

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

AURORA J. TUCAY
(CRD No. 5306540),

Respondent.

Disciplinary Proceeding
No. 20070092769

DEFAULT DECISION

Hearing Officer – Sara Nelson Bloom

March 20, 2008

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, for the Department of Enforcement.

No appearance by Respondent.

DECISION

I. Background

On November 21, 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 Aurora J. Tucay (“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.

Respondent did not file an Answer to the Complaint. Accordingly, on January 31, 2008, Enforcement filed a motion for entry of default decision, supported by the

Declaration of Dale A. Glanzman and seven exhibits. Respondent did not file a response to the motion.

For the reasons set forth below, Enforcement's motion is granted.¹

II. Respondent's Default

On November 19, 2007, Enforcement mailed the Complaint and Notice of Complaint to Respondent by first-class and certified mail, 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 December 18, 2007, Enforcement mailed the Complaint and Second Notice of Complaint to Respondent at the CRD 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

In January 2007, Respondent signed a Form U4, pursuant to which she agreed to comply with FINRA's rules and submit to its jurisdiction. Between January and May 2007, Respondent was associated with FINRA member firm Fifth Third Securities, Inc. (the "Member"). 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 FINRA's By-Laws, because (1) the Complaint charges Respondent with misconduct while she was an

¹ 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.

associated person and with failing to comply with requests for information made during the two-year period following termination of her 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 she was associated with the Member, Respondent was also employed with Fifth Third Bank, the Member's parent company. In May 2007, Respondent withdrew \$8,000 from her cash drawer and the vault at Fifth Third Bank without permission, and used the funds for her 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 July 23, 2007, FINRA Staff ("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 August 7, 2007, Staff sent a second request for information to Respondent. 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.² Here, although Respondent received valid constructive notice of Staff requests,³ she failed to respond to them. Respondent therefore violated Rules 8210 and 2110.

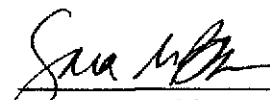
V. Sanctions

For conversion, the Guidelines recommend a bar, regardless of the amount converted. FINRA Sanction Guidelines ("Guidelines") at 38 (2007 ed.). A bar is also standard for failure to provide requested information. Guidelines at 35 (2007 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 effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.


Sara Nelson Bloom
Hearing Officer

Dated: March 20, 2008

² 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).

³ See David I. Cassuto, Exch. Act Rel. No. 48,087, 2003 SEC LEXIS 1496, at *9 (June 25, 2003).

Copies to:

Aurora J. Tucay (*via overnight and first-class mail*)
Dale A. Glanzman, Esq. (*via electronic mail and first class-mail*)
David A. Sonnenberg, Esq. (*via electronic mail and first class-mail*)
Mark P. Dauer, Esq. (*via electronic mail and first class-mail*)

**FINRA
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant

v.

AURORA J. TUCAY,
Associated Person
(CRD No. 5306540)

Respondent.

Disciplinary Proceeding
No. 20070092769

Hearing Officer

COMPLAINT

The Department of Enforcement alleges:

1. Aurora J. Tucay ("Tucay") signed a Uniform Application for Securities Industry Registration or Transfer (Form U-4) on or about January 3, 2007, pursuant to which she both agreed to comply with NASD rules and submitted herself to the jurisdiction of FINRA. Moreover, Tucay was a person associated with Fifth Third Securities, Inc. ("Member"), a member of FINRA, between approximately January 3, 2007 and May 31, 2007. Tucay therefore is subject to the jurisdiction of FINRA, pursuant to Article V, Section 4 of FINRA's By-Laws.

**FIRST CAUSE OF ACTION
Conversion
NASD Conduct Rule 2110**

2. The Department realleges and incorporates by reference paragraph 1 above.

3. During all times relevant hereto, in addition to her association with the Member, Tucay was employed by Fifth Third Bank, the Member's parent company.

4. In or about May 2007, Tucay withdrew \$8,000 from her cash drawer and the vault at Fifth Third Bank, without the knowledge or consent of Fifth Third Bank, and used the funds for her own personal use or for some purpose other than the benefit of Fifth Third Bank.

5. The above acts, practices and conduct described above constitute a violation of NASD Conduct Rule 2110 by Tucay.

SECOND CAUSE OF ACTION
Failure to Respond to Requests for Information
Violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210

6. The Department realleges and incorporates by reference paragraph 1-5 above.

7. On or about July 23, 2007, FINRA staff, pursuant to NASD Procedural Rule 8210, sent Tucay a letter inquiring about the alleged activities, as outlined above. This letter was sent by regular and certified mail to [REDACTED], Tucay's address of record as contained in the CRD records ("CRD Address") and her last known address. The regular mailing was not returned to FINRA staff. The certified mailing was returned, marked "Return to Sender, Unclaimed, Unable to Forward."

8. On or about August 7, 2007, FINRA staff sent Tucay a second request for the same information, pursuant to NASD Procedural Rule 8210. This request was sent by regular and certified mail to Tucay's CRD Address. The regular mailing was not returned to FINRA staff. The certified mailing was returned, marked "Return to Sender, Unclaimed, Unable to Forward."

9. To date, Tucay has failed to respond to each and all of the requests for information as described in Paragraphs 7 and 8 above, and the time and the dates for responding to the requests have passed.

10. The acts, practices, and conduct described above constitute a violation of NASD Conduct Rule 2110 and Procedural Rule 8210 by Tucay.

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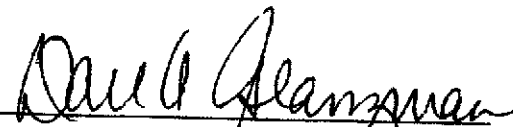
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed; and
- B. order that Tucay bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

**FINRA DEPARTMENT OF
ENFORCEMENT**

Date: November 19, 2007



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