

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant

vs.

ANDREW C. CALLIHAN
Registered Representative
(CRD No. 4427620)

Respondent

**Disciplinary Proceeding
No. 2007010731201**

Hearing Officer

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From on or about November 20, 2006, to May 7, 2007, Andrew C. Callihan (Callihan) withdrew or caused the withdrawal of a total of \$19,000 from three bank customers' checking or retirement accounts and deposited the funds into his securities account without the customers' knowledge and consent, in violation of NASD Rule 2110. Callihan then used the funds for some purpose other than the benefit of the customers.
2. On or about April 28, and May 15, 2008, FINRA Staff (Staff) sent letters to Callihan requesting that he respond to questions about allegations that he misappropriated funds from customers of his securities firm and its bank affiliate, but Callihan failed to respond to the Staff's requests, in violation of NASD Rules 2110 and 8210.

RESPONDENT AND JURISDICTION

3. From on or about May 28, 2004 to on or about February 5, 2009, Callihan was registered as a General Securities Representative with Chase Investment Services Corp. (Chase),

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a member of FINRA. From on or about October 9, 2007 to on or about May 7, 2008, Callihan was registered in the same capacity with another member of FINRA. Callihan is not currently associated with any member of FINRA. Since this Complaint is filed within two years of the termination of Callihan's registration with a member of FINRA, Callihan is subject to the jurisdiction of FINRA, pursuant to Article V, Section 4 of the FINRA's By-Laws.

**FIRST CAUSE OF ACTION
NASD Rule 2110 –Misuse of A Bank Customers' Funds Without Their Knowledge and
Consent By Callihan.**

4. The Department realleges and incorporates by reference paragraphs number 1 through 3 above.

5. During all relevant times, AC, SD, and AD were members of the public. Each was over 65 years old, and they all maintained retirement accounts or checking accounts with Chase's bank affiliate (the "Bank").

6. On or about November 20, 2006, Callihan withdrew or caused the withdrawal of \$2,000 from AC's retirement account through the Bank, and deposited the funds into Callihan's securities account with Chase, without the knowledge or consent of AC. Callihan then used AC's funds for some purpose other than the benefit of AC.

7. On or about December 21, 2006, Callihan withdrew or caused the withdrawal of \$2,000 from AC's checking account with the Bank and deposited the funds into Callihan's securities account with Chase, without the knowledge or consent of AC. Callihan then used AC's funds for some purpose other than the benefit of AC.

8. On or about November 20, 2006, Callihan withdrew or caused the withdrawal of \$2,000 from SD's retirement account with the Bank, and deposited the funds into Callihan's securities account with Chase, without the knowledge or consent of SD. Callihan then used

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AC's funds for some purpose other than the benefit of SD.

9. On or about December 18, 2006, Callihan withdrew or caused the withdrawal of \$3,000 from AD's checking account with the Bank, and deposited the funds into Callihan's securities account with Chase, without the knowledge or consent of AD. Callihan then used AD's funds for some purpose other than the benefit of AD.

10. On or about January 9, 2007, Callihan withdrew or caused the withdrawal of \$3,000 from AD's retirement account with the Bank, and deposited the funds into Callihan's securities account with Chase, without the knowledge or consent of AD. Callihan then used AD's funds for some purpose other than the benefit of AD.

11. On or about May 7, 2007, Callihan withdrew or caused the withdrawal of \$7,000 from AD's retirement account with the Bank, and deposited the funds into AD's checking account with the Bank, without the knowledge or consent of AD. Callihan then used AD's funds for some purpose other than the benefit of AD. On or about May 7, 2007, Callihan withdrew or caused the withdrawal of \$7,000 from AD's checking account with the Bank, and deposited the funds into Callihan's securities account with Chase, without the knowledge or consent of AD. Callihan then used AD's funds for some purpose other than the benefit of AD.

12. The acts, practices and conduct set forth above constitute separate and distinct violations of NASD Rule 2110 by Callihan.

**SECOND CAUSE OF ACTION
NASD Rules 2110 and 8210 - Failure to Respond to the Staff's
Requests for Information by Callihan.**

13. The Department realleges and incorporates by reference paragraph numbers 1 through 12 above.

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14. On or about April 28, 2008, Staff sent Callihan a request that he provide a written response to questions about his misappropriation of funds of bank and brokerage customers assets, including the misuse of AC's, SD's and AD's funds described above in paragraphs 5 through 11, pursuant to and in accordance with the provisions of NASD Rule 8210. The request for information was sent by first class mail and certified mail, return receipt requested, to Callihan's address of record as contained in the records of the Central Registration Depository, in Lexington, KY (CRD Address).¹ Neither the first class mailing nor the certified mailing was returned to the Staff. The certified return receipt was also not returned to the Staff. The request letter was also sent by facsimile and first class mail to the Chief Compliance Officer for the firm where Callihan was registered and employed on April 28, 2008. The transmission report for the facsimile showed that the letter had been successfully transmitted and the first class mailing was not returned to the Staff.

15. Having not received a response to the request for information and documentation sent on April 28, 2008, on or about May 15, 2008, the Staff sent Callihan a letter marked "Second Request," requesting that he provide a written response to questions about his misappropriation of funds of bank and brokerage customers assets, including the misuse of AC's, SD's, and AD's funds described above in paragraphs 5 through 11, pursuant to and in accordance with the provisions of NASD Rule 8210. The request for information was sent by first class mail and certified mail, return receipt requested, to Callihan's CRD Address. The first class mailing was not returned to the Staff, and the certified mailing was returned to the Staff marked "Return to Sender – Unclaimed - Unable to Forward."

¹ The Staff previously had sent requests for information and documentation related to separate assertions from Chase to Callihan's CRD Address, and he responded to those requests.

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16. Callihan failed to respond to each and all of the requests for documents and information described in paragraphs 14, and 15 above, and the time for Callihan to respond has passed.

17. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Rules 2110 and 8210 by Callihan.

RELIEF REQUESTED

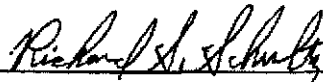
WHEREFORE, the Department respectfully requests that the Panel:

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

FINRA DEPARTMENT OF ENFORCEMENT

April 23, 2010

Date



Richard S. Schultz, Esq. Senior Regional Counsel
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