

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

Department of Enforcement,

Complainant,

v.

David Hixon,
CRD No. 4707468,

Respondent.

Disciplinary Proceeding
No. 2021070867702

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent David Hixon failed to provide a complete response to FINRA’s requests for information and documents made pursuant to FINRA Rule 8210 in July, August, and October 2021. As a result, Hixon violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Hixon first registered with FINRA in 2006. Hixon, through his association with Morgan Stanley (CRD No. 149777) (“MS”), was registered with FINRA as a General Securities Representative and a General Securities Sales Supervisor from June 20, 2013 until March 17, 2021.

3. On March 17, 2021, MS filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”), disclosing that Hixon had been terminated as a result of “[c]oncerns that the representative borrowed from a customer and asked two other persons, one a customer and one a co-worker, for a loan.”

4. On March 29, 2021, MS amended Hixon's Form U5 to disclose a written customer complaint alleging "misrepresentation with respect to annuity exchange."

5. Although Hixon is no longer registered or associated with any 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 March 29, 2021, which was the date of an amendment to Respondent's notice of termination that was filed within two years of his original notice of termination and that disclosed that Respondent may have engaged in conduct actionable under any applicable statute, rule, or regulation, and (2) the Complaint charges Hixon with failing to respond to FINRA requests for information and documents during the two-year period after MS's filing of an amendment to Hixon's Form U5.

FACTS

6. In March 2021, FINRA began investigating the circumstances of Hixon's termination from MS in order to determine whether violations of the federal securities laws or FINRA rules occurred.

7. For the purpose of that investigation, and pursuant to FINRA Rule 8210, on July 15, 2021, FINRA requested that Hixon provide information regarding his solicitation and taking of loans from two customers, repayment of a loan from a customer, and any documents relating to loans from customers ("July Request"). The July Request also requested that Hixon provide information pertaining to the customer complaint against him in connection with an annuity exchange. The July Request requested Hixon's complete response by August 6, 2021.

8. The July Request was served on Hixon via certified and first-class mail to Hixon's last known residential address as reflected in the Central Registration Depository ("CRD

Address”). On July 24, 2021, the certified mail copy of the July Request was delivered to Hixon’s CRD Address. The first-class mail copy of the July Request was not returned to FINRA.

9. Hixon did not respond to the July Request.

10. FINRA sent a second request, again for the purpose of its investigation and pursuant to FINRA Rule 8210, on August 12, 2021, enclosing the July Request and requesting Hixon’s complete response by September 2, 2021 (“August Request”).

11. The August Request was served on Hixon via certified and first-class mail to Hixon’s CRD Address. On September 24, 2021, the certified mail copy of the August Request was “unclaimed” and returned to FINRA. The first-class mail copy of the August Request was not returned to FINRA.

12. Hixon did not respond to the August Request.

13. FINRA sent a third request, again for the purpose of its investigation and pursuant to FINRA Rule 8210, on October 1, 2021, enclosing the July and August Requests and requesting Hixon’s complete response by October 15, 2021 (“October Request”).

14. The October Request was served on Hixon via certified and first-class mail to Hixon’s CRD Address. A copy of the October Request was also sent to Hixon by Federal Express, but it was not delivered. On October 28, 2021, the certified mail copy of the October Request was “unclaimed” and returned to FINRA. The first-class mail copy of the October Request was not returned to FINRA.

15. On December 14, 2021, pursuant to FINRA Rule 9552, FINRA sent a letter to Hixon, notifying him that, on January 7, 2022, he would be suspended from associating with any FINRA member in any capacity for failing to respond to the July, August, and October Requests (“Notice of Suspension”).

16. FINRA staff served the Notice of Suspension on Hixon via certified and first-class mail to Hixon's CRD Address. FINRA staff confirmed that Hixon's CRD Address was the same as his most recent residential address in public records. On February 7, 2022, the certified mail copy of the Notice of Suspension was returned to FINRA. The first-class mail copy of the Notice of Suspension was not returned to FINRA.

17. On January 7, 2022, FINRA sent a letter to Hixon, notifying him that, pursuant to FINRA Rule 9552 and in accordance with the Notice of Suspension, he had been suspended from associating with any FINRA member in any capacity.

18. On March 10, 2022, Hixon sent an email to FINRA staff, stating that he had not received the July, August, and October Requests. As such, also on March 10, 2022, FINRA staff provided Hixon with copies of the July, August, and October Requests, as well as the Notice of Suspension.

19. On March 17, 2022, Hixon submitted information to FINRA staff in response to the July, August, and October Requests. Hixon also requested that his suspension be terminated.

20. Hixon's response was incomplete. Hixon failed to provide complete responses to five requests. First, Hixon failed to provide any documents relating to his receipt of funds in connection with a loan he obtained from a certain customer ("Customer Loan"). Second, Hixon failed to provide copies of any loan agreements or other documents relating to the Customer Loan. Third, Hixon failed to provide any documents evidencing his claimed repayment of the Customer Loan. Fourth, Hixon failed to confirm whether, apart from the two customers named in the July, August, and October Requests, he had solicited or obtained loans from any other customers or coworkers. Last, if Hixon had solicited other loans, Hixon failed to indicate the intended purpose of any such loans.

21. On March 29, 2022, FINRA sent two letters to Hixon, by certified and first-class mail to his CRD Address and by email to Hixon’s personal email address, identifying outstanding deficiencies in Hixon’s response to the July, August, and October Requests (“Deficiency Letter”) and denying Hixon’s request to terminate his suspension due to his incomplete response (“Denial Letter”).

22. The Deficiency and Denial Letters notified Hixon that FINRA did not bar him on March 17, 2022 pursuant to FINRA Rule 9552(h). Rather, Hixon remained suspended pursuant to FINRA Rule 9552 and would continue to remain suspended until such time as Hixon provides a complete response to the July, August, and October Requests.

23. The certified mail copies of the Deficiency and Denial Letters were delivered to Hixon’s CRD Address on April 2, 2022 and the email transmitting the Deficiency and Denial Letters was not returned as undeliverable.

24. Hixon has not further responded to FINRA and he is currently suspended from associating in any capacity with any FINRA member.

CAUSE OF ACTION
Failure to Provide Information and Documents
(FINRA Rules 8210 and 2010)

25. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

26. FINRA Rule 8210(a)(1) provides that FINRA staff may require persons 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) ... with respect to any matter involved in the investigation, complaint, examination, or proceeding.”

27. Rule 8210(a)(2) provides that FINRA staff may “inspect and copy the books, records, and accounts of such member or person with respect to any matter involved in the investigation, complaint, examination, or proceeding that is in such member's or person's possession, custody or control.”

28. FINRA Rule 8210(c) provides that “[n]o member or person shall fail to provide information ... pursuant to this Rule.”

29. A violation of FINRA Rule 8210 also constitutes a violation of FINRA Rule 2010, which requires associated persons to “observe high standards of commercial honor and just and equitable principles of trade.”

30. While subject to FINRA’s jurisdiction, Hixon failed to respond fully to FINRA’s requests for information and documents pursuant to FINRA Rule 8210 dated July 15, 2021, August 12, 2021, and October 1, 2021.

31. The missing information and documents are material to FINRA staff’s investigation into whether Hixon improperly borrowed from a customer, whether Hixon repaid that customer, and whether and why Hixon solicited other customers and coworkers for loans. Without additional information and documents relating to the Customer Loan, FINRA staff is unable to confirm the specific amount of the Customer Loan, evaluate whether the customer in question agreed, in writing, to lend funds to Hixon, and determine whether and when Hixon repaid the Customer Loan. In addition, without any information relating to other customers and coworkers that Hixon solicited for loans, FINRA staff is unable to determine the scope of Hixon’s borrowing from customers in potential violation of FINRA rules.

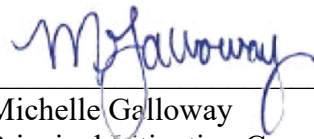
32. By virtue of the foregoing, Hixon violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Hixon committed the violations charged and alleged in this complaint;
- B. impose one or more of the sanctions that FINRA Rule 8310(a) authorizes, including monetary sanctions; and,
- C. order Hixon to bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

Date: July 20, 2022



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