

**FINANCIAL INDUSTRY REGULATORY AUTHORITY<sup>1</sup>**  
**OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT

Complainant,

v.

BRANDON CADE  
(CRD No. \_\_\_\_\_)

Respondent.

Disciplinary Proceeding  
No. 2006006367801

**DEFAULT DECISION**

Hearing Officer – Sara Nelson Bloom

August 2, 2007

**For conversion of funds, in violation of Rule 2110, and for failure to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any FINRA member in any capacity.**

*Appearances*

Dale A. Glanzman, Esq., Chicago, IL, (Rory C. Flynn, Esq., and Mark P. Dauer, Esq., of Counsel) for the Department of Enforcement.

No appearance by Respondent.

**DECISION**

**I. Background**

On February 8, 2007, the Department of Enforcement (“Enforcement”) filed a two-cause Complaint in this proceeding, attached to this Decision as Exhibit A. The first cause alleges that Brandon Cade (“Respondent”) violated Rule 2110 by converting funds. The second cause alleges that Respondent violated Rules 8210 and 2110 by failing to respond to FINRA Staff requests for information.

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<sup>1</sup> Effective July 30, 2007, the corporate successor to NASD is the Financial Industry Regulatory Authority (FINRA).

Respondent did not file an Answer to the Complaint. Accordingly, on June 22, 2007, Enforcement filed a motion for entry of default decision, supported by the Declaration of Dale A. Glanzman and 11 exhibits. Respondent did not file a response to the motion.

For the reasons set forth below, Enforcement's motion is granted.<sup>2</sup>

## **II. Respondent's Default**

On February 6, 2007, Enforcement served the Complaint and Notice of Complaint on Respondent by first-class and certified mail, sent to Respondent's last known residential address according to the Central Registration Depository (the "CRD Address"). Respondent did not file an Answer. In the same manner, on March 7, 2007, Enforcement served the Complaint and Second Notice of Complaint on Respondent at the CRD Address, and an alternative address ("Alternative Address"). Respondent again did not file an Answer. In the same manner, on April 30, 2007, Enforcement served the Complaint and Third Notice of Complaint on Respondent at the CRD Address and the Alternative Address. Respondent again did not file an Answer.

Enforcement complied with Rule 9134(b)(1) by mailing the Complaint and Notices of Complaint to Respondent's CRD Address, thereby giving Respondent constructive notice of this proceeding. By failing to file an Answer, Respondent defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

## **III. Jurisdiction**

Between January and September 2006, Respondent was registered as an investment company and variable contracts products representative with FINRA member

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<sup>2</sup> The factual determinations in this Decision are based on the allegations of the attached Complaint, which are deemed admitted, and the declaration and exhibits filed by Enforcement with its motion.

firm Chase Investment Services Corp. (the "Member").<sup>3</sup> Respondent is not currently associated with a member firm.

Although Respondent is not currently associated with a member firm, FINRA has jurisdiction to bring this proceeding, pursuant to Art. V, § 4 of NASD's By-Laws, because (1) the Complaint charges Respondent with misconduct while he was a registered person and with failing to comply with requests for information made during the two-year period following termination of his last registration, and (2) the Complaint was filed within that two-year period.

#### **IV. Violations**

##### **A. Conversion**

The first cause of the Complaint alleges that, while he was registered with the Member, Respondent was also employed as a teller by Chase Bank, an affiliate of the Member. In June 2006, Respondent withdrew at least \$1,300 from his teller cash drawer at Chase Bank without permission, and used the funds for his own purposes. These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent converted funds, in violation of Rule 2110.

##### **B. Failure to Respond**

The second cause of the Complaint alleges that, on October 17, 2006, FINRA Staff sent Respondent a request for information pursuant to Rule 8210, inquiring about the alleged conversion of funds alleged in the first cause of the Complaint. That request was sent by first-class and certified mail to Respondent's CRD Address. In the same manner, on November 7, 2006, FINRA Staff sent a second request for information to

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<sup>3</sup> The Complaint erroneously alleges that Respondent was so registered between January 2007 and September 2006. However, Respondent's CRD record, attached to Enforcement's Motion for Entry of Default Decision, establishes that Respondent's registration was effective from January to September 2006.

Respondent. The Staff served the requests in accordance with Rule 8210(d), and therefore Respondent is deemed to have received them. Respondent did not respond.

Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information related to any matter under investigation. The Rule serves as a key element in FINRA's oversight function and allows FINRA to carry out its regulatory functions without subpoena power.<sup>4</sup> Here, although Respondent received valid constructive notice of the Staff's requests,<sup>5</sup> he failed to respond to them. Respondent therefore violated Rules 8210 and 2110.

#### V. Sanctions

For conversion, the Guidelines recommend a bar, regardless of the amount converted. FINRA Sanction Guidelines ("Guidelines") at 38 (2006 ed.). A bar is also standard for failure to provide requested information. Guidelines at 35 (2006 ed.). There is no evidence of any mitigating circumstances that would justify a lesser sanction for these violations. Therefore, Respondent is barred from associating with any FINRA member in any capacity.

#### VI. Conclusion

For conversion of funds, in violation of Rule 2110, and for failure to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any FINRA member in any capacity. These bars shall become

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<sup>4</sup> See, e.g., Dep't of Enforcement v. Valentino, No. FPI010004, 2003 NASD Discip. LEXIS 15, at \*12 (NAC May 21, 2003), aff'd, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted); Joseph G. Chiulli, Exch. Act Rel. No. 42,359, 2000 SEC LEXIS 112, at \*16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for the NASD effectively to conduct its investigations, and emphasizing that NASD members and associated persons must fully cooperate with requests for information).

<sup>5</sup> See David I. Cassuto, Exch. Act Rel. No. 48,087, 2003 SEC LEXIS 1496, at \*9 (June 25, 2003).

effective immediately if this Decision becomes the final disciplinary action of FINRA.

**SO ORDERED.**

  
Sara Nelson Bloom  
Hearing Officer

Copies to:

Brandon Cade (*via overnight and first-class mail*)  
Dale A. Glanzman, Esq. (*via electronic and first-class mail*)  
Rory C. Flynn, Esq. (*via electronic mail*)  
Mark P. Dauer, Esq. (*via electronic mail*)