

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 68904 / February 11, 2013

Admin. Proc. File No. 3-15183

In the Matter of the Application of

GREGORY EVAN GOLDSTEIN

c/o Martin P. Unger

Burkhart, Wexler & Hirschberg, LLP

585 Steward Avenue, Suite 750

Garden City, NY 11530

For Review of Action Taken by

FINRA

ORDER
DENYING
STAY

Gregory Evan Goldstein, an associated person, officer, and control person of Marquis Financial Services, Inc., a FINRA member firm, appeals from a FINRA disciplinary action. On January 4, 2013, in an expedited proceeding, FINRA found that Goldstein failed to respond to certain requests by FINRA at an on-the-record interview and a request to produce documents and information made pursuant to FINRA Rule 8210.¹ FINRA ordered Goldstein to reply to all outstanding Rule 8210 information requests within twenty-one days of the date of the decision.² FINRA further found that, if Goldstein did not comply within that time, Goldstein would be automatically suspended from associating with any member firm in any capacity. FINRA additionally found that, if Goldstein did not fully comply with the requests within three months

¹ FINRA Rule 8210(a)(1) requires members and persons associated with a member to "provide information orally [or] in writing . . . with respect to any matter involved in . . . [a FINRA] examination." Rule 8210(a)(2) further states that FINRA staff shall have the right to "inspect and copy the books, records, and accounts of such member or person with respect to any matter involved in . . . [a FINRA] examination."

² In a letter dated January 23, 2013, FINRA informed the Commission that FINRA had "agreed to extend the time within which Mr. Goldstein has to comply [with the outstanding Rule 8210 requests] and not to begin a suspension of Mr. Goldstein until February 15, 2013 or—if the motion for stay is still pending—until after the Commission has ruled on the motion."

of the date of the decision, Goldstein's suspension would automatically convert to a bar and he would be fined \$50,000. In connection with his appeal, Goldstein moved to stay the imposition of the sanctions, which FINRA opposes. For the reasons stated below, Goldstein's motion is denied.

I.

FINRA began investigating Marquis and its employees, including Goldstein, in 2010 after receiving a referral from FINRA Member Regulation about suspicious trading in penny stock at Marquis.³ During the investigation, FINRA learned that Goldstein had been operating an outside consulting business called Wall Street at Home.com, Inc., since at least 2005, but had failed to report those activities as FINRA's rules require.⁴ As Goldstein stipulated, Wall Street at Home is an indirect owner of Marquis: Wall Street at Home owns 100 percent of a holding company called Steven Gregory Securities, which in turn owns at least 95 percent of Marquis. Goldstein also stipulated that he is the president of all three companies and the sole officer and voting stockholder of Wall Street at Home and that neither Steven Gregory Securities nor Wall Street at Home ever had any employees.

On January 9, 2012, FINRA staff conducted an on-the-record interview of Goldstein pursuant to Rule 8210, during which FINRA staff asked Goldstein questions about his activities at Wall Street at Home. Goldstein testified that he did consulting work for Wall Street at Home by conducting "due diligence" to determine whether companies were "viable."⁵ Goldstein added that Wall Street at Home had other owners in addition to himself, but that they "would be very small minority owners."⁶ Goldstein declined, however, to identify the other shareholders and declined to acknowledge whether Wall Street at Home had any investment accounts. Goldstein also declined to identify any customer for whom he provided consulting work or to specify an industry in which he had performed such work.

After the interview, FINRA sent Goldstein a written request for information and documents pursuant to Rule 8210. Among other things, FINRA asked Goldstein to identify the owners of Wall Street at Home; the customers for whom Goldstein provided services at Wall Street at Home; and information and documents showing the compensation Goldstein and/or Wall Street at Home received. Goldstein, through counsel, refused to respond to the written requests, asserting that FINRA did not have the authority to require an associated person to produce documents relating to a third party.

³ The investigation is ongoing.

⁴ FINRA Rule 3270 prohibits registered persons from serving as an officer of an outside business without providing prior written notice to his or her firm. Marquis's written procedures similarly required any registered person who received compensation from outside business activities to provide notice and a description of the outside affiliation.

⁵ Hearing Panel Decision at 13 (quoting Goldstein Jan. 9, 2012 OTR at 255–56).

⁶ *Id.* (quoting Goldstein Jan. 9, 2012 OTR at 28–29).

On March 13, 2012, FINRA staff issued a Notice of Suspension to Goldstein pursuant to Rule 9552, informing Goldstein that he would be suspended from association with any FINRA member firm in any capacity unless he complied with its Rule 8210 requests by April 6, 2012.⁷ In response, Goldstein requested an expedited hearing on the matter pursuant to Rule 9552(e).⁸

In a decision dated January 4, 2013, a hearing panel found that FINRA had jurisdiction to seek information regarding Goldstein's outside business activities for purposes of Rule 8210 because Goldstein was an associated person; the information FINRA sought was related to his business activities; Goldstein possessed and controlled that information; and "Wall Street at Home [was] not entirely independent from the firm through which Goldstein conducts a regulated securities business."⁹ The panel then found that Goldstein failed to respond to FINRA's requests made under Rule 8210. Because of this failure, the panel suspended Goldstein as described above.

Though FINRA's National Adjudicatory Council had the option to call the panel's decision for review within twenty-one days of its receipt,¹⁰ it did not exercise that option. The panel's decision is therefore the final action of FINRA in this proceeding.¹¹ On January 22, 2013, Goldstein filed an application for review with the Commission,¹² together with a motion to stay the imposition of sanctions.¹³

II.

The Commission considers the following factors in determining whether to grant a stay: (i) the likelihood that the moving party will eventually succeed on the merits of its appeal; (ii) the likelihood that the moving party will suffer irreparable harm without a stay; (iii) the

⁷ FINRA Rule 9552(a) states that if a member or associated person fails to provide the staff with requested testimony, documents, or information pursuant to FINRA rules, the self-regulatory organization may provide written notice specifying the nature of the failure and stating that a failure to take corrective action within twenty-one days after service of the notice will result in a suspension.

⁸ FINRA Rule 9552(e) provides that a person served with a notice about a failure to provide information under Rule 9552(a) may file with the Office of Hearing Officers a written request for a hearing. Unless the hearing officer orders otherwise, a timely request for a hearing stays the suspension referenced in the notice. FINRA Rule 9552(d); Rule 9559(c)(1).

⁹ Hearing Panel Decision at 17–18.

¹⁰ FINRA Rule 9559(q)(1).

¹¹ *Id.*; Rule 9559(o)(5).

¹² The hearing procedures for all expedited proceedings initiated under FINRA's Rule 9550 Series are set forth in FINRA Rule 9559. Although most of those provisions relate to the procedural requirements of the hearing and a panel's written decision, sub-section (s) notes that respondents have the right to appeal any decision issued after an expedited proceeding to the Commission, pursuant to Exchange Act § 19. *See Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amending the Citation to § 19 of the Sec. Exch. Act in NASD Rule 9559*, Exchange Act Release No. 54562, 2006 SEC LEXIS 2253, at *3–4 (Oct. 3, 2006).

¹³ "The filing of an application for review by the SEC shall not stay the effectiveness of final FINRA action, unless the SEC otherwise orders." FINRA Rule 9559(s).

likelihood that another party will suffer substantial harm as a result of a stay; and (iv) a stay's impact on the public interest.¹⁴ The moving party has the burden of establishing that a stay is warranted.¹⁵

A.

Goldstein claims that he is likely to succeed on the merits of his appeal.¹⁶ He argues that, by asking for documents and information about an unrelated third party, FINRA engaged in an impermissible fishing expedition and violated his due process rights. In support of these claims, Goldstein relies heavily on the Commission's decision in *Jay Alan Ochanpaugh*,¹⁷ which he asserts rejected FINRA's theory that it can request any documents or information that are under an associated person's possession and control. Goldstein further claims that, rather than following the Commission's directive in *Ochanpaugh* to make a "fuller exploration of the appropriate scope of Rule 8210,"¹⁸ FINRA, "instead, criticized Goldstein for not timely reporting his sporadic consulting work performed for and on behalf of Wall Street [at Home] and for not timely reporting his maintenance of a small personal inactive brokerage account outside of Marquis in which some small investments in certain securities recommended to Marquis customers were made; the positions, of which, are held to this very day."¹⁹

Goldstein contends that, without a stay, FINRA's sanctions will irreparably injure him because "[h]e could not continue employment in the securities industry, an industry he has been employed in for many years."²⁰ He also claims that the only other party in these proceedings is FINRA and that "[t]here can be no injury to FINRA or its investigation if the stay sought in this motion is granted for the period of the appeal."²¹ Goldstein adds that the "only public interest here involved, aside from the privacy and confidentiality issues raised by Goldstein to protect

¹⁴ See, e.g., *Intelispan, Inc.*, Exchange Act Release No. 42738, 54 SEC 629, 2000 SEC LEXIS 855, at *5 (May 1, 2000).

¹⁵ See, e.g., *Millenia Hope, Inc.*, Exchange Act Release No. 42739, 2000 SEC LEXIS 854, at *3 (May 1, 2000) ("The party requesting the stay has the burden of proof.").

¹⁶ As a preliminary matter, we note that the Commission's Rule of Practice 154(c), 17 C.F.R. § 201.154(c), limits the length of motions to 7,000 words or less and states that any brief exceeding fifteen pages must be accompanied by a certificate of word-count compliance. Goldstein's six-page motion for a stay exceeds this limit by incorporating by reference an earlier nineteen-page request for a hearing that Goldstein filed with FINRA. Because Goldstein did not file a certificate of word-count compliance with his motion, FINRA requests that the Commission strike pages ten through twenty of the request for a hearing. As a matter of discretion, and in light of our ultimate ruling, we deny FINRA's request.

¹⁷ Exchange Act Release No. 54363, 2006 SEC LEXIS 1926 (Aug. 25, 2006).

¹⁸ Applicant's Mot. for a Stay at 2 (quoting *Ochanpaugh*, 2006 SEC LEXIS 1926, at *19).

¹⁹ *Id.* at 3.

²⁰ *Id.* at 5.

²¹ *Id.*

Wall Street [at Home] and its private investors (which themselves implicate public interest), is to ensure that Rule 8210 has limits and that those limits are well defined and understandable."²²

FINRA opposes Goldstein's motion, arguing that its rules expressly require associated persons to disclose outside business activities "precisely for the purpose demonstrated here—to enable both member firms and FINRA to oversee and, if necessary, investigate associated persons' activities away from member firms."²³ FINRA adds that, because of Wall Street at Home's close connections to both Goldstein and Marquis, Wall Street at Home is not an unrelated third party. "Indeed," FINRA argues, "the business and financial affairs that Goldstein operates through Wall Street At Home have a direct relationship to Marquis Financial's customers because they purchased minority interests in Wall Street At Home through Marquis Financial."²⁴

FINRA also asserts that Goldstein misapplies the Commission's holding in *Ochanpaugh*. FINRA argues that the Commission simply found that, as a factual matter, FINRA failed to establish that the applicant had possession and control of the documents FINRA sought. In doing so, FINRA notes, the Commission emphasized that "Rule 8210 is an essential cornerstone of [FINRA's] ability to police the securities markets and should be rigorously enforced."²⁵

FINRA also argues that Goldstein will not suffer irreparable harm without a stay because the suspension is the result of Goldstein's own failure to comply with FINRA's requests. According to FINRA, Goldstein can lift the suspension any time before February 15, 2013 by fully complying with FINRA's requests. FINRA further contends that denying Goldstein's stay request is in the public interest because the "necessity of protecting the public interest, particularly in regard to ensuring that FINRA is able to obtain the information necessary to investigate its members, far outweighs any harm to Goldstein."²⁶

B.

Final resolution must await the Commission's determination on the merits of Goldstein's appeal. However, based on the briefs the parties have filed so far, there does not appear to be a strong likelihood that Goldstein will succeed on appeal. As the hearing panel observed, while Rule 8210's scope is not unlimited,²⁷ FINRA's requests to Goldstein are "not even close to those

²² *Id.* at 6.

²³ Br. of FINRA in Opp'n to Req. for Stay at 9 (citing *Morton Bruce Erenstein*, Exchange Act Release No. 56768, 2007 SEC LEXIS 2596, at *6 n.4 (Nov. 8, 2007) (stating that FINRA adopted requirement to disclose outside business interests to enable appropriate oversight of such activities), *aff'd*, 316 F. App'x 865 (11th Cir. 2008)).

²⁴ Br. of FINRA in Opp'n to Req. for Stay at 10 n.13.

²⁵ *Id.* at 10–11 (quoting *Ochanpaugh*, 2006 SEC LEXIS 1926, at *19).

²⁶ *Id.* at 16.

²⁷ See *Ochanpaugh*, 2006 SEC LEXIS 1926, at *13 (stating that "the scope of Rule 8210, while necessarily broad, does have limits").

limits."²⁸ Rule 8210 expressly requires associated persons to provide information and testify "with respect to any matter involved in [a FINRA] investigation, complaint, examination, or proceeding." Here, FINRA is not seeking information from an unrelated third party, "but, rather, information of an associated person, Respondent Gregory Goldstein."²⁹ Indeed, Goldstein himself acknowledges that he is an associated person who has "possession, custody and control of the corporate information and documents sought by FINRA."³⁰ As an associated person, Goldstein is thus "required to provide [FINRA] with any documents that belong to him personally."³¹

Moreover, Wall Street at Home is not, as Goldstein contends, an unrelated third party. The firm is closely tied to both Goldstein and Marquis (the regulated entity through which Goldstein conducts his securities business). Goldstein stipulated that he is Wall Street at Home's sole officer and voting stockholder; that Wall Street at Home owns Marquis through a holding company; that Marquis served as Wall Street at Home's placement agent for a 2003 offering in which Wall Street at Home sold units to Marquis's customers; and that Wall Street at Home's business plan was to "operate a full-service, retail securities brokerage business through our subsidiary, Marquis Financial Services"³² Such connections place FINRA's requests even more squarely within the scope of Rule 8210.³³

Nor has Goldstein established that FINRA's information requests raise impermissible "privacy and confidentiality issues."³⁴ As FINRA correctly notes, "FINRA investigations are non-public and confidential."³⁵ While Goldstein theorizes that the information FINRA seeks

²⁸ Hearing Panel Decision at 17; *see also* Rooney A. Sahai, Exchange Act Release No. 55046, 2007 SEC LEXIS 13, at *10 (Jan. 5, 2007) (explaining that the "Commission has taken a broad view of the scope of Rule 8210"); *Ochanpaugh*, 2006 SEC LEXIS 1926, at *19 (stating that "Rule 8210 is an essential cornerstone of [FINRA's] ability to police the securities markets and should be rigorously enforced").

²⁹ Hearing Panel Decision at 17 (emphasis in original). As FINRA notes, "Goldstein refused to answer questions about *his* Wall Street at Home customers, the services *he* provided, and the compensation *his* services generated." Br. of FINRA in Opp'n to Req. for Stay at 13 n.17 (emphasis in original).

³⁰ Applicant's Mot. for a Stay at 1.

³¹ *CMG Institutional Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *29–30 (Jan. 30, 2009) (holding that the president of a broker-dealer violated Rule 8210 by refusing to turn over documents within his control relating to the third-party source of firm funds); *cf. Dep't of Enforcement v. Gallagher*, Complaint No. 2008011701203, 2012 FINRA Discip. LEXIS 61, at *17 (NAC Dec. 12, 2012) (rejecting argument that FINRA lacked jurisdiction to request information about respondent's involvement with an outside issuer or his marketing of the issuer's securities to his broker dealer's customers).

³² Filing of Stipulations, dated April 30, 2012, ¶ 17.

³³ *See, e.g., CMG Institutional Trading, LLC*, 2009 SEC LEXIS 215, at *25 (rejecting associated person's claim that, for purposes of Rule 8210, "he did not have access to and control over responsive documents in possession of [a third party] since he was that [third party's] CEO and president").

³⁴ Applicant's Mot. for a Stay at 2.

³⁵ Br. of FINRA in Opp'n to Req. for Stay at 16 n.19 (quoting FINRA Regulatory Notice 09-17, 2009 SEC LEXIS 45, at *4 (Mar. 2009)).

could be subpoenaed by some other party, such speculative concerns are not enough for Goldstein to refuse to comply with Rule 8210. Given that so much of the securities industry involves non-public information, allowing such abstract worries about privacy to overcome the critical role of Rule 8210 would eviscerate FINRA's critical regulatory responsibilities.³⁶ Moreover, by serving as an associated person, Goldstein was on notice that he consented to FINRA's ability under Rule 8210 to request business records such as those FINRA seeks here and that such records could be shared with other regulators or eventually become public.³⁷

Furthermore, none of this well-established case law is altered by FINRA's recent amendment to Rule 8210. That amendment, among other things, "added the phrase 'possession, custody or control' to link this concept to the existing body of case law that has defined possession, custody or control as used in Rule 34 of the Federal Rules of Civil Procedure."³⁸ Goldstein claims this change to the rule makes "clear . . . that the possession and control element contained in Amended Rule 8210 was not part of the original rule."³⁹ However, regardless of any clarification or expansion of Rule 8210, FINRA's requests to Goldstein were, for the reasons explained above, squarely within the scope of the original Rule 8210.

Goldstein also appears unlikely to succeed on his due process claims because, as FINRA correctly observes, FINRA is not a state actor and is required only to "provide a fair procedure for the disciplining of members and persons associated with members."⁴⁰ The record here

³⁶ Cf. *CMG Institutional Trading, LLC*, 2009 SEC LEXIS 215, at *21 (rejecting applicant's argument that information request was immaterial and "none of your business" by noting that "associated persons 'may not ignore NASD inquiries; nor take it upon themselves to determine whether information is material to an NASD investigation of their conduct.'" (quoting *Gen. Bond & Share Co. v. SEC*, 39 F.3d 1451, 1461 (10th Cir. 1994)); *Erenstein*, 2007 SEC LEXIS 2596, at *17–19 (rejecting associated person's argument that, because "tax returns are confidential communications between the taxpayer and the taxing authority," such documents are discoverable only if they are clearly relevant and there is no other available source of the information requested).

³⁷ Cf. *Erenstein*, 2007 SEC LEXIS 2596, at *19 (noting that, because Rule 8210 expressly permitted NASD to inspect and copy "books, records and accounts of" associated persons, Erenstein was on notice that tax returns fall within this category); *Dominick A. Alvarez*, Exchange Act Release No. 53231, 2006 SEC LEXIS 308, at *1–2 (Feb. 6, 2006) ("The Commission has long underscored the importance of conducting open administrative proceedings that, 'with attendant public scrutiny, have the effect of protecting against the abuse of power by governmental entities.'" (quoting *Disciplinary Proceedings Involving Professionals Appearing or Practicing Before the Commission*, 53 Fed. Reg. 26427, 26428–29 (July 13, 1988))); FINRA Rule 8210(b) (stating that "FINRA staff may enter into an agreement with a domestic federal agency, or subdivision thereof, or foreign regulator to share any information in FINRA's possession for any regulatory purpose set forth in such agreement," while noting that the other regulator must "treat any shared information confidentially and to assert such confidentiality and other applicable privileges in response to any requests for such information from third parties").

³⁸ FINRA Regulatory Notice 13-06, 2013 FINRA LEXIS 8, at *2 (Jan. 2013) (explaining that the Commission approved an amendment to Rule 8210 that clarified the scope of FINRA's authority under the rule); see also FED. R. CIV. P. 34 (stating that a party may serve a request to produce certain items "in the responding party's possession, custody, or control"); *[No Name in Original]*, Exchange Act Release No. 68386, 2012 SEC LEXIS 3798 (Dec. 7, 2012) (Order Approving Proposed Rule Change).

³⁹ Applicant's Reply to FINRA's Opp'n to Mot. to Stay Sanctions at 2.

⁴⁰ Br. of FINRA in Opp'n to Req. for Stay at 12 (quoting 15 U.S.C. § 78o-3(b)(8) (requiring FINRA to provide fair notice and procedure for disciplining members) and citing § 78o-3(h)(1) (stating that, in a disciplinary

suggests that FINRA provided such procedures by notifying Goldstein of the charges, by considering Goldstein's defenses, and by keeping a record of the proceedings. Nor does case law support Goldstein's claim that FINRA is engaged in an improper "fishing expedition" to establish its own jurisdiction.⁴¹ To the contrary, case law makes clear that requests designed to establish jurisdiction are squarely within Rule 8210's scope.⁴²

Goldstein also fails to establish that he will suffer irreparable harm without a stay.⁴³ Goldstein could end the suspension—and asserted harm—any time before February 15, 2013 by complying with FINRA's requests. Furthermore, the potential harm of allowing Goldstein to continue participating in the industry pending his appeal outweighs the potential harm of not staying the bar. A failure to comply with an information request, the Commission has repeatedly noted, "is a serious violation because it subverts [FINRA's] ability to execute its regulatory responsibilities."⁴⁴ As a result, individuals who violate Rule 8210 "present too great a risk to the

proceeding, an SRO "shall bring specific charges, notify such member or person of, and give him an opportunity to defend against, such charges, and keep a record").

⁴¹ Applicant's Mot. for a Stay at 5. In claiming that FINRA admitted to engaging in a fishing expedition, Goldstein relies on a quote by a FINRA staff member who stated, during Goldstein's OTR testimony, that "[i]t is hard for us to figure out if our jurisdiction extends to [Wall Street at Home] if we don't know who the customers are." Goldstein Jan. 9, 2012 OTR at 27.

⁴² See *Erenstein*, 2007 SEC LEXIS 2596, at *12–13 (stating that the question of whether a requested record is "with respect to any matter involved in" a FINRA investigation "is a determination made by the [FINRA] staff" and that Rule 8210 "does not require that [FINRA] explain its reasons for making the information request or justify the relevance of any particular request"); cf. *Hart v. FedEx Ground Package Sys. Inc.*, 457 F.3d 675, 682 (7th Cir. 2006) ("[T]he plaintiffs have the right, through appropriate discovery, to explore the facts relevant to the court's jurisdiction as the case progresses."); *Laub v. Dep't of the Interior*, 342 F.3d 1080, 1093 (9th Cir. 2003) (stating that "discovery should ordinarily be granted where pertinent facts bearing on the question of jurisdiction are controverted or where a more satisfactory showing of the facts is necessary") (quoting *Butcher's Union Local No. 498 v. SDC Inv., Inc.*, 788 F.2d 535, 540 (9th Cir. 1986)); *EEOC v. Kloster Cruise, Ltd.*, 939 F.2d 920, 924 (11th Cir. 1991) (stating that "the EEOC must be allowed to investigate the facts, including the facts relevant to jurisdiction, as an initial matter" and that, "[t]o do otherwise would be to 'not only place the cart before the horse, but to substitute a different driver for the one appointed by Congress'" (quoting *EEOC v. Chrysler Corp.*, 567 F.2d 754, 755 (8th Cir. 1977)); *Howard Brett Berger*, Exchange Act Release No. 58950, 2007 SEC LEXIS 895, at *31 (May 4, 2007) (stating that "subjecting oneself to NASD's disciplinary process and relying on NASD's procedures is the appropriate route to challenge NASD jurisdiction"), *reh'g granted in part on other grounds*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141 (Nov. 14, 2008), *petition denied*, 347 F. App'x 692 (2d Cir. 2009).

⁴³ See *Robert J. Prager*, Exchange Act Release No. 50634, 2004 SEC LEXIS 2578, at *2 (Nov. 4, 2004) (stating that "the fact that an applicant may suffer financial detriment does not rise to the level of irreparable injury warranting issuance of a stay").

⁴⁴ *Joseph Ricupero*, Exchange Act Release No. 62891, 2010 SEC LEXIS 2988, at *21 (Sept. 10, 2010) (sustaining bar imposed by FINRA's predecessor, NASD, for failure to respond to an information request); see also *PAZ Secs., Inc.*, Exchange Act Release No. 57656, 2008 SEC LEXIS 820, at *13 (Apr. 11, 2008) ("The failure to respond to NASD information requests frustrates NASD's ability to detect misconduct, and such inability in turn threatens investors and markets."), *aff'd*, 566 F.3d 1172 (D.C. Cir. 2009); *Elliot M. Hershberg*, Exchange Act Release No. 53145, 2006 SEC LEXIS 99, at *10 (Jan. 19, 2006) (stating that "[f]ailure to comply [with an information request] is a serious violation justifying stringent sanctions because it subverts NASD's ability to execute its regulatory functions"), *aff'd*, 210 F. App'x 125 (2d Cir. 2006).

markets and investors to be permitted to remain in the securities industry."⁴⁵ Moreover, Goldstein's noncompliance with Rule 8210 here poses a particularly significant risk. FINRA represents that it is seeking information related to potentially serious securities violations, including selling away, front running, market timing, and fraud.⁴⁶ Goldstein also previously failed to report his outside business at Wall Street at Home as required by Rule 3270.⁴⁷ These factors further highlight the risk of harm that allowing Goldstein to continue participating in the industry pending his appeal would pose.

Accordingly, IT IS ORDERED that, pending Commission review of his appeal, Gregory Evan Goldstein's motion to stay the sanctions FINRA imposed is denied.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary

⁴⁵ *PAZ Secs., Inc.*, 2008 SEC LEXIS 820, at *13.

⁴⁶ *Cf., e.g., Chris Dinh Hartley*, Exchange Act Release No. 50031, 57 SEC 767, 2004 SEC LEXIS 1507, at *15 (July 16, 2004) (explaining that "[s]elling away is a serious violation" and that failing to disclose outside activities thus deprives investors of "protections investors have a right to expect" and "illustrates the potential for harm to public investors"); *Anthony H. Barkate*, Exchange Act Release No. 49542, 2004 SEC LEXIS 806, at *21–22 (Apr. 8, 2004) (same).

⁴⁷ *Cf. Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004) (recognizing that "the existence of a violation raises an inference that it will be repeated"); *Micah C. Douglas*, Exchange Act Release No. 37865, 52 SEC 1055, 1996 SEC LEXIS 3008, at *14 (Oct. 25, 1996) (finding that applicant's failure to inform his employer firm of his outside business activities "deprived potential customers of the oversight and supervision provided by [applicant's] employer firm").