

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

EMA BEKIROVIK
(CRD No. 5431139),

Respondent.

Disciplinary Proceeding
No. 2008013684301

Hearing Officer – Maureen A. Delaney

DEFAULT DECISION

November 20, 2009

Respondent is barred from associating with any FINRA member firm in any capacity for (i) converting funds from her employer, in violation of Conduct Rule 2110; and (ii) failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rules 2110 and 2010.

Appearances

Rodney W. Turner, Principal Counsel, Washington, DC, for the Department of Enforcement.

No appearance by or for Ema Bekirovik.

DECISION

I. Introduction

The Department of Enforcement (“Enforcement”) filed the attached Complaint on July 30, 2009. The Complaint charges that Respondent Ema Bekirovik (“Bekirovik”) converted funds from her employer for her personal use, in violation of Conduct Rule 2110; and failed to respond to information requests from FINRA staff, in violation of

Procedural Rule 8210 and Conduct Rules 2110 and 2010.¹

Bekirovik did not answer or otherwise respond to the Complaint. Consequently, on October 22, 2009, Enforcement filed a Motion for Entry of Default Decision ("Default Motion"), supported by the Affidavit of Rodney W. Turner ("Turner Aff.") and four exhibits. Bekirovik did not reply to the motion.²

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Bekirovik began working at JP Morgan Chase Bank, N.A. ("Chase"), an affiliate of Chase Investment Services Corp., a FINRA member firm, in October 2007.³ She became registered with FINRA as an Investment Company and Variable Contracts Products Representative in November 2007.⁴ Bekirovik was employed as a personal banker and teller at Chase until she was terminated on April 30, 2008.⁵ Chase Investment Services Corp. filed a Uniform Termination Notice for Securities Industry Registration ("Form U5"), indicating that Bekirovik's employment had been terminated for misappropriating \$240.⁶ Bekirovik has not been associated with a FINRA member firm since her termination from Chase.

¹ As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD. Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008, including certain conduct rules and procedural rules. See Regulatory Notice 08-57 (Oct. 2008). This decision refers to and relies on the Conduct Rules that were in effect at the time of Respondent's misconduct. The applicable rules are available at www.finra.org/rules.

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

³ Turner Aff. ¶ 6; CX-2.

⁴ Turner Aff. ¶ 6; CX-2.

⁵ Turner Aff. ¶¶ 5-6; CX-1-2.

⁶ Turner Aff. ¶ 5; CX-1.

Although Bekirovik has not been associated with a FINRA member since April 2008, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years following the termination of her last registration with a FINRA member and (2) the Complaint charges her with misconduct committed while she was associated with a FINRA member firm and with failing to respond to FINRA requests for information made during the two-year period following the termination of her registration.⁷

B. Origin of the Underlying Investigation

FINRA commenced the investigation that led to the Complaint in this proceeding after Chase Investment Services Corp. filed the Form U5, which disclosed that Chase had terminated Bekirovik's employment on April 30, 2008, after she "admitted to the misappropriation of \$240.00 from her teller drawer at the outset of a routine bank branch audit."⁸

C. Respondent's Default

On July 30, 2009, Enforcement sent the Notice of Complaint and Complaint to Bekirovik by first-class and certified mail, return receipt requested, at her residential address recorded in the Central Registration Depository ("CRD Address").⁹ Enforcement did not receive a return receipt for the Notice sent by certified mail. The U.S. Postal Service returned the Notice sent by first-class mail to Enforcement with a handwritten notation "Please Return to Sender" and stamped "Returned to Sender: Undeliverable as

⁷ See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: Bylaws").

⁸ Turner Aff. ¶ 18; CX-1.

⁹ Turner Aff. ¶ 8.

Addressed Forwarding Order Expired.”¹⁰ Bekirovik did not respond to the Complaint by August 27, 2009, the deadline specified in the Notice of Complaint.¹¹

On September 1, 2009, Enforcement served Bekirovik with copies of the Second Notice of Complaint and Complaint, by first-class and certified mail, at her CRD Address.¹² The Second Notice sent by certified mail was returned with a handwritten notation, “Forward,” and two affixed labels. The first label stated, “Return to Sender: Not Deliverable as Addressed, Unable to Forward.” The second label stated, “Unable to Forward; No Forward Order on File; Return to Postmaster of Addressee for Review.” The Second Notice sent by first-class mail was not returned.¹³ Enforcement has no knowledge of Bekirovik’s current address, and the Internet search it conducted did not reveal another possible address for her.¹⁴ The Second Notice of Complaint required Bekirovik to file an answer to the Complaint by September 18, 2009.¹⁵ To date, Bekirovik has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.

Bekirovik defaulted by failing to answer the Complaint.¹⁶ 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 Default Motion.

¹⁰ Turner Aff. ¶ 8; CX-3.

¹¹ Turner Aff. ¶ 9.

¹² Turner Aff. ¶ 9; CX-4.

¹³ *Id.*

¹⁴ Turner Aff. ¶ 12.

¹⁵ *Id.* ¶ 10.

¹⁶ *Dep’t of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 n.1 (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.” (citing *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998))).

D. Conversion of Employer Funds

The First Cause of the Complaint alleges that Bekirovik violated Conduct Rule 2110 by converting funds from Chase. As a personal banker and teller at Chase, Bekirovik was responsible for maintaining a cash bag, which held money that she used to conduct business with bank customers.¹⁷ On April 7, 2008, Bekirovik took \$240 from the bank cash bag for her personal use, without authorization from Chase.¹⁸ On April 8, 2008, Bekirovik admitted to her bank branch manager that she had taken the money from her cash bag.¹⁹ An audit of Bekirovik's bank cash bag confirmed that \$240 was missing.²⁰

The facts alleged in the Complaint establish that Bekirovik converted \$240 from her employer Chase, in violation of Conduct Rule 2110, which requires members to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

E. Failure to Respond to Information Requests

The Second Cause of the Complaint alleges that Bekirovik failed to respond to five written requests that she provide information about her alleged conversion of funds. The requests were dated July 8, 2008, August 1, 2008, September 24, 2008, October 29, 2008, and May 19, 2009.²¹ FINRA staff sent each request to Bekirovik at her CRD Address by regular and certified first-class mail pursuant to Procedural Rule 8210.²² The certified mail receipts for the letters dated July 8 and September 24 were returned to

¹⁷ Turner Aff. ¶ 13.

¹⁸ *Id.* ¶ 14.

¹⁹ *Id.* ¶ 15.

²⁰ *Id.* ¶ 16.

²¹ Turner Aff. ¶¶ 18-22.

²² *Id.*

Enforcement signed by “Tasi Mitev.”²³ The U.S. Postal Service did not return any of the letters sent by first class mail.²⁴ Bekirovik did not respond to any of the requests.²⁵

The Hearing Officer finds that the allegations in the Second Cause of the Complaint are sufficient to establish, for purposes of this default decision, that Bekirovik violated Procedural Rule 8210 and Conduct Rules 2110 and 2010.

III. Sanctions

A. Conversion

The FINRA Sanctions Guidelines (“Guidelines”) for conversion of funds recommend a bar, regardless of the amount converted.²⁶ Here, there is no evidence of any mitigating factors that would justify a lesser sanction. Accordingly, the Hearing Officer will bar Bekirovik from associating with any member firm in any capacity.

B. Failure to Respond to Information Requests

The Guidelines also recommend a bar where a respondent fails to respond in any manner to a request for information issued pursuant to Procedural Rule 8210.²⁷ Here, Bekirovik failed to respond to five written requests that she provide information in connection with the staff’s investigation into the allegations that she converted employer funds. There are no mitigating factors. Accordingly, the Hearing Officer will bar Bekirovik from associating with any FINRA member in any capacity for violating Procedural Rule 8210 and Conduct Rules 2110 and 2010.

²³ Turner Aff. ¶¶ 18, 20.

²⁴ Turner Aff. ¶¶ 18-22.

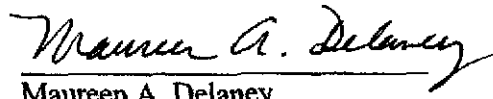
²⁵ *Id.*

²⁶ FINRA Sanction Guidelines 38 (2007), available at www.finra.org/sanctionguidelines.

²⁷ Sanction Guidelines at 35.

IV. Order

Bekirovik is barred from associating with any member firm in any capacity for (i) converting funds from her employer, in violation of Conduct Rule 2110;²⁸ and (ii) failing to respond to requests for information by FINRA staff, in violation of Procedural Rule 8210 and Conduct Rules 2110 and 2010. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Maureen A. Delaney
Hearing Officer

Copies to: Ema Bekirovik (*via overnight courier and first-class mail*)
Rodney W. Turner, Esq. (*via first-class and electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

²⁸ Restitution has not been ordered because there is no evidence in the record to determine if Chase recovered payment from Bekirovik.

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

Department of Enforcement,

Complainant,

v.

**Ema Bekirovik
CRD No. 5431139,**

Respondent.

**DISCIPLINARY PROCEEDING
NO. 2008013684301**

HEARING OFFICER

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. On or about April 7, 2008, Respondent Ema Bekirovik ("Bekirovik"), a personal banker and teller with JP Morgan Chase Bank, N.A. ("Chase Bank"), took \$240 out of a bank cash bag for her personal use without authorization. On or about April 8, 2008, Bekirovik, after hearing that her branch manager would conduct a surprise audit of this bank cash bag, admitted to her branch manager that she had taken approximately \$200 from the bank cash bag to help her brother. Following her admission and an audit of the bank cash bag indicating that it was short by \$240, Bekirovik was terminated from Chase Bank. By virtue of this conduct, Bekirovik violated NASD Conduct Rule 2110.

2. On several occasions following her termination from Chase Bank, FINRA staff members requested information from Bekirovik, pursuant to NASD and FINRA Rules 8210, regarding her alleged theft of \$240 from Chase Bank. Bekirovik did not respond to any of these

requests for information. By virtue of this conduct, Bekirovik violated NASD Rules 8210 and 2110, and FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Respondent Bekirovik (CRD No. 5431139) was registered with FINRA through Chase Investment Services Corp. as an Investment Company and Variable Contracts Products Representative (Series 6) and worked at an affiliate of Chase Investment Services Corp., Chase Bank, while registered with FINRA. Bekirovik began working at Chase Bank in October 2007 and was first registered with FINRA in November 2007. She was employed as a registered personal banker and teller at Chase Bank until she was terminated on April 30, 2008. Bekirovik is not currently associated with any FINRA member firm but remains within the jurisdiction of FINRA pursuant to Article V, Section 4 of the FINRA By-Laws.

FIRST CAUSE OF ACTION

Bekirovik Wrongfully Converted and Misappropriated Employer Funds (Violation of NASD Rule 2110)

4. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1 through 3, above.

5. At all relevant times, Bekirovik was employed as a registered personal banker and teller with Chase Bank at a branch located in Woodridge, Illinois.

6. As a registered personal banker and teller at Chase Bank, Bekirovik was responsible for, among other things, maintaining a bank cash bag that held money that she used to conduct business with bank customers on behalf of the bank.

7. On or about April 7, 2008, Bekirovik, intentionally and without authorization from Chase Bank, took approximately \$240 that belonged to the bank from the bank cash bag that she was responsible for maintaining for her personal use.

8. On or about April 8, 2008, Bekirovik admitted to her bank branch manager that she had taken approximately \$200 from her cash bag on April 7, 2008, to help her brother.

9. By virtue of the foregoing, Bekirovik violated NASD Rule 2110.

SECOND CAUSE OF ACTION

Bekirovik Failed to Provide Information and Documents to FINRA (Violation of NASD Rules 8210 and 2110 and FINRA Rules 8210 and 2010)

10. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1 through 9, above.

11. FINRA issued to Bekirovik, requests for information and documents, pursuant to NASD Rule 8210, on July 8, 2008, August 1, 2008, September 24, 2008, and October 29, 2008. Each request was mailed to Bekirovik by first class mail and certified mail to her residential address as reflected in the Central Registration Depository ("CRD address"). All of these requests were mailed to Bekirovik's CRD address. One request, the October 29, 2008 letter sent by certified mail, was returned, marked as "Unclaimed." Nevertheless, Bekirovik failed to respond to any of the requests. As a result, Bekirovik violated NASD Rule 8210. By failing to respond to these regulatory requests, Bekirovik also failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of NASD Rule 2110.

12. FINRA also issued to Bekirovik a request for information and documents, pursuant to FINRA Rule 8210, on May 19, 2009. As with the other requests, this request was mailed to Bekirovik via first class and certified mail to her CRD address. The copy sent by first

class mail was not returned, but the copy sent by certified mail was returned, marked "Unclaimed." As with the other requests, Bekirovik also failed to respond to this request. As a result, Bekirovik violated FINRA Rule 8210. By failing to respond to this regulatory request, Bekirovik also failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

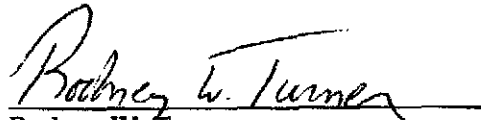
RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests:

- A. an order that one or more of the sanctions provided pursuant to FINRA Rule 8310, including a bar against Respondent from associating with any member firm in any capacity, be imposed.
- B. an order that Respondent pay restitution to Chase Bank in the amount of \$240.
- C. an order that Respondent bear such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: July 30, 2009


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