

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ROBERT A. CLIPPER
CRD No. 5109047),

Respondent.

Disciplinary Proceeding
No. 2007009785301

Hearing Officer – MC

DEFAULT DECISION

February 24, 2009

Respondent is barred for (i) his misuse of customer funds, in violation of Conduct Rule 2110, and (ii) his failure to respond completely to FINRA staff requests for information, in violation of Conduct Rule 2110 and Procedural Rule 8210.

Appearances

Kevin G. Kulling, Esq., Senior Regional Counsel, Chicago, IL, for the
Department of Enforcement.

No appearance by or for Robert A. Clipper.

DECISION

I. Background

On October 2, 2008, the Department of Enforcement (“Enforcement”) filed the attached two-cause Complaint in this disciplinary proceeding. The Complaint alleges that Respondent Robert A. Clipper (“Respondent”) violated Conduct Rule 2110 by misusing funds he received from insurance customers. The Complaint alleges further that Respondent violated Conduct Rule 2110 and Procedural Rule 8210 by failing to respond completely to a request for information issued by FINRA staff (“Staff”).

Enforcement served Respondent twice with the Complaint and Notice of Complaint by first-class and certified mail at his most current residential address recorded in FINRA's Central Registration Depository (the "CRD address"). Respondent did not file an Answer.

Consequently, on December 30, 2008, Enforcement filed a Motion for Entry of a Default Decision ("Motion"), supported by the Declaration of FINRA Senior Regional Counsel Kevin G. Kulling and five exhibits. Respondent did not file a reply to the Motion.

Respondent defaulted by failing to answer the Complaint.¹ Accordingly, for the reasons set forth below, the Motion is granted.²

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Respondent is not currently associated with a FINRA member firm. He was, however, registered as an Investment Company and Variable Contracts Representative with FINRA member firm Farmers Financial Solutions, LLC ("Farmers") from August 25, 2006, until July 13, 2007.³ Because the Complaint charges Respondent with misconduct that occurred during this period, and subsequent misconduct that occurred less than two years after the termination of his last registration, and because Enforcement filed the Complaint within two years of that termination, FINRA has jurisdiction to bring this proceeding pursuant to Art. V § 4 of FINRA's By-Laws.

¹ *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42 at *5 (N.A.C. Dec. 9, 2003).

² The factual determinations in this Decision are based on the allegations in the Complaint, which are deemed admitted.

³ Enforcement Exhibit 2 (CRD records).

B. Respondent's Default

On October 2, 2008, Enforcement served the Complaint and Notice of Complaint on Respondent by first-class and certified mail at Respondent's CRD address. The first-class mailing was not returned. The return receipt for the certified mailing was returned to Enforcement with an illegible signature.⁴

In the same manner, Enforcement served the Complaint and Second Notice of Complaint on Respondent at his CRD address on November 3, 2008. Once again, the first-class mailing was not returned but the return receipt for the certified mailing was returned to Enforcement; this time, it appeared to have been signed by Respondent.⁵

By these efforts, Enforcement complied with Rule 9134 and provided Respondent with constructive notice of this disciplinary proceeding.

C. The Violations

1. Misuse of Customer Funds

The Complaint alleges that Respondent violated Conduct Rule 2110 on at least six occasions by making improper use of approximately \$5,000 he received from insurance customers beginning in November 2006 and continuing through approximately May 2007. The customers sent the funds to Respondent to pay their insurance premiums. Instead, Respondent used the monies to pay his insurance agency's business expenses. The Complaint alleges further that the Staff obtained documents evidencing Respondent's misuse of the funds, including an insurance investigator's audit report,

⁴ Kulling Decl. ¶ 7.

⁵ *Id.* ¶ 8.

copies of checks, records of deposits, and Respondent's written admissions that he misused the customers' funds.⁶

These allegations are sufficient to establish for purposes of this default decision that Respondent misused customer funds in violation of Conduct Rule 2110.

2. Failure to Respond Completely to Staff Requests for Information

The Complaint also alleges that Respondent violated Conduct Rule 2110 and Procedural Rule 8210 when he failed to provide information in response to two requests for information relating to the details of his misuse of customer funds.

The Staff sent an initial request for information to Respondent pursuant to Rule 8210, and he provided information as required.⁷ Subsequently, however, on September 17, 2007, the Staff sent Respondent a follow-up request by first-class and certified mail for additional information needed to ascertain the nature and extent of Respondent's misuse of customer funds. After he failed to respond, on October 9, 2007, the Staff sent Respondent a second, identical request for information, again by first-class and certified mail. Both requests were sent to Respondent's CRD address. The receipts for both certified mailings were returned with illegible signatures. In both instances, the first-class mailings were not returned.⁸

By failing to respond to the two request letters, Respondent violated Conduct Rule 2110 and Procedural Rule 8210.

⁶ Kulling Decl. ¶ 14.

⁷ *Id.*, ¶ 15.

⁸ *Id.*, ¶¶ 16 – 19.

D. Sanctions

For improper use of a customer's funds, the Sanction Guidelines ("Guidelines") recommend consideration of a bar or, alternatively, a suspension in all capacities from six months to two years if there are mitigating factors.⁹ In this case, Respondent's repeated misuse of customer funds is egregious, and there are no mitigating circumstances.

For failure to respond in any manner to a request for information issued pursuant to Rule 8210, the Guidelines recommend the imposition of a bar. If there are mitigating circumstances sufficient to justify a lesser sanction, the Guidelines recommend a suspension for up to two years.¹⁰ Here there are no mitigating circumstances justifying a sanction less than a bar. Although he responded to Enforcement's initial request for information, Respondent failed twice to respond in any manner to the Staff's Rule 8210 requests for follow-up information relating to the nature and extent of his misuse of customer funds. A bar is the appropriate sanction for these failures.

E. Order

Respondent Robert A. Clipper is barred from association with any FINRA member firm in any capacity for misusing customer funds, in violation of Conduct Rule 2110, and for failing to respond in any manner to two requests by Enforcement for information, in violation of Conduct Rule 2110 and Procedural Rule 8210.

⁹ FINRA Sanction Guidelines 38 (2007), <http://www.finra.org/Industry/Enforcement/index.htm> (then follow "Sanction Guidelines" hyperlink).

¹⁰ *Id.* at 35.

The bars will become effective immediately if this Default Decision becomes
FINRA's final disciplinary action in this proceeding.


Matthew Campbell
Hearing Officer

Copies to: Robert A. Clipper (*via FedEx and first-class mail*)
Kevin G. Kulling, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Robert Clipper
CRD No. 5109047

Respondent.

DISCIPLINARY PROCEEDING
No. 2007009785301

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Robert Clipper misused customer funds intended for the payment of insurance premiums and he failed to completely respond to staff requests for information.

RESPONDENT AND JURISDICTION

2. Respondent Robert Clipper entered the securities industry in August 2006 when he became registered as an investment company/variable contracts representative with Farmers Financial Solutions, LLC, (Member). Clipper remained registered until July 13, 2007.

FIRST CAUSE OF ACTION
Misuse of insurance customer funds
NASD Conduct Rule 2110

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.

4. Beginning in November 2006 and continuing through approximately May 2007, on at least six occasions, Clipper accepted cash payments from insurance customers that were intended to pay insurance premiums and used the cash for purposes other than intended by his insurance customers.

5. Among other uses, Clipper used the cash to pay bills he incurred at his insurance agency office.

6. Then, to replace the cash that he used, Clipper took other insured's checks or cash payments and applied them toward the missing cash amounts.

7. As a result, approximately \$5,000 in insured cash payments were misused by Clipper.

8. The above constitutes separate and distinct violations of NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION
Failure to Completely Respond to Staff Requests for Information
Rules 2110 and 8210

9. The Department realleges and incorporates by reference paragraphs 1 and 2 above.

10. Although Clipper responded to an initial staff request for information pursuant to Rule 8210, Clipper failed to respond to follow-up staff requests for information that requested details about the nature and extent of his misuse of insurance customer funds.

11. In that regard, staff requested that Clipper provide copies of bank statements, deposit slips and checks, as well as information about how he used the funds.

12. Staff sent the requests to Clipper's CRD Address, by first class mail and by certified mail, return receipt requested, on September 17, 2007 and October 9, 2007.

13. The certified mailing receipts were both returned to staff with illegible signatures. The first class mailings were not returned to staff.

14. To date, Clipper has failed to fully and completely respond to staff requests for information.

15. The above constitutes separate and distinct violations of NASD Conduct Rule 2110 and Procedural Rule 8210.

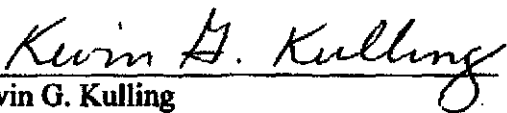
RELIEF REQUESTED

WHEREFORE, the Department 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.
- B. order that the Respondent 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: October 2, 2008


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