

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANTONIO HERRERO-ROVIRA
(CRD No. 1878587)

Respondent.

Disciplinary Proceeding
No. 20080138336

Hearing Officer – RSH

DEFAULT DECISION

October 7, 2010

For converting customer funds, in violation of Rules 2330(a) and 2110; forging customers' signatures, in violation of Rule 2110; and failing to respond to FINRA's requests for information, in violation of Rules 8210 and 2010, the Respondent was barred from associating with any FINRA member in any capacity.

Appearances

Josefina Martinez, Senior Counsel, Richard Chin, Director, Susan Light, Chief Counsel, New York, NY, for the Department of Enforcement.

No appearance by or for Respondent.¹

DECISION

I. Introduction

The FINRA Department of Enforcement commenced the investigation that led to the Complaint against Respondent Antonio Herrero-Rovira after his member firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") disclosing that the firm had terminated him. The firm stated that Respondent had admitted that he had signed a client's name to letters authorizing the disbursement of funds and transfers

¹ The Respondent had an attorney of record in Enforcement's records; however, he did not enter his appearance in this proceeding.

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of funds into third parties' accounts, among other things. As a result of its investigation, Enforcement filed the Complaint.²

In its Complaint, Enforcement charged that Respondent converted approximately \$219,000 from three firm customers, in violation of Rules 2330(a) and 2110; forged the customers' signatures on Letters of Authorization ("LOAs") and checks issued pursuant to those LOAs, in violation of Rule 2110; and failed to respond to FINRA's requests for information, in violation of Rules 8210 and 2010.³

Enforcement filed the Complaint with the Office of Hearing Officers on May 6, 2010. Respondent did not answer or otherwise respond to the Complaint. Consequently, on July 29, 2010, Enforcement filed a Motion for Entry of Default Decision, supported by the Declaration of Josefina Martinez and nine exhibits. Respondent did not reply to the motion.⁴

II. Jurisdiction

Respondent first became associated with a FINRA-regulated broker-dealer in August 1988. Between May 7, 1998, and May 13, 2008, Respondent was dually registered as a General Securities Representative with UBS Financial Services Incorporated of Puerto Rico and UBS Financial Services, Inc. (collectively, "UBS"). On or about June 11, 2008, UBS filed a Form U-5 reporting that it had discharged Respondent.⁵

² Declaration of Josefina Martinez ("Martinez Decl."), ¶ 6, 9.

³ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. On December 15, 2008, the first phase of new consolidated FINRA Rules went into effect. See Regulatory Notice 08-57. In the new Rules, Conduct Rule 2110 was renumbered to 2010, but is substantially identical to its predecessor. With respect to this decision, unless otherwise noted, the other relevant FINRA Rules are identical to the corresponding NASD Rules.

⁴ The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the declaration and exhibits filed by Enforcement.

⁵ Martinez Decl., ¶ 4-6; CX-1, CX-2, CX-3.

Although Respondent is not currently associated with a FINRA member firm, FINRA has jurisdiction over this disciplinary 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 his registration with a FINRA member firm and (2) the Complaint charges him with misconduct that occurred while he was associated with a FINRA member firm.⁶

III. Respondent's Default

On May 6, 2010, Enforcement sent the Notice of Complaint and Complaint to Respondent by first-class and certified mail (return receipt requested) at his residential address as recorded in FINRA's Central Registration Depository ("CRD Address"). FINRA also sent the Notice of Complaint and Complaint to Respondent's attorney by first-class and certified mail.⁷ On or about May 14, 2010, Enforcement received the certified mail receipt, signed by "Antonio Herrero."⁸ On or about May 13, 2010, Enforcement received the signed certified mail receipt for the mailing sent to Respondent's attorney.⁹ The mailings sent by first-class mail were not returned to Enforcement.¹⁰ Respondent did not respond to the Complaint by June 3, 2010, the deadline specified in the Notice of Complaint.¹¹

On June 8, 2010, Enforcement sent the Second Notice of Complaint and Complaint by first-class and certified mail to Respondent at his CRD Address and to his attorney.¹² On or about June 11, 2010, Enforcement received the certified mail receipt,

⁶ See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

⁷ Martinez Decl., ¶¶ 21-22; CX-4.

⁸ Martinez Decl., ¶ 23; CX-5.

⁹ Martinez Decl., ¶ 24; CX-6.

¹⁰ Martinez Decl., ¶ 25.

¹¹ Martinez Decl., ¶ 26; CX-4.

¹² Martinez Decl., ¶¶ 27-28; CX-7.

signed by "Antonio Herrero."¹³ On or about June 11, 2010, Enforcement received the signed certified mail receipt for the mailing sent to Respondent's attorney.¹⁴ Respondent did not respond to the Complaint by June 25, 2010, the deadline specified in the Second Notice of Complaint.¹⁵ To date, Respondent has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.

By failing to answer the Complaint, Respondent defaulted. 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.

IV. Violations

A. Conversion of Customer Funds

The Complaint alleges that Respondent violated Rules 2330(a) and 2110 by converting customer funds. The Complaint's First Cause of Action alleges that, from on or about April 22, 2002, through on or about April 19, 2007, Respondent forged Customer LR's signature on five LOAs that requested disbursement of funds from her account, and checks issued by UBS pursuant to those LOAs. Respondent thereby converted \$163,000 from LR's UBS account. The Complaint alleges that Respondent admitted that he deposited the funds into his personal account or into the accounts of third parties.

The First Cause of Action further alleges that from on or about January 23, 2007, through on or about February 7, 2007, Respondent converted \$40,000 from Customer AN

¹³ Martinez Decl., ¶ 29; CX-8.

¹⁴ Martinez Decl., ¶ 30; CX-9.

¹⁵ Martinez Decl., ¶ 32; CX-7.

by forging AN's signature on two LOAs requesting the disbursement of funds from her account to third parties.

Finally, the First Cause of Action alleges that on or about March 22, 2001, Respondent converted \$16,000 from Customer EC by causing a check payable to EC in that amount to be withdrawn from EC's account without EC's knowledge or authorization and forging EC's endorsement on the check. The Complaint alleges that Respondent admitted to EC that he had deposited the check into a third party's account.

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."¹⁶ Taking funds from one customer account and applying those funds to another, unrelated, customer's account constitutes conversion, and is a violation of the requirement to observe high standards of commercial honor and just and equitable principles of trade under Rule 2110.¹⁷

The facts alleged in the Complaint establish, for purposes of this Default Decision, that Respondent converted \$219,000 from three customers, thereby violating Conduct Rule 2330(a). His actions also violate Rule 2110 because such conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade.¹⁸

B. Forgery

The Second Cause of Action in the Complaint alleges that Respondent violated Conduct Rule 2110 by forging the signatures of Customers LR, AN, and EC on LOAs and checks issued from their UBS accounts.

¹⁶ FINRA Sanction Guidelines 38 (2007), www.finra.org/sanctionguidelines.

¹⁷ *Department of Enforcement v. Paratore*, 2008 FINRA Discip. LEXIS 1, at *10 (N.A.C. Mar. 7, 2008).

¹⁸ *Department of Enforcement v. Patel*, 2001 NASD Discip. LEXIS 42, at *24 (N.A.C. May 23, 2001).

The facts alleged in the Complaint establish, for purposes of this Default Decision, that Respondent forged LR's, AN's, and EC's signatures. It is well-established that forgery violates Conduct Rule 2110.¹⁹

C. Failure to Respond to Requests for Information

The Third Cause of Action alleges that Respondent failed to respond to written requests, made pursuant to Rule 8210, that he provide information to FINRA staff concerning allegations that he had converted customer funds. According to the Complaint, on or about September 22, 2009, Enforcement sent to Respondent's attorney, by first-class and certified mail, a request for information pursuant to Rule 8210 ("8210 Request"). The signed certified mail receipt was returned to Enforcement on or about September 25, 2009; however, neither Respondent nor his attorney responded to the September 22 request.

Enforcement sent a second 8210 Request to Respondent's attorney on October 1, 2009, and also sent a copy to Respondent at his CRD Address. The signed receipt for the 8210 Request sent to Respondent's attorney by certified mail was returned to Enforcement on October 5, 2009. The certified mail receipt for the copy sent to Respondent was returned to Enforcement, with Respondent's signature, on October 5, 2009. To date, Respondent has not responded to the October 1 Request.

On October 19, 2009, Enforcement sent a third 8210 Request to Respondent's attorney, and again sent a copy to Respondent at his CRD Address. The certified receipt for the 8210 Request sent to Respondent's attorney has not been returned to Enforcement. The certified mail receipt for the copy sent to Respondent was returned to Enforcement

¹⁹ *Donald M. Bickerstaff*, Exchange Act Rel. No. 35607, 1995 SEC LEXIS 982 (Apr. 17, 1995).

on October 21, 2009; however, the signature is illegible. To date, Respondent has not responded to the October 19 Request.

The Hearing Officer finds that the allegations in the Third Cause of Action are sufficient to establish, for purposes of this Default Decision, that Respondent violated Rule 8210. A violation of Rule 8210 is also a violation of Rule 2010.²⁰

V. Sanctions

A. Conversion

For conversion, the Guidelines recommend a bar, regardless of the amount converted.²¹ Respondent will therefore be barred from associating with any FINRA member firm in any capacity.²²

B. Forgery

For forgery, the FINRA Sanction Guidelines direct adjudicators to consider imposing a suspension for up to two years where mitigating factors exist, or a bar in egregious cases. The principal considerations in determining sanctions include: (i) the nature of the documents forged, and (ii) whether the respondent had a good-faith, but mistaken, belief of express or implied authority.²³

In this case, there do not appear to be any mitigating factors. The documents forged were important forms to authorize and cause transfers of customer funds. Respondent forged the forms so that he could convert money from his customers' accounts. There is no evidence that Respondent had any belief that he had authority to sign the forms. This is an egregious case and Respondent is barred for his conduct.

²⁰ *Department of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

²¹ *FINRA Sanction Guidelines* 38.

²² UBS reimbursed the entire \$65,000 to MA's account; therefore, restitution is not ordered.

²³ *FINRA Sanction Guidelines* 39.

C. Failure to Respond to Requests for Information

A violation of Rule 8210 is serious because Rule 8210 is a key element in FINRA's oversight function and allows FINRA to carry out its regulatory functions without subpoena power.²⁴ When an individual fails to provide information or testimony, FINRA's ability to perform its regulatory functions is subverted.²⁵ For these reasons, the Guidelines recommend a bar when a respondent fails to respond in any manner to a request for testimony issued pursuant to Rule 8210.²⁶ Respondent failed to respond to three requests for information. There is no evidence of any mitigating facts that would justify a sanction of less than a bar. Accordingly, the Hearing Officer finds that Respondent should be barred from associating with any FINRA member in any capacity.

VI. Order

For converting customer funds, in violation of Rules 2330(a) and 2110; forging documents, in violation of Conduct Rule 2110; and failing to respond to requests for information, in violation of Rules 8210 and 2010, Respondent is barred from associating with any FINRA member in any capacity. The bars shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.



Rochelle S. Hall
Hearing Officer

²⁴ *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141 (Nov. 14, 2008); *Joseph G. Chiulli*, Exchange Act Rel. No. 42359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000).

²⁵ *Joseph P. Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

²⁶ *FINRA Sanction Guidelines* 35.

Copies to: **Antonio Herrero-Rovira** (*via Federal Express and first-class mail*)
 Josefina Martinez, Esq. (*via first-class and electronic mail*)
 David Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Antonio Herrero-Rovira
(CRD No. 1878587),

Respondent.

DISCIPLINARY PROCEEDING
No. 20080138336

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From on or about March 2001 through April 2007, Antonio Herrero-Rovira ("Herrero"), a former registered representative with UBS Financial Services, Inc. of Puerto Rico ("UBS" or the "Firm"), converted approximately \$219,000 from three Firm customers in violation of NASD Rules 2330(a) and 2110.
2. In connection with the conversion of funds from each of the three customers, Respondent forged or caused the forgery of the customers' signatures on Letters of Authorization ("LOAs") and certain UBS checks issued pursuant to those LOAs in violation of NASD Conduct Rule 2110.
3. Respondent also failed to respond to Enforcement requests for documents and information as requested by FINRA staff pursuant to FINRA Rule 8210.

RESPONDENT AND JURISDICTION

4. Herrero entered the securities industry in August 1988 with a FINRA member and became licensed as a General Securities Representative in April 1995. From January 1996 through May 2008, Herrero was registered with four FINRA member firms.
5. From May 7, 1998 through May 13, 1998, Herrero was dually registered with the Firm and UBS Financial Services, Inc. The Firm terminated Herrero's employment on May 13, 2008. Although Respondent has not been associated with a FINRA member firm since May 13, 2008, he 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 after the date upon which he ceased to be associated with a FINRA member and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member and with failing to respond to FINRA requests for information during the two-year period after the date upon which he ceased to be associated with a FINRA member.

FIRST CAUSE OF ACTION Conversion of Customer Funds Violation of NASD Rules 2330(a) and 2110

6. The Department realleges and incorporates by reference paragraphs one through five above.

Customer LR

7. On or about October 2000, Customer LR opened a brokerage account with the Firm. Herrero was the registered representative responsible for Customer LR's account.

8. From on or about April 22, 2002 through April 19, 2007, Herrero forged Customer LR's signature on five LOAs which resulted in the issuance of seven UBS checks totaling \$163,000 from Customer LR's account.
9. On or about April 22, 2002, Herrero forged and presented to UBS a LOA by which Customer LR purportedly requested the issuance of a UBS check in the amount of \$6,800 from her Firm account payable to Customer LR (the "April 22, 2002 LOA").
10. On or about April 23, 2002, the sum of \$6,800 was withdrawn from Customer LR's UBS account and the Firm issued a UBS check in the amount of \$6,800 payable to Customer LR.
11. The \$6,800 check was deposited on or about April 25, 2002 into a bank account over which Customer LR did not have possession or control. The back of the check bore a signature purporting to be that of Customer LR.
12. Customer LR did not authorize the withdrawal of \$6,800 from her UBS account and did not sign the April 22, 2002 LOA or the back of the \$6,800 check issued pursuant to that LOA.
13. Herrero acknowledged to the Firm that he deposited the \$6,800 UBS check into his personal bank account without Customer LR's knowledge or authorization.
14. On or about July 16, 2004, Herrero forged and presented to UBS a LOA by which Customer LR purportedly requested the issuance of a UBS check in the amount of \$25,000 from her Firm account payable to herself (the "July 16, 2004 LOA").

15. On or about July 16, 2004, the sum of \$25,000 was withdrawn from Customer LR's UBS account and the Firm issued a UBS check in the amount of \$25,000 payable to Customer LR.
16. The \$25,000 check was deposited on or about July 19, 2004 into a bank account over which Customer LR did not have possession or control. The back of the negotiated check bore a signature purporting to be that of Customer LR, a notation indicating "for deposit only," and a second signature reading, "Customer JD."
17. In July 2004, Customer JD maintained a brokerage account with UBS. Herrero was the registered representative assigned to Customer JD's account.
18. Customer LR did not authorize the withdrawal of \$25,000 from her UBS account and did not sign the July 16, 2004 LOA or the back of the \$25,000 check issued pursuant to that LOA.
19. Herrero admitted to the Firm that he signed Customer LR's name on the back of the \$25,000 UBS check and deposited the check in the bank account of Customer JD.
20. On or about August 21, 2006, Herrero forged and presented to UBS a LOA by which Customer LR purportedly requested the issuance of a UBS check in the amount of \$21,200 from her Firm account payable to herself (the "August 21, 2006 LOA").
21. On or about August 21, 2006, the sum of \$21,200 was withdrawn from Customer LR's UBS account and the Firm issued a UBS check in the amount of \$21,200 payable to Customer LR.

22. The \$21,200 UBS check was deposited on or about August 25, 2006 into a bank account over which Customer LR did not have possession or control. The back of the check bore a signature purporting to be that of Customer LR.
23. Customer LR did not authorize the withdrawal of \$21,200 from her UBS account and did not sign the August 21, 2006 LOA or the back of the \$21,200 check issued pursuant to that LOA.
24. Herrero acknowledged to the Firm having signed Customer LR's name on the back of the \$21,200 check and having deposited the check in the bank account of his mother-in-law.
25. On or about February 7, 2007, Herrero forged and presented to UBS for processing an LOA by which Customer LR purportedly requested the issuance of three UBS checks in the amounts of \$70,000, \$10,000 and \$5,000 from her Firm account payable to CB Corporation, Customer AC, and Customer JD respectively (the "February 7, 2007 LOA").
26. From October 2001 through December 2006, Customer AC maintained a brokerage account with the Firm. Herrero was the registered representative assigned to Customer AC's account.
27. On or about February 7, 2007, three separate withdrawals in the amounts of \$70,000, \$10,000 and \$5,000 were made from Customer LR's UBS account. The Firm issued a check in the amount of \$70,000 to CB Corporation, a check in the amount of \$10,000 to Customer AC and a check in the amount of \$5,000 to Customer JD.

28. The \$70,000 check payable to CB Corporation was deposited on or about February 7, 2007 into a bank account over which Customer LR did not have possession or control. The back of the check bears the notation, "CB Corporation."
29. The \$10,000 check payable to Customer AC and the \$5,000 check payable to Customer JD were each deposited on February 9, 2007 into bank accounts over which Customer LR did not have possession or control. The back of the \$10,000 check payable to Customer AC bears the signature of Customer AC. The back of the \$5,000 check payable to Customer JD bears the signature of Customer JD.
30. Customer LR did not authorize the withdrawal of \$70,000, \$10,000 and \$5,000 from her UBS account and did not sign the February 7, 2007 LOA.
31. Herrero indicated to the Firm that he received more than \$152,000 in loans from Customer JD and that he caused the \$70,000 check payable to CB Corporation and the \$5,000 check payable to Customer JD to be issued in partial payment of those outstanding loans. Herrero further indicated that Customer JD used the \$70,000 check payable to CB Corporation to purchase shares of CB Corporation.
32. Herrero admitted to the Firm that the \$10,000 check payable to Customer AC was in payment of an outstanding loan he received from Customer AC.
33. On or about April 19, 2007, Herrero forged and presented to UBS a LOA by which Customer LR purportedly requested the issuance of a UBS check in the amount of \$25,000 from her Firm account payable to NT Corporation. (the "April 19, 2007 LOA").

34. On or about April 19, 2007, the sum of \$25,000 was withdrawn from Customer LR's UBS account and the Firm issued a check in the amount of \$25,000 payable to NT Corporation.
35. The \$25,000 check was deposited on or about April 24, 2007 into a bank account over which Customer LR did not have possession or control. The back of the check bears the notation "For Deposit Only. NT Corporation."
36. Customer LR did not authorize the withdrawal of \$25,000 from her UBS account and did not sign the April 19, 2007 LOA.
37. Herrero admitted to the Firm that NT Corporation was owned by Customer JD and that Customer JD used these funds to purchase additional shares of CB Corporation.
38. Customer LR is not familiar with Customer JD, Customer AC, CB Corporation or NT Corporation and did not authorize Herrero to direct funds from her UBS account to the above-referenced persons or entities.
39. Customer LR did not receive funds pursuant to any of the above-referenced LOAs.

Customer AN

40. On or about March 2001, Customer AN opened a brokerage account with the Firm. Beginning in 2003, Herrero was the registered representative responsible for Customer AN's account.
41. In January 2007, Herrero solicited Customer AN's investment of \$40,000 in what he described as a "safer" investment product. Customer AN assumed the investment was to be made through her UBS account and approved the investment.

42. Customer AN's UBS account statements do not reflect a \$40,000 investment in any product from January 2007 through May 2008.
43. On or about January 23, 2007, Herrero forged and presented to UBS a LOA by which Customer AN purportedly requested the issuance of a UBS check in the amount of \$20,000 from her Firm account payable to CB Corporation (the "January 23, 2007 LOA").
44. On or about January 23, 2007, the sum of \$20,000 was withdrawn from Customer AN's UBS account and the Firm issued a UBS check in the amount of \$20,000 payable to CB Corporation.
45. The \$20,000 check was deposited on or about January 24, 2007 into a bank account over which Customer AN did not have possession or control. The back of the check bears the notation "CB Corporation."
46. Customer AN did not authorize the withdrawal of \$20,000 from her UBS account and did not sign the January 23, 2007 LOA.
47. On or about February 7, 2007, Herrero forged and presented to UBS a LOA by which Customer AN purportedly requested the issuance of a UBS check in the amount of \$20,000 from her Firm account payable to Individual FMV (the "FMV LOA").
48. On or about February 8, 2007, the sum of \$20,000 was withdrawn from Customer AN's UBS account and the Firm issued a UBS check in the amount of \$20,000 payable to Individual FMV.

49. The \$20,000 check was deposited on or about February 12, 2007 into a bank account over which Customer AN did not have possession or control. The back of the negotiated check bears an illegible signature.
50. Customer AN did not authorize the withdrawal of \$20,000 from her UBS account and did not sign the FMV LOA.
51. Herrero indicated to the Firm that on two occasions he asked Customer AN to loan \$20,000 to Customer JD.
52. Customer AN is not familiar with CB Corporation, Individual FMV or Customer JD and did not authorize Herrero to direct funds from her UBS account to the above-referenced persons or entities.
53. On or about August 7, 2008, Herrero deposited a Banco Popular Bank Check in the amount of \$4,402.70 in Customer AN's checking account in partial repayment of the improper \$40,000 withdrawal from her UBS account. The "Remitter" on the check is listed as "Antonio Herrero Rovira."
54. On or about September 11, 2008, Herrero deposited another Banco Popular Bank Check in the amount of \$41,000 in Customer AN's checking account in payment of the remaining balance on the \$40,000 withdrawal from her UBS account plus interest. The "Remitter" on the check is listed as "Antonio Herrero Rovira."
55. Customer AN did not receive any funds pursuant to either of the above-referenced LOAs.

Customer EC

56. On or about January 2001, Customer EC opened a brokerage account with the Firm. Herrero was the registered representative responsible for Customer EC's account.
57. In early 2001, Herrero solicited Customer EC's investment of \$16,000 in an annuity product. Customer EC assumed the investment was to be made through her UBS account and agreed to invest the funds as recommended by Herrero.
58. Customer EC's UBS account statements do not reflect the purchase of a \$16,000 annuity from January 2001 through May 2008.
59. On or about March 22, 2001, the sum of \$16,000 was withdrawn from Customer EC's UBS account and the Firm issued a UBS check in the amount of \$16,000 payable Customer EC.
60. The \$16,000 check was deposited into a bank account over which Customer EC did not have possession or control. The back of the negotiated check bears a signature purporting to be that of Customer EC.
61. Customer EC did not sign the back of the \$16,000 check issued by UBS.
62. Customer EC did not receive any funds in connection with March 22, 2001 withdrawal of \$16,000 from her UBS account.
63. On or about June 24, 2008 Herrero provided to Customer EC a Banco Popular Bank Check in the amount of \$22,000 in payment of the \$16,000 withdrawn on March 22, 2001 from her UBS account plus interest. The "Remitter" on the Bank Check is listed as Antonio Herrero Rovira.

64. Herrero informed Customer EC that he had never purchased an annuity on her behalf and had instead deposited the \$16,000 check in the account of a different UBS customer.
65. The conversion of funds demonstrated by the acts, practices and conduct described above constitute a violation of NASD Rules 2330(a) and 2110.

SECOND CAUSE OF ACTION
Herrero Forged or Caused to be Forged Customer Signatures on LOAs and Checks
Issued From Customer Accounts
Violated NASD Rule 2110

66. The Department realleges and incorporates by reference paragraphs one through 65.
- 67.- Herrero forged or caused to be forged the signatures of Customer LR, Customer AN and Customer EC on LOAs and/or checks issued from UBS customer accounts as described in paragraphs one through 65 above.
68. The Respondent's forgery of documents, including negotiable instruments, demonstrated by the acts, practices and conduct described above constitute a violation of NASD Rule 2110.

THIRD CAUSE OF ACTION
Failure to Respond
Violations of FINRA Rules 8210 and 2010

69. The Department realleges and incorporates by reference paragraph one through 68.
70. On or about July 3, 2008, Herrero's counsel indicated to FINRA staff that he represented Herrero in connection with this matter.
71. On September 22, 2009, Enforcement forwarded to Herrero at the address of his legal counsel ("Counsel's Street Address") by certified mail, return receipt requested and

by first class mail to his counsel's electronic mail address ("Counsel's E-Mail Address") a FINRA Rule 8210 request for, among other things, a list of every financial account, including brokerage and bank accounts, that Herrero held during a specified time period and the production of corresponding monthly account statements for each (the "September 22, 2009 Letter").

72. The signed certified mail receipt for the September 22, 2009 Letter was returned to Enforcement on or about September 25, 2009. The copy of the September 22, 2009 Letter sent by first class mail has not been returned to Enforcement.

73. To date, neither Herrero nor Counsel has responded to the September 22, 2009 Letter.

74. On September 23, 2009, Enforcement forwarded to Herrero's counsel by certified mail, return receipt requested and by first class mail to Counsel's Street Address and to Counsel's E-Mail Address a letter requesting that counsel confirm in writing on or before September 30, 2009 that in his capacity as Herrero's counsel, he had been authorized by Herrero to accept service of FINRA Rule 8210 requests and other relevant documents and/or notices on Herrero's behalf (the "September 23, 2009 Letter").

75. The September 23, 2009 Letter informed counsel that if a written response was not timely received, Enforcement would copy Herrero on all future communications.

76. The signed certified mail receipt for the September 23, 2009 Letter was returned to Enforcement on or about September 28, 2009. The copy of the September 23, 2009 Letter sent by first class mail has not been returned to Enforcement.

77. To date, Counsel has not responded to the September 23, 2009 Letter in writing or otherwise.

78. On October 1, 2009, Enforcement forwarded a FINRA Rule 8210 request letter to Herrero's legal counsel by certified mail, return receipt requested and by first class mail to Counsel's Street Address and to Counsel's E-Mail Address repeating the request articulated in the September 22, 2009 Letter (the "October 1, 2009 Letter"). Herrero was copied on the October 1, 2009 Letter which was sent to his last known address as listed on the Central Registration Depository ("CRD") by certified mail, return receipt requested, and by first class mail.
79. The signed certified mail receipt for the October 1, 2009 Letter forwarded to Counsel's Street Address was returned to Enforcement on or about October 5, 2009. The copy of the October 1, 2009 Letter sent to Herrero's counsel by first class mail has not been returned to Enforcement.
80. The certified mail receipt for the October 1, 2009 Letter bearing Herrero's signature was returned to Enforcement on or about October 5, 2009. The copy of the October 1, 2009 Letter sent to Herrero by first class mail has not been returned to Enforcement.
81. To date, Herrero has not responded to the October 1, 2009 Letter nor has anyone responded on his behalf.
82. On October 19, 2009, Enforcement forwarded another FINRA Rule 8210 request letter to Herrero's legal counsel by certified mail, return receipt requested and by first class mail to Counsel's Street Address and to Counsel's E-Mail Address repeating the request articulated in the September 22, 2009 Letter (the "October 19, 2009 Letter"). Herrero was again copied on the October 19, 2009 Letter which was sent to his last

known address as listed on CRD by certified mail, return receipt requested, and by first class mail.

83. The certified mail receipt for the October 19, 2009 Letter forwarded to Counsel's Street Address has not been returned to Enforcement. The copy of the October 19, 2009 Letter sent to Herrero's counsel by first class mail has not been returned to Enforcement.
84. The certified mail receipt for the October 19, 2009 Letter bearing an illegible signature was returned to Enforcement on or about October 21, 2009. The copy of the October 19, 2009 Letter sent to Herrero by first class mail has not been returned to Enforcement.
85. To date, Herrero has not responded to the October 19, 2009 Letter.
86. Herrero's failure to respond to Enforcement's repeated FINRA Rule 8210 requests demonstrated by the acts, practices and conduct described above constitute a violation of FINRA Rules 8210 and 2010.

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), including monetary sanctions, be imposed;

- 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

Date: 5/6/10


Susan Light, Senior Vice President &
Chief Counsel
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