’s complete failure to supply the bank account statements requested in the October and November 2012 Rule 8210 request letters, as well as his delays in responding to the earlier Rule 8210 requests, significantly impeded Enforcement’s investigation. According to Enforcement staff, lack of access to Keegan’s account statements has hindered Enforcement’s ability to “assess whether, and to what degree, Keegan was personally involved with and/or benefitting from illegal structuring activity.”<sup>25</sup>

The second consideration also is aggravating. Keegan only responded to FINRA’s first two requests when, after Enforcement brought a proceeding under Rule 9552, he had been

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<sup>22</sup> *Berger*, 2008 SEC LEXIS 3141, at \*13.

<sup>23</sup> FINRA Sanction Guidelines, at 33 (2011).

<sup>24</sup> *Id.*


<sup>25</sup> Fenimore Decl. ¶ 13.

suspended and faced an automatic bar. His response to the third and fourth requests was untimely despite Enforcement's follow-up voicemails and emails asking for a timely response. His failure thereafter to respond to repeated requests for his bank account statements is but the latest manifestation of Keegan's disregard for his obligation to cooperate with FINRA's investigative efforts.

This blatant disregard of his regulatory obligations demonstrates that, if Keegan were to re-enter the securities industry, he would pose a significant risk to customers, employers, and others. The record: does not disclose that Keegan substantially complied with all aspects of any request for information; affirmatively shows his complete failure to comply with the requests for documents; and does not reveal any mitigating facts that would justify a sanction less than a bar. Accordingly, the Hearing Officer concludes that Keegan should be barred from associating with any FINRA member in any capacity for violating FINRA Rules 8210 and 2010.

## **VI. Order**

Respondent Joseph Michael Keegan is barred for violating FINRA Rules 8210 and 2010 by failing to timely respond to requests for information and failing to provide documents. If this decision becomes FINRA's final disciplinary action, the bar shall become effective immediately.

  
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Rada Lynn Potts  
Hearing Officer

Copies to:

Joseph Michael Keegan (*via overnight courier and first-class mail*)  
David L. Fenimore, Esq. (*via email and first-class mail*)  
Perry C. Hubbard, Esq. (*via email*)  
Jeffrey D. Pariser, Esq. (*via email*)



**FINANCIAL INDUSTRY REGULATORY AUTHORITY**

**OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Joseph Michael Keegan (CRD No.  
5494745),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2012 033201402

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. Respondent Joseph Michael Keegan failed to timely respond to FINRA's document and information requests, sent pursuant to FINRA Rule 8210. As a result of the foregoing, Keegan violated FINRA Rules 8210 and 2010.

**RESPONDENT AND JURISDICTION**

2. Keegan was associated with Wells Fargo Advisors, LLC (Wells Fargo) from March 2008 until Wells Fargo terminated his employment on June 13, 2012. He was registered as an Investment Company Products/Variable Contracts Representative (Series 6) from May 2008 until his termination. Keegan has not been registered or associated with any FINRA member since the termination of his registration. Although Respondent is no longer registered or associated with a FINRA member, he 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 effective date of termination of Respondent's registration with Wells Fargo, namely, July 5, 2012, and (2) the Complaint charges him with failing to respond to FINRA requests for information during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

## **FACTS**

### **I. Keegan's Termination**

3. While he was associated with Wells Fargo, Wells Fargo Bank (or its predecessors) also employed Keegan.

4. Wells Fargo filed a Uniform Termination Notice for Securities Industry Registration (Form U5) with FINRA on July 5, 2012 reporting that Wells Fargo Bank discharged Keegan because he had "divided deposits in a structured manner and issued a debit card for a bank customer and used the debit card to make deposits into the bank customer's account."

### **II. Keegan's Untimely Response to the Central Review Group**

5. During the course of the FINRA's Central Review Group (CRG) investigation of Keegan activities reported by Wells Fargo, CRG sent Keegan letters on July 27, 2012 and August 13, 2012, pursuant to FINRA Rule 8210, requesting that he provide documents and information concerning the structuring allegations (the "CRG letters"). In accordance with FINRA Rule 8210(d), the CRG letters were sent to Keegan's residential address as listed in the Central Registration Depository ("CRD Address").

6. After Keegan failed to respond to the CRG letters, FINRA's Department of Enforcement (Enforcement) initiated an expedited proceeding against Keegan, pursuant to FINRA Rule 9552. Pursuant to FINRA Rule 9552, Keegan was notified by letter dated

September 28, 2012 that he would be suspended on October 22, 2012 from associating with any FINRA member in any capacity because he failed to provide the information and documents requested in the CRG letters. Keegan was also informed that, if he took corrective action by complying with the requests in the CRG letters before the suspension date, the suspension would not take effect. The September 28, 2012 letter enclosed copies of the CRG letters and was sent via FedEx overnight delivery and first class US mail to Keegan's CRD Address.

7. Pursuant to FINRA Rule 9552, Enforcement notified Keegan by letter sent October 22, 2012 that he was suspended on October 22, 2012 from associating with any FINRA member in any capacity. The October 22, 2012 letter also informed Keegan that if he failed to request termination of suspension by December 31, 2012, he would be automatically barred from associating with any FINRA member in any capacity. The October 22, 2012 letter was sent via FedEx overnight delivery and first class US mail to Keegan's CRD Address.

8. By priority US mail sent to FINRA on November 16, 2012, Keegan, in correspondence dated November 5, 2012, requested that his suspension be terminated and provided what he claimed was "necessary information that was requested." Keegan also provided a current mailing address (Keegan's "Current Address").

### **III. Keegan's Untimely Response to the Enforcement Department**

9. Following termination of Keegan's suspension, Enforcement renewed its investigation. On April 30, 2013, pursuant to FINRA Rule 8210, Enforcement sent Keegan a letter requesting that he provide documents and information concerning the structuring allegations and Keegan's change of address. The letter advised Keegan of his obligation to update his CRD address and provided the mailing address through which to do so. In accordance

with FINRA Rule 8210(d), the April 30, 2013 request letter was sent to Keegan's CRD Address and Current Address.

10. A copy of the April 30, 2013 letter was sent to Keegan via certified return receipt requested US mail and first class US mail and requested that he provide documents and information no later than May 21, 2013. On May 14, 2013, the April 30, 2013 letter sent via certified mail to Keegan's Current Address was returned to Enforcement and marked "unclaimed" by the USPS. On May 22, 2013, the April 30, 2013 letter sent via certified mail to Keegan's CRD Address was returned to Enforcement and marked "unclaimed" by the USPS, but tracking on the USPS website noted that notice was left for Keegan at his CRD Address on May 2, 2013. The April 30, 2013 letters sent via first class mail were not returned to Enforcement.

11. Keegan did not respond to the April 30, 2013 letter, notwithstanding Enforcement's requests to him by email and voicemail (to an email address and a telephone number provided by Keegan) to do so. On May 29, 2013, Keegan informed Enforcement by e-mail that he would "look [at the requests] and reply immediately."

12. On June 14, 2013, having not received a response from Keegan, Enforcement sent another request letter to Keegan, pursuant to FINRA Rule 8210. The letter was sent via certified return receipt requested US mail, first class US mail, and email, and requested that he provide the documents and information previously requested in the April 30, 2013 letter no later than June 24, 2013. A copy of the April 30, 2013 letter was enclosed with the June 14, 2013 letter. USPS returned to Enforcement a signed (but illegible) return receipt for the June 14, 2013 letter sent to Keegan's CRD Address. The June 14, 2013 letter sent via certified mail to Keegan's Current Address was returned to Enforcement and marked "1<sup>st</sup> Notice," "2<sup>d</sup> Notice," and

“Returned” by the USPS. The letter sent via first class mail to his Current Address was not returned to Enforcement.

13. Keegan responded by email on July 10, 2013 to the questions first posed in the April 30, 2013 letter.

#### **IV. Keegan’s Failure to Respond to the Enforcement Department**

14. Following Keegan’s untimely response on July 10, 2013, Enforcement sent Keegan letters on October 28, 2013 and November 20, 2013, pursuant to FINRA Rule 8210, requesting that he provide copies of account statements for his personal Wells Fargo bank accounts during the period of the alleged cash deposit structuring. The letters advised Keegan of his obligation to update his CRD address and provided the mailing address through which to do so. In accordance with FINRA Rule 8210(d), the October 28, 2013 and November 20, 2013 request letters were sent to Keegan’s CRD Address and Current Address, and also to the email address provided by Keegan.

15. A copy of the October 28, 2013 letter was sent to Keegan via certified return receipt requested US mail, first class US mail, and email and requested that he provide the bank account statements no later than November 19, 2013. On November 1, 2013, the letter sent via certified mail to Keegan’s CRD Address was returned to Enforcement and marked “forward time exp” by the USPS. On November 21, 2013, the October 28, 2013 letter sent via certified mail to Keegan’s Current Address was returned to Enforcement and marked “1<sup>st</sup> Notice,” “2d Notice,” “Returned,” and “unclaimed” by the USPS. The October 28, 2013 letter sent via first class mail to Keegan’s CRD Address was returned to Enforcement on November 25, 2013 marked “forward time exp;” the October 28, 2013 letter sent via first class mail to Keegan’s Current Address was not returned to Enforcement.

16. A copy of the November 20, 2013 letter was sent to Keegan via certified return receipt requested US mail, first class US mail, and email, and requested that he provide the documents previously requested in the October 28, 2013 letter no later than December 4, 2013. A copy of the October 28, 2013 letter was enclosed with the November 20, 2013 letter. On November 27, 2013, the letter sent via certified mail to Keegan's CRD Address was returned to Enforcement and marked "forward time exp" by the USPS. The November 20, 2013 letter sent via certified mail to Keegan's Current Address was returned to Enforcement on January 13, 2014 marked "return to sender refused unable to forward." The letters sent via first class mail were not returned to Enforcement.

17. Keegan has not provided Enforcement with any of the bank statements requested, pursuant to FINRA Rule 8210, in the October 28, 2013 and November 20, 2013 requests, thus impeding Enforcement's investigation.

#### **CAUSE OF ACTION**

##### **(Failure to Timely and Completely Respond to FINRA's Document and Information Requests—Violations of FINRA Rules 8210 and 2010)**

18. The Department realleges and incorporates by reference paragraphs 1 through 17 above.

19. As a result of the foregoing conduct, Respondent violated FINRA Rules 8210 and 2010.

## RELIEF REQUESTED

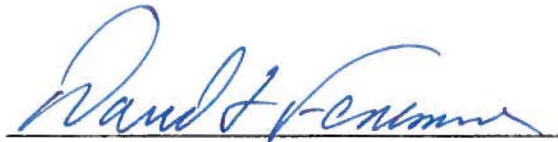
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent 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;
- C. order that Respondent 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:

February 4, 2014



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