

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DAWN BENNETT  
(CRD No. 1567051),

Respondent.

Expedited Proceeding  
No. FPI160006

STAR No. 2015047682401

Hearing Officer–MAD

**EXPEDITED HEARING PANEL  
DECISION**

August 2, 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 her by FINRA Staff. The suspension will automatically convert to a bar if she fails to fully comply with the requests within ten business days after the date of this decision.**

*Appearances*

For the Complainant: David Newman, Esq. and Matthew Ryan, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: Daniel Nathan, Esq., Gregory Morvillo, Esq., Eugene Ingoglia, Esq., and Caitlin Sikes, Esq., Morvillo LLP, Washington, D.C.

**DECISION**

**I. Introduction**

In 2015, FINRA Staff began investigating the issuance of convertible debt notes and promissory notes by entities affiliated with Respondent Dawn Bennett. In connection with that investigation, the Staff sent Bennett Rule 8210 requests for information and documents. Bennett partially responded to these requests, but she repeatedly refused to provide the requested information for three categories of documents. For the first two categories, bank records, Bennett argued that not only did the bank records relate to her private retail business but also that a portion of the requested records were for a period of time when she was no longer registered with FINRA. For the third category, financial documents with a lender, she asserted that the Staff had already obtained the requested documents when it conducted an on-site examination of her office.

Because Bennett refused to produce the requested documents, on March 25, 2016, FINRA sent Bennett a Notice of Suspension (“Notice”) informing her that she would be suspended from associating with any FINRA member firm. Bennett stayed the suspension by requesting a hearing. A hearing was held on May 19, 2016.<sup>1</sup>

After careful consideration, the Hearing Panel rejects Bennett’s defenses and suspends her as of the date of this decision. The suspension shall automatically convert to a bar if Bennett does not fully comply with the outstanding requests within ten business days after the date of this decision.

## **II. Findings of Fact**

### **A. Dawn Bennett**

Bennett became registered with FINRA as a General Securities Representative in March 1987.<sup>2</sup> From October 2009 to December 2015, Bennett was registered with FINRA through her association with Western International Securities, Inc. (“Western”).<sup>3</sup> While associated with Western, Bennett had a private retail business, DJBennett.com, which is owned by DJB Holdings, LLC (the two entities are collectively referred to as “DJBH”). Bennett owned DJBH and was its Chief Executive Officer.<sup>4</sup> During 2015, DJBH issued convertible notes and promissory notes.<sup>5</sup>

On December 1, 2015, Western filed a Uniform Termination Notice for Securities Industry Registration (Form U5), stating that Bennett was permitted to resign on November 24, 2015 (the “Termination Date”).<sup>6</sup> The Form U5’s termination comment stated, “Firm decision following discovery of promissory notes with Firm customers by registered representative’s company.”<sup>7</sup>

### **B. FINRA’s Investigation**

FINRA is investigating Bennett for potential serious violations including fraud, conversion, undisclosed outside business activities, and private securities transactions.<sup>8</sup> In connection with its investigation, the Staff conducted an on-site examination of Bennett’s office,

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<sup>1</sup> Citations to the Hearing Transcript are noted as “Tr. \_\_\_.” Citations to the exhibits are noted as “JX-\_\_\_” for the joint exhibits, and “CX-\_\_\_” for Complainant’s exhibits.

<sup>2</sup> JX-1, at 1, 7.

<sup>3</sup> JX-1, at 1.

<sup>4</sup> CX-2, at 3.

<sup>5</sup> CX-2; CX-3; CX-4.

<sup>6</sup> Bennett is not registered with FINRA or associated with any member firm, but she remains subject to FINRA’s jurisdiction pursuant to Article V, Section 4 of FINRA’s By-Laws through at least November 23, 2017.

<sup>7</sup> JX-1, at 1.

<sup>8</sup> Tr. 33-34.

Bennett Group Financial Services, on November 6, 2015.<sup>9</sup> During the on-site examination, the Staff imaged the hard drives of three computers.<sup>10</sup> The Staff also sent Rule 8210 request letters to Bennett, issuing two on November 6, 2015, one on November 17, 2015, one on December 9, 2015, and two on February 9, 2016.<sup>11</sup> Bennett responded to the requests, but withheld three categories of documents: (1) records for an account DJBH held at Eagle Bank; (2) records for an account DJBH held at First Republic Bank; and (3) financing records involving a lender, DCP Fulton Street Lender LLC (“DCP Fulton Street”).

FINRA’s investigation reveals that to date Bennett has solicited and sold approximately \$6 million in convertible notes or promissory notes involving DJBH to approximately 30 investors, most of whom were her former customers at Western and several of whom are elderly.<sup>12</sup> Evidence gathered during the investigation reveals that Bennett may have used investors’ money for personal and other expenses unrelated to DJBH.

FINRA matched bank statements Bennett submitted to Western when she sought approval to sell the promissory notes to bank statements the Staff found on her computer hard drive, and discovered that at least one statement provided to Western had been manipulated.<sup>13</sup> The bank statements all showed an incoming wire of funds and, on the same day, an outgoing wire of funds for a similar amount. However, the bank statement on Bennett’s hard drive showed that a customer’s name associated with the incoming wire had been redacted from the copy provided to Western.<sup>14</sup> Additionally, the description associated with the outgoing wire of funds was also redacted.<sup>15</sup>

### **C. Bennett’s Failure to Produce Information and Documents to FINRA**

Bennett failed to produce the three categories of documents identified above. The Rule 8210 requests associated with each category of documents and Bennett’s responses thereto are discussed below.

#### **1. Eagle Bank Account**

FINRA issued four Rule 8210 requests to Bennett seeking records for an account she or DJBH held at Eagle Bank. Bennett promised the production of these account records, but did not produce any records until after Enforcement sent the Notice.

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<sup>9</sup> Tr. 38-39.

<sup>10</sup> Tr. 39.

<sup>11</sup> This decision refers to these letters by their dates. JX-2; JX-3; JX-5; JX-6; JX-9; JX-10.

<sup>12</sup> Tr. 34, 37-38.

<sup>13</sup> Tr. 46; *compare* CX-5, at 5, 11 (bank statement from Bennett’s hard drive) *with* CX-6, at 5, 11 (bank statement provided to Western).

<sup>14</sup> CX-6, at 5.

<sup>15</sup> CX-6, at 11.

In the First November 6 Letter, the Staff requested that Bennett produce all bank statements from January 2012 to the present for any accounts she held, or any accounts held by an entity that she was affiliated with or controlled.<sup>16</sup> Bennett provided the Staff with bank statements from another bank, but she did not produce any statements from Eagle Bank.<sup>17</sup>

The Staff then issued the November 17 Letter, which requested that Bennett produce the bank records identified in the November 6 Letter.<sup>18</sup> Bennett failed to produce any statements from Eagle Bank in response to the November 17 Letter.

Three weeks later, the Staff issued the December 9 Letter, requesting that Bennett produce all statements and supporting documentation for the Eagle Bank account from January 2012 to the present.<sup>19</sup> In Bennett's December 30 response,<sup>20</sup> she did not produce any documents for the Eagle Bank account, but she stated that Eagle Bank was "continuing to pull documentation."<sup>21</sup> She did not indicate when the Eagle Bank records would be produced.<sup>22</sup>

Two months later, the Staff had not received any Eagle Bank statements or records from Bennett. Accordingly, the Staff issued the First February 9 Letter, which repeated the request for the Eagle Bank records from the December 9 Letter.<sup>23</sup> In her March 7, 2016 response, she stated that the production of the Eagle Bank records would follow.<sup>24</sup>

About two weeks after FINRA sent Bennett the Notice, she provided the statements and supporting documentation for the DJBH account at Eagle Bank from May 2015, when the account was opened, through November 24, her Termination Date.<sup>25</sup> Bennett stated that she would not produce any bank records for the period after she left the securities industry because these documents "are irrelevant, outside FINRA's jurisdiction, and the pursuit of them is needlessly intrusive into [her] private business."<sup>26</sup> To date, she has not produced any records for the period after her Termination Date.

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<sup>16</sup> JX-2, at 1.

<sup>17</sup> JX-5, at 1.

<sup>18</sup> JX-5.

<sup>19</sup> JX-6, at 1.

<sup>20</sup> JX-7.

<sup>21</sup> JX-7, at 1.

<sup>22</sup> JX-7

<sup>23</sup> JX-9.

<sup>24</sup> JX-11, at 2.

<sup>25</sup> JX-12.

<sup>26</sup> JX-12, at 2.

## 2. First Republic Bank

The Staff issued four Rule 8210 requests to Bennett seeking records for a bank account DJBH held at First Republic Bank. The last two requests, the December 9 and February 9 Letters, sought bank records that encompassed the November 2015 bank statement.

In the December 9 Letter, FINRA Staff specifically requested “the November 2015 [First Republic Bank] statement and all supporting documentation.”<sup>27</sup> On December 30, Bennett instead provided ten pages of screenshots purportedly capturing the activity in the First Republic statement for the period November 6 through 20.<sup>28</sup> The next day, the Staff advised Bennett that her production was unacceptable because (1) the Staff had requested statements and not screenshots; (2) the production did not capture all November activity; and (3) no supporting documentation was produced.<sup>29</sup> In response, Bennett provided another screenshot for the period of November 20 to November 30.<sup>30</sup>

The First February 9 Letter requested that Bennett produce all statements and supporting documentation for the First Republic Bank account from January 2012 to the present.<sup>31</sup> The First February 9 Letter further stated that “October 2015 was [the] last bank statement provided to FINRA staff for this account. No supporting documentation has been provided.... [The] Staff is requesting actual bank statements and will not accept online screen prints for this or any other requested account.”<sup>32</sup> In Bennett’s March 7 response, she refused to produce any First Republic Bank records after her Termination Date, asserting that “Bank statements subsequent to that period do not relate to her previous work as a broker.”<sup>33</sup>

After FINRA issued the Notice, Bennett responded on April 12, stating that she had provided all statements for the account through the end of November 2015 and was providing supporting documents.<sup>34</sup> Bennett also reiterated that she was not producing any bank records for the period after her Termination Date because these records “are irrelevant, outside FINRA’s jurisdiction, and the pursuit of them is needlessly intrusive into [her] private business.”<sup>35</sup> Contrary to her assertion, she did not provide the account statement for November 2015 in her April 12 response. Three weeks later, Bennett provided the DJBH First Republic Bank statement for November 2015, but she redacted any transactions on the statement that occurred after her

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<sup>27</sup> JX-6, at 2.

<sup>28</sup> JX-7.

<sup>29</sup> CX-8.

<sup>30</sup> JX-8, at 3-8.

<sup>31</sup> JX-9.

<sup>32</sup> JX-9, at 1 n.2.

<sup>33</sup> CX-11, at 2.

<sup>34</sup> JX-12, at 2.

<sup>35</sup> JX-12, at 2.

Termination Date.<sup>36</sup> As with the Eagle Bank statements, Bennett has not produced any bank records after her Termination Date.

### 3. DCP Fulton Street Lender LLC

FINRA Staff issued two Rule 8210 requests to Bennett seeking financing documents with DCP Fulton Street: (1) the December 9 Letter sought any records relating to loans or other financing through this entity; and (2) the Second February 9 Letter sought any records relating to Uniform Commercial Code (“UCC”) filings by this entity against assets Bennett or an affiliated entity owned.<sup>37</sup>

The December 9 Letter requested that Bennett produce “legible copies of all records documenting loans, extension of credits, or any other forms of financing obtained through [DCP Fulton Street, among ten other listed entities], including but not limited to, copies of executed promissory notes or other lending agreements, term sheets, statements, payment schedules, and evidence of repayment if applicable.”<sup>38</sup> Bennett responded on December 30, 2015, stating that “[n]either [she nor] DJB[H] has had any loan, credit or financing arrangement with [two other specific entities]. DJB[H] has factoring arrangements with many of the other entities, and I have attached a sample form of the documentation that DJB[H] uses for such arrangements.”<sup>39</sup> Bennett produced no response or documentation specific to DCP Fulton Street.

The Second February 9 Letter requested Bennett to produce “[a]ll documentation relating to DCP Fulton Street’s UCC filing(s) against assets owned or held by Bennett, or any entity [with which] she is affiliated.”<sup>40</sup> In her March 7 response, Bennett stated that she “entered into a Letter Agreement, Promissory Note, Security Agreement and a Pledge Agreement” with DCP Fulton Street on July 25, 2014, but she refused to produce the original documents “based upon [her] concern about preserving her business relationship with DCP [Fulton Street] and her belief that the documents are not relevant.”<sup>41</sup> Instead of producing any documents, she provided a three-paragraph summary of the documents and the related \$1.7 million loan from DCP Fulton Street.<sup>42</sup>

About two weeks after FINRA issued the Notice, Bennett informed the Staff that her “loan arrangement” with DCP Fulton Street was “entirely unrelated to her former activities as a broker.” She also noted that the Staff was already in possession of DCP Fulton Street documents

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<sup>36</sup> JX-14.

<sup>37</sup> In addition to the First February 9 Letter, which sought bank statements, the Staff sent a second letter to Bennett on February 9, 2016.

<sup>38</sup> JX-6, at 2.

<sup>39</sup> JX-7, at 2.

<sup>40</sup> JX-10, at 2.

<sup>41</sup> JX-11, at 8.

<sup>42</sup> JX-11, at 8.

because they were “housed on the server which FINRA imaged” during the November 6 on-site examination of Bennett’s office.<sup>43</sup> Bennett referred the Staff to the summary of the Promissory Note, Security Agreement and Pledge Agreement that she provided in her March 7 response.<sup>44</sup> Three weeks later, Bennett informed the Staff that the DCP Fulton Street documents she had identified were “no longer uploaded to the document review platform that we used earlier this year and it would be a burden to upload them again.”<sup>45</sup> To assist the Staff in locating the documents on the hard drives, Bennett provided the Staff with search terms.<sup>46</sup> To date, Bennett has not produced the requested DCP Fulton Street documents in response to the December 9 Letter and the Second February 9 Letter.

### **III. Conclusions of Law**

#### **A. The Applicable Law**

In this case, the Staff requested information and documents from Bennett in accordance with FINRA Rule 8210. Rule 8210 authorizes FINRA, with respect to any matter involved in an investigation, complaint, examination, or proceeding, to (1) request information from associated persons, and (2) inspect their books, records, and accounts that are in their possession, custody, or control.<sup>47</sup> These requirements are “unequivocal” and “unqualified,”<sup>48</sup> and compliance is mandatory.<sup>49</sup>

The importance of Rule 8210 is paramount. According to the Securities and Exchange Commission (“SEC”), Rule 8210 is “essential to FINRA’s ability to investigate possible misconduct by its members and associated persons.”<sup>50</sup> The scope of Rule 8210 is broad, giving FINRA a critical tool to protect investors and markets in the absence of subpoena power.<sup>51</sup>

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<sup>43</sup> JX-12, at 3.

<sup>44</sup> JX-12, at 3.

<sup>45</sup> JX-14, at 1.

<sup>46</sup> JX-14, at 1. FINRA Staff found DCP Fulton Street financing documents that Bennett described by searching her computer hard drive, but the Staff testified that some of these documents are not fully executed and it is unclear whether they are drafts or final documents. Tr. 91-92.

<sup>47</sup> FINRA Rule 8210(a)(1) and (2).

<sup>48</sup> *Dep’t of Enforcement v. North Woodward Fin. Corp.*, No. 2010021303301, 2014 FINRA Discip. LEXIS 32, at \*19 (NAC July 21, 2014) (citation omitted), *aff’d*, Exchange Act Release No. 79913, 2015 SEC LEXIS 1867 (May 8, 2015), *aff’d sub nom. Troszak v. SEC*, No. 15-3729 (6th Cir. June 29, 2016); *accord Blair C. Mielke*, Exchange Act Release No. 75981, 2015 SEC LEXIS 3927, at \*54 (Sept. 24, 2015).

<sup>49</sup> *See* 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.”); *CMG Inst. Trading, LLC*, No. 2008012026601, 2010 SEC LEXIS 3405, at \*13 (Oct. 7, 2010) (holding that firms and associated persons must cooperate fully in providing requested information).

<sup>50</sup> *Mielke*, 2015 SEC LEXIS 3927, at \*54-55 n.46.

<sup>51</sup> *Charles C. Fawcett, IV*, Exchange Act Release No. 56770, 2007 SEC LEXIS 2598, at \*23 n.28 (Nov. 8, 2007); *Richard J. Rouse*, Exchange Act Release No. 32658, 1993 SEC LEXIS 1831, at \*8 (July 19, 1993).

Failing to provide information “frustrates [FINRA’s] ability to detect misconduct, and such inability in turn threatens investors and markets.”<sup>52</sup>

## **B. Bennett’s Defenses Are Without Merit**

Bennett does not dispute that FINRA properly served her with the Rule 8210 requests and that she failed to comply. Instead, she asserts two defenses in connection with the three categories of documents that she failed to produce. For the reasons stated below, the Panel rejects Bennett’s defenses.

Regarding the first two categories, the bank records for accounts at Eagle Bank and First Republic Bank, Bennett argues that FINRA’s requests for documents relating to her private, non-brokerage business for the period after she left the securities industry are not relevant to its inquiry. Under 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, including investigating an associated person’s outside business activities.<sup>53</sup> Thus, the fact that any requests seek information or documents about Bennett’s outside business activities does not alleviate her obligation under FINRA Rule 8210 to respond to the requests. A firm or its associated persons may not “take it upon themselves to determine whether information requested is [relevant or] material to [a FINRA] investigation of their conduct.”<sup>54</sup>

In addition, Bennett’s argument that she does not have to produce records created after she left the securities industry is without merit. Bennett remains subject to FINRA’s jurisdiction for two years after the termination of her registration with FINRA. Rule 8210 does not limit FINRA’s ability to request documents and information to the period within which a registered representative was associated with a FINRA member. To the contrary, a registered representative

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<sup>52</sup> *North Woodward Fin. Corp.*, 2014 FINRA Discip. LEXIS 32, at \*20 n.16 (citing *PAZ Sec., Inc.*, Exchange Act Release No. 57656, 2008 SEC LEXIS 820, at \*13 (Apr. 11, 2008)); see *Dep’t of Enforcement v. Jarkas*, No. 2009017899801, 2015 FINRA Discip. LEXIS 50, at \*46-47 (NAC Oct. 5, 2015) (citation omitted) (“Delay and neglect on the part of members and their associated persons undermine the ability of [FINRA] to conduct investigations and thereby protect the public interest.”).

<sup>53</sup> See *Gregory Evan Goldstein*, Exchange Act Release No. 71970, 2014 SEC LEXIS 1350, at \*22 (Apr. 17, 2014) (affirming FINRA’s authority to request information related to an associated person’s outside consulting business); *Dep’t of Enforcement v. CMG Inst. Trading, LLC*, No. E8A20050252, 2008 FINRA Discip. LEXIS 3, at \*26-27 (NAC Feb. 20, 2008), *aff’d*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215 (Jan. 30, 2009) (affirming FINRA’s authority to request an associated person to produce documents of a non-member third-party entity that he owned and controlled and was the indirect source of a \$3 million deposit into an account of the person’s member firm); *North Woodward Fin. Corp.*, Exchange Act Release No. 79913, 2015 SEC LEXIS 1867, at \*26 (May 8, 2015) (citation omitted) (rejecting applicant’s argument that FINRA was precluded from requesting confidential information).

<sup>54</sup> *Dep’t of Enforcement v. Harvest Capital Investments LLC*, No. 2005001305701, 2008 FINRA Discip. LEXIS 45, at \*34 (NAC Oct. 6, 2008) (quoting *Dep’t of Enforcement v. Sturm*, No. CAF000033, 2002 NASD Discip. LEXIS 2, at \*9 (NAC Mar. 21, 2002)).



is obligated to provide documents while subject to FINRA’s jurisdiction, even if the documents are created after the representative is no longer associated with a FINRA member firm.<sup>55</sup>

Regarding the third category of documents, the documents relating to DCP Fulton Street, Bennett argues that she is not required to produce those documents because they are already available to FINRA on the hard drives of the computers that the Staff imaged during the on-site examination of her Western branch office. Bennett acknowledged that she entered into agreements with DCP Fulton Street, but “[i]n lieu of providing the actual agreements, she provided a description of what she determined were the relevant terms.<sup>56</sup> FINRA’s requests relating to DCP Fulton Street sought all documents, including executed agreements, payment schedules, and any evidence of repayment.<sup>57</sup> Bennett’s decision to (1) simply direct FINRA to the hard drives (even with the provision of search terms) and (2) summarize the documents is not responsive to FINRA’s request. “[R]ecipients of Rule 8210 requests cannot second-guess whether compliance with a particular request is necessary.”<sup>58</sup> Whether information and documents are needed in an investigation “is a determination made by the [FINRA] staff” and Rule 8210 “does not require that [FINRA] explain its reasons for making the information request or justify the relevance of any particular request.”<sup>59</sup> Nor may an associated person set conditions on her compliance.<sup>60</sup>

### C. Conclusion

After careful consideration, the Panel rejects Bennett’s defenses. The requested documents, Bennett’s and DJBH’s bank and other financial records, are a legitimate focus of FINRA’s investigation into potential fraud, conversion, outside business activities, and private securities transactions violations by Bennett. Bennett has repeatedly refused to comply with her obligations under Rule 8210 to provide these records to FINRA Staff. The Panel concludes that she violated FINRA Rules 8210 and 2010 by not producing the information and documents that FINRA Staff sought pursuant to Rule 8210 in the November 6 Letters, the November 17 Letter, the December 9 Letter, and the First and Second February 9 Letters.

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<sup>55</sup> See *Sturm*, 2002 NASD Discip. LEXIS 2, at \*9 (holding that because FINRA Staff issued the Rule 8210 request within the two-year period of retained jurisdiction, respondent is required to provide the requested tax return even though it was created after he left the industry).

<sup>56</sup> JX-11, at 8.

<sup>57</sup> JX-6; JX-10.

<sup>58</sup> *David K. Evansen*, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080, at \*18 (July 27, 2015) (citing *Goldstein*, 2014 SEC LEXIS 1350, at \*16).

<sup>59</sup> *Morton Bruce Erenstein*, Exchange Act Release No. 56768, 2007 SEC LEXIS 2596, at \*13 (Nov. 8, 2007), *aff’d*, 316 F. App’x 865 (11th Cir. 2008); *Evansen*, 2015 SEC LEXIS 3080, at \*18.

<sup>60</sup> *Evansen*, 2015 SEC LEXIS 3080, at \*18.

#### **IV. Sanctions**

FINRA Rule 9559(n) provides that the 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 Panel has broad discretion to impose an appropriate sanction in this expedited proceeding. In determining the appropriate sanction, the Panel took into account the nature of this proceeding and the facts and circumstances of this case. The Staff issued these requests for information and documents more than eight months ago and the requests remain unanswered, frustrating FINRA’s investigation.

Although we have the authority to impose a bar immediately—the sanction Enforcement requested—we impose a ten business day suspension as of the date of this decision, during which time Bennett is encouraged to comply with the Staff’s requests. The suspension shall automatically convert to a bar if Bennett does not comply fully with the outstanding November 6, November 17, December 9, and February 9 Rule 8210 request letters within ten business days after the date of this decision.

#### **V. Order**

Respondent Dawn Bennett is suspended for ten business days 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 and shall automatically convert to a bar if Bennett does not comply fully with the November 6, November 17, December 9, and February 9 Rule 8210 request letters within ten business days after the date of this decision.

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Maureen A. Delaney  
Hearing Officer  
For the Hearing Panel