

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

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REGISTRATION & DISCLOSURE

Department of Enforcement,

Complainant,

v.

Justin C. Sidaway (CRD No. 5001842),

Respondent.

DISCIPLINARY PROCEEDING
No. 2008013305801

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. On three occasions in January and February 2008, while registered with Chase Investment Services Corp. ("Chase" or the "Firm") and employed in a Chase affiliated retail bank, JP Morgan Chase, N.A branch office, Justin C. Sidaway ("Sidaway") completed a bank withdrawal form, forged the customer's signature on the form, and withdrew funds totaling \$11,500 from a bank customer's deposit account without the customer's prior knowledge or authorization. Sidaway withdrew the money for his own personal use and benefit. Sidaway has not returned the funds to the bank customer, nor has he repaid Chase which reimbursed the customer. Sidaway's conduct violated FINRA Rule 2110. Sidaway also failed to respond to FINRA's written requests for information in this matter, which were made pursuant to NASD Procedural Rule 8210. As a result, Sidaway violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

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RESPONDENT AND JURISDICTION

2. Sidaway was first registered as an Investment Company & Variable Products representative (Series 6) in June 2005 with member firm Chase, and had been employed as a personal banker in a Chase retail bank branch office until he was terminated in April 2008.
3. Sidaway is not currently associated with a FINRA member firm, and he has no prior disciplinary history. Sidaway remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws, which provides that a person who is no longer associated with a member is still subject to FINRA's rules for a period of two years after the effective date that the person ceases association with the member.

FIRST CAUSE OF ACTION

Conversion of Funds (Rule 2110)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.
5. From at least January 2008 through February 2008, customer H.M. maintained a retail deposit account at Chase's retail bank affiliate.
6. In January 2008, while employed as a licensed personal banker with Chase and registered with Chase, Sidaway accessed the bank's systems to obtain information regarding customer H.M. and his retail bank account.
7. Without customer H.M.'s prior knowledge or authorization, Sidaway used H.M.'s personal account information to complete withdrawal forms on three occasions. On January 28, 2008, February 9, 2008 and February 19, 2008, Sidaway, for his own

personal use and benefit, withdrew \$4,500, \$3,000 and \$4,000, respectively, totaling \$11,500, from customer H.M.'s retail bank deposit account.

8. To date, Sidaway has not returned any of the funds to customer HM or reimbursed Chase after it re-paid the money to customer HM.
9. Such acts, practices and conduct constitute Sidaway's separate and distinct violations of NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION

Forgery (Rule 2110)

10. The Department realleges and incorporates by reference paragraphs 1 through 9 above.
11. On three occasions, January 28, 2008, February 9, 2008 and February 19, 2008, Sidaway signed customer H.M.'s name to a Chase retail bank withdrawal form that Sidaway completed to withdraw funds from H.M.'s retail bank deposit account.
12. Sidaway used the withdrawal form to effect the unauthorized withdrawal of funds from H.M.'s retail bank deposit account.
13. Sidaway did not have H.M.'s authorization or consent to complete or sign H.M.'s name to the three bank withdrawal forms.
14. As result of this conduct, Sidaway violated NASD Conduct Rule 2110.

THIRD CAUSE OF ACTION

Failure to Respond (Rules 2110 and 8210)

15. The Department realleges and incorporates by reference paragraphs 1 through 14 above.

16. By letter dated May 9, 2008, sent via certified mail, return receipt requested and a copy by first class mail, to Sidaway's address as reflected in FINRA's Central Registration Depository (CRD) (Justin Sidaway, [REDACTED]), Enforcement's Preliminary Investigative Unit (PIU) staff requested, pursuant to NASD Rule 8210, that Sidaway provide a written explanation regarding the allegation that he had taken \$11,500 from a customer account.
17. A signature of "Justin Sidaway" was placed on the certified postal mail records, evidencing receipt of the request, but he never responded to the request.
18. By letter dated June 12, 2008, pursuant to NASD Rule 8210, PIU staff sent another request to Sidaway's CRD address, via certified mail, return receipt requested and a copy by first class mail, for a written statement, regarding the same theft allegation.
19. The June 12, 2008 request was returned to Enforcement by the U.S. Postal Service as "Unclaimed." The first class copy of the request was not returned to Enforcement.
20. By letter dated September 2, 2008, Enforcement staff sent a written 8210 request to Sidaway, dated September 2, 2008, via certified mail return receipt requested, and first class mail, to his CRD address, noted above.
21. The September 2, 2008 8210 request was returned to Enforcement by the U.S. Postal Service as "Not Deliverable as Addressed." The first class copy of the request was not returned to Enforcement.
22. By letter dated September 25, 2008, sent by certified mail return receipt requested, and first class mail, Enforcement sent another written request, pursuant to NASD Rule 8210, for information regarding the theft allegation. The request was sent to Sidaway at the CRD

address, as reflected in CRD and noted above. The September 2, 2008 written request sent to Sidaway via certified mail, however, was returned as "Not Deliverable as Addressed."

As a result, the September 25, 2008 written request also included in the address the addition of the word "*Street*," i.e., "[REDACTED]." The word "street" was not reflected in Sidaway's CRD address.

23. Enforcement's September 25, 2008 request sent by certified mail was returned to Enforcement and reflected a signature "Justin Sidaway," evidencing receipt by Respondent. The copy of Enforcement's September 25, 2008 request sent by first class mail was not returned to Enforcement.
24. By letter dated October 30, 2008, sent by certified mail return receipt requested, and first class mail, Enforcement sent another request, pursuant to NASD Rule 8210, to Sidaway's CRD address, where he received each of the prior 8210 requests, as evidenced by his signature on the green card returned to Enforcement.
25. Enforcement's October 30, 2008 request sent by certified mail was returned to Enforcement by the U.S. Postal Service as "Unclaimed, Unable to Forward." The copy of Enforcement's October 30, 2008 request sent by first class mail was not returned to Enforcement.
26. By letters dated May 9, 2008, June 12, 2008, September 2, 2008 September 25, 2008 and October 30, 2008, Enforcement sent requests for information pursuant to NASD Rule 8210. Signatures on postal records for the letters sent via certified mail on May 9, 2008 and September 25, 2008 provide evidence of actual receipt. The letters sent via certified mail on June 12, 2008, September 2, 2008 and October 30, 2008 were returned unclaimed. In

addition, the requests were sent to the current CRD address, providing for constructive receipt of each request for information. Sidaway has failed to respond to these requests.

27. By virtue of the foregoing conduct, Sidaway violated FINRA Rule 8210 and FINRA Conduct Rule 2110.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Findings of fact and conclusions of law that Sidaway committed the violations charged and alleged herein;
- B. Order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- C. Order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.
- D. Make specific findings that Respondent, as alleged in the First Cause of Action, failed to respond to requests to for information in violation of NASD Rule 8210 and NASD Rule 2110.
- E. Make specific findings that Respondent, as alleged in the Second Cause of Action, converted funds of a retail bank customer in violation of NASD Rule 2110.
- F. Make specific findings that Respondent, as alleged in the Third Cause of Action, forged the signature of a retail bank customer in violation of NASD Rule 2110.

- G. Order that the 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

Date: June 10, 2009


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