

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Peyton Nelson Jackson (CRD No. 1988387),

Respondent.

DISCIPLINARY PROCEEDING
No. 2016049252901

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In 2015 and 2016, several former customers of Peyton Nelson Jackson (“Jackson” or “Respondent”) filed Statements of Claim against Jackson and Jackson’s former employing member firms, alleging, among other charges, unsuitable sales, fraud, negligent misrepresentation, breach of fiduciary duty, and breach of contract. FINRA opened an investigation into Jackson’s potential misconduct underlying the allegations in the Statements of Claim. As part of its investigation, FINRA repeatedly requested, pursuant to FINRA Rule 8210, that Jackson provide certain documents, information, and testimony. From September 16, 2016 to the present, on at least seven occasions, Jackson failed to comply with these requests in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Jackson first entered the securities industry in 1989 when he became registered with FINRA as a general securities representative (“GSR”) through his association with a FINRA member firm. In 1991, Jackson also became registered as a general securities principal (“GP”). Between 1992 and 2015, Jackson was registered as a GSR and/or a GP through associations with seven other FINRA member firms.
3. Although Respondent is no longer registered or associated with a FINRA member firm, 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 Alexander Capital, L.P. (“Alexander Capital”), namely, December 13, 2016—the date upon which Alexander Capital filed an amended Uniform Termination Notice for Securities Industry Registration (“Form U5”) for Jackson which disclosed new allegations of potential misconduct during Jackson’s tenure as a registered representative with Alexander Capital; and (2) the Complaint charges him with failing to respond to FINRA’s requests for information and on-the-record testimony before the expiration of the two-year period after December 13, 2016.

SOLE CAUSE OF ACTION

Failure to Cooperate (FINRA Rules 8210 and 2010)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.
5. FINRA Rule 8210(a)(1) requires “a member, person associated with a member, or any other person subject to FINRA’s jurisdiction to provide information orally, in

writing, or electronically (if the requested information is, or is required to be, maintained in electronic form) and to testify at a location specified by FINRA staff, under oath or affirmation administered by a court reporter or notary public if requested, with respect to any matter involved in the investigation, complaint, examination or proceeding.”

6. FINRA Rule 2010 requires FINRA member firms and associated persons to “observe high standards of commercial honor and just and equitable principles of trade.” Failure to comply with FINRA Rule 8210 is a violation of FINRA Rule 2010.
7. FINRA opened this investigation into Jackson’s potential misconduct while he was associated with a FINRA member firm involving, among other things, unsuitable sales, fraud, and negligent misrepresentation involving a customer.
8. At all relevant times, Jackson maintained the same residential address listed in FINRA’s Central Registration Depository (“CRD”) in Alexandria, VA 22307 (the “CRD Address”).
9. By email dated June 17, 2016, Jackson informed FINRA staff of an additional residential address where he could be reached—a post office box in Alexandria, VA 22307 (the “P.O. Box Address”).

The First OTR Request

10. On September 6, 2016, FINRA staff sent to Jackson a letter, pursuant to FINRA Rule 8210, requesting that he appear for on-the-record testimony (“OTR”) on September 23, 2016 and that he return to FINRA staff a completed questionnaire by September 16, 2016 (the “First OTR Request”). FINRA staff sent the First OTR Request via

first class and certified mail, return receipt requested, to Jackson's CRD Address and his P.O. Box Address.

11. On or about September 30, 2016 and November 8, 2016, the United States Postal Service ("USPS") returned as undeliverable to FINRA staff the First OTR Request sent by first class mail and certified mail, respectively, to the CRD Address. On or about November 8, 2016, the USPS returned as undeliverable the First OTR Request sent by certified mail to the P.O. Box Address. To date, the USPS has not returned the First OTR Request sent by first class mail to the P.O. Box Address.
12. Jackson failed to produce the questionnaire by September 16, 2016 and failed to appear for testimony on September 23, 2016, as requested in the First OTR Request. FINRA staff did not receive a request for adjournment of testimony or an extension for document production and no adjournment or extension was granted.

The Second OTR Request and First Document Request

13. On September 27, 2016, FINRA staff sent to Jackson two letters, each pursuant to FINRA Rule 8210: (i) a second letter requesting that he appear for OTR testimony on October 14, 2016 and that he return to FINRA staff a completed questionnaire by October 7, 2016 (the "Second OTR Request"); and (ii) a separate letter requesting that Jackson produce documents, including personal bank and brokerage account statements and certain email correspondence, by October 11, 2016 (the "First Document Request"). FINRA staff sent both the Second OTR Request and the First Document Request via first class and certified mail, return receipt requested, to Jackson's CRD Address and his P.O. Box Address.

14. On or about October 3, 2016 and October 14, 2016, the USPS returned as undeliverable the Second OTR Request sent by certified and first class mail, respectively, to the CRD Address. On or about November 8, 2016, the USPS returned as undeliverable the Second OTR Request sent by certified mail to the P.O. Box Address. To date, the USPS has not returned the Second OTR Request sent by first class mail to the P.O. Box Address.
15. On October 3, 2016 and October 7, 2016, the USPS returned as undeliverable the First Document Request sent by first class and certified mail, respectively, to the CRD Address. On or about November 8, 2016, the USPS returned as undeliverable the First Document Request sent by certified mail to the P.O. Box Address. To date, the USPS has not returned the First Document Request sent by first class mail to the P.O. Box Address.
16. Jackson failed to produce the questionnaire by October 7, 2016, failed to produce documents by October 11, 2016, and failed to appear for testimony on October 14, 2016, as requested in the Second OTR Request and the First Document Request. FINRA staff did not receive a request for adjournment of testimony or an extension for production of documents and no adjournment or extension was granted.

The Third OTR Request and Second Document Request

17. On October 17, 2016, FINRA staff sent to Jackson two letters, each pursuant to FINRA Rule 8210: (i) a third letter requesting that he appear for OTR testimony on October 25, 2016 and that he return to FINRA staff a completed questionnaire by October 20, 2016 (the "Third OTR Request"); and (ii) a second letter requesting that Jackson produce documents, including bank and brokerage account statements and

certain email correspondence, by October 28, 2016 (the “Second Document Request”). FINRA staff sent both the Third OTR Request and the Second Document Request via first class and certified mail, return receipt requested, to Jackson’s CRD Address and his P.O. Box Address.

18. Additionally, on October 17, 2016, FINRA staff sent both the Third OTR Request and the Second Document Request to Jackson’s counsel by electronic mail, to an e-mail address provided by Jackson’s counsel.
19. On October 24, 2016, as agreed with Jackson’s counsel, FINRA staff sent counsel, via electronic mail, a revised Third OTR Request, which requested that Jackson appear for OTR testimony on November 18, 2016.
20. On or about November 7, 2016, the USPS returned as undeliverable the Third OTR Request sent by certified mail to Jackson’s CRD Address. On or about November 3, 2016, Jackson signed the certified mail return receipt for the Third OTR Request sent by certified mail to the P.O. Box Address. To date, the USPS has not returned the Third OTR Request sent by first class mail to the CRD Address or the P.O. Box Address.
21. On or about October 25, 2016, the USPS returned as undeliverable the Second Document Request sent by certified mail to Jackson’s CRD Address. On or about November 3, 2016, Jackson signed the certified mail return receipt for the Second Document Request sent by certified mail to the P.O. Box Address. To date, the USPS did not return the Second Document Request sent by first class mail to the CRD Address or the P.O. Box Address.

22. Jackson failed to produce the questionnaire by October 20, 2016, failed to produce documents by October 28, 2016, and failed to appear for testimony on November 18, 2016, as requested in the Third OTR Request, the Second Document Request, and the revised Third OTR Request, respectively. FINRA staff did not receive a request for adjournment of the November 18, 2016 date for testimony or an extension for production of documents and no adjournment or extension was granted.

The Fourth OTR Request and the Third Document Request

23. On December 19, 2016, FINRA staff sent to Jackson's counsel two letters, each pursuant to FINRA Rule 8210: (i) a fourth letter requesting that Jackson appear for OTR testimony on January 26, 2017 (the "Fourth OTR Request"); and (ii) a third letter requesting that Jackson produce documents, including bank and brokerage account statements and certain email correspondence, by January 4, 2017 (the "Third Document Request"). FINRA staff sent both the Fourth OTR Request and the Third Document Request via certified mail, return receipt requested, and electronic mail to Jackson's counsel's business address and e-mail address, respectively.

24. The USPS returned signed and undated certified mail return receipts for the Fourth OTR Request and the Third Document Request sent to Jackson's counsel's business address. On or about January 4, 2017, Jackson's counsel orally acknowledged to FINRA staff receipt of the Fourth OTR Request and the Third Document Request sent by electronic mail.

25. Jackson failed to produce documents by January 4, 2017 and failed to appear for testimony on January 26, 2017, as requested in the Third Document Request and Fourth OTR Request, respectively. FINRA staff did not receive a request for

adjournment of testimony or an extension for production of documents and no adjournment or extension was granted.

26. As a result of Jackson's complete failure to provide the requested questionnaires, documents, and testimony, as detailed in the foregoing paragraphs, Jackson violated FINRA Rules 8210 and 2010.

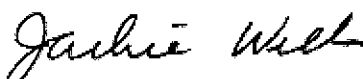
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violation charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- 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: April 18, 2017



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