

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

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REGISTRATION & DISCLOSURE

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

EUN HEE CHOI
(CRD No. 4464366)

Respondent.

Disciplinary Proceeding
No. 2008012158801

Hearing Officer – RSH

DEFAULT DECISION

June 1, 2009

**Respondent is barred for conversion of customer funds, in violation of
Conduct Rule 2110.**

Appearances

Jeff Kern, Senior Regional Counsel, and David Jaffe, Regional Chief Counsel,
New York, NY for the Department of Enforcement.

No appearance by or for Eun Hee Choi.

DECISION

I. Introduction

The Department of Enforcement (“Enforcement”) charged Eun Hee Choi (“Choi”) with conversion of customer funds, in violation of NASD Conduct Rule 2110.¹

Enforcement filed the Complaint with the Office of Hearing Officers on December 22, 2008. Choi did not answer or otherwise respond to the Complaint. Consequently, on April 2, 2009, Enforcement filed a Motion for Entry of Default Decision, supported by the Declaration of Jeff Kern (“Kern Decl.”) and nine exhibits. Choi did not reply to the motion.

¹ The FINRA Rules, which include NASD Procedural and Conduct Rules, are at www.finra.org/Rules.

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II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Choi entered the securities industry and registered as an Investment Company and Variable Contracts Products Representative with MetLife Securities, Inc. ("MetLife"), a FINRA member firm, on October 24, 2001. On January 8, 2008, MetLife discharged her for failing to remit a customer's life insurance premium payment, and using the money for her personal expenses.² She has not since been associated with a FINRA member firm.

Although Choi is not currently registered with FINRA, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's Bylaws, because (1) the Complaint was filed within two years following the termination of her registration with FINRA and (2) the Complaint charges her with misconduct that occurred while she was associated with MetLife.³

B. Origin of Underlying Investigation

FINRA commenced the investigation that led to the Complaint in this proceeding in January 2008, following FINRA's receipt of the Form U5 filed by MetLife, which reported that it had discharged her on January 8, 2008, because she "did not remit client's life insurance premium payment and used the money for her personal reasons." FINRA staff investigated Choi's conduct to determine if she had violated NASD Conduct Rules.⁴

C. Respondent's Default

On December 22, 2008, Enforcement sent the Notice of Complaint and Complaint to Choi by first-class and certified mail (return receipt requested) at her residential address recorded in the Central Registration Depository ("CRD Address"). Enforcement also sent copies of the Complaint and Notice by first-class and certified mail to an additional address

² Complainant's Exhibit (CX)-1; Kern Decl., ¶ 1.

³ See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: Bylaws").

⁴ Kern Decl., ¶ 7-8.

("New Address"). Finally, Enforcement sent copies of the Complaint and Notice by first-class mail to Choi's attorney of record in this case ("Mr. Yee"). None of the first-class mailings was returned. The certified mailing to the CRD Address was returned marked "unclaimed." The certified receipt card for the mailing sent to the New Address was returned on December 23, 2008, bearing an illegible signature and no printed name.⁵ Choi did not respond to the Complaint by January 21, 2009, the deadline specified in the Notice of Complaint.

On January 22, 2009, Enforcement served Choi with copies of the Second Notice of Complaint and Complaint, by first-class and certified mail, to her CRD Address, her New Address and Mr. Yee. None of the first-class mailings was returned. Although the certified mailing to her New Address was returned marked, "unclaimed," the return receipt for the mailing to her CRD Address was returned, albeit with an illegible signature. The Second Notice of Complaint required Choi to file an answer to the Complaint by February 9, 2009.⁶ To date, Choi has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.⁷

Choi defaulted by failing to answer the Complaint.⁸ Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's motion for entry of a default decision.

⁵ CX-3, 4, 5, 6; Kern Decl., ¶¶ 14-20.

⁶ CX-7, 8, 9; Kern Decl., ¶¶ 21-28.

⁷ Kern Decl., ¶ 29.

⁸ *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (NASD Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

D. Conversion of Customer Funds

The Complaint alleges that Choi violated Conduct Rule 2110 by converting cash from her customer. According to the Complaint, on August 14, 2007, Choi accepted payment of \$440.00 in cash from YM, a MetLife customer. YM had instructed Choi to make payment towards YM's life insurance policy held at MetLife. Instead of using YM's funds to pay for the insurance policy, Choi took the funds for her personal use.

Choi admitted to MetLife that she had used the money to pay her rent. She repaid the money to YM on January 7, 2008.

FINRA Conduct Rule 2110 requires members to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Conversion is a violation of Conduct Rule 2110. FINRA Sanction Guidelines ("Guidelines") define conversion as "an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it."⁹

The facts alleged in the Complaint establish that Choi converted \$440.00 from her customer, in violation of Conduct Rule 2110.

III. Sanctions

The Guidelines for conversion of customer funds recommend a bar, regardless of the amount converted.¹⁰ Here, there is no evidence of any mitigating factors that would justify a lesser sanction. Accordingly, the Hearing Officer will bar her from associating with any member firm in any capacity.

IV. Order

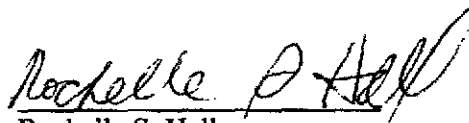
Eun Hee Choi is barred from association with any member firm in any capacity for conversion of customer funds, in violation of NASD Conduct Rule 2110. The bar will

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

¹⁰ *Id.*

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

SO ORDERED.


Rochelle S. Hall
Hearing Officer

Copies to: Eun H. Choi *(via overnight courier and first-class mail)*
David Jaffe, Esq. *(via electronic mail and first-class mail)*
Jeff Kern, Esq. *(via electronic mail and first-class mail)*
Mark P. Dauer, Esq. *(via electronic mail)*
David R. Sonnenberg, Esq. *(via electronic mail)*