

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

DEPARTMENT OF ENFORCEMENT,

Complainant

v.

WILLIAM F. BRAHE, JR.
(CRD No. 3195240),

Respondent.

Disciplinary Proceeding
No. 2008014231001

Hearing Officer – MC

DEFAULT DECISION

February 19, 2010

Respondent is barred from associating with any FINRA member firm in any capacity for converting customer funds in violation of Conduct Rule 2110.

Appearances

Gary A. Chodosh, Senior Regional Counsel, for the Department of Enforcement.

No appearance by or on behalf of Respondent William F. Brahe, Jr.

DECISION

I. Introduction

On September 16, 2009, the Department of Enforcement filed the attached one-cause Complaint in this disciplinary proceeding. The Complaint alleges that Respondent William F. Brahe, Jr. ("Brahe"), while registered through FINRA member firm Chase Investment Services Corporation ("CISC"), and working as a branch manager of a CISC bank affiliate, JP Morgan

Chase Bank, violated Conduct Rule 2110¹ by converting more than \$1 million in customer bank deposits for his own use and benefit.

Enforcement served the Complaint and Notice of Complaint on Brahe by certified and first-class mail at his last known residential address appearing in FINRA's Central Registration Depository ("CRD address"), and at Brahe's current address at a federal correctional facility. When Brahe failed to file an Answer or any response to the Complaint, Enforcement served the Complaint and a Second Notice of Complaint on Brahe by certified and first-class mail, this time at his CRD address, his current address, and a third address provided by the U.S. Postal Service. Again, Brahe failed to file an Answer or any response to the Complaint. Accordingly, Enforcement filed a Motion for Entry of Default Decision ("Default Motion") supported by the Declaration of Gary A. Chodosh and 14 exhibits.² For the reasons given below, the Default Motion is granted.³

II. Findings of Fact and Conclusions of Law

A. Brahe is Subject to FINRA's Jurisdiction

Brahe was registered as an Investment Company and Variable Contracts Products Representative with FINRA through CISC from April 1999 until October 2007, when his

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 NASD Conduct Rules that were in effect at the time of Brahe's alleged misconduct. The applicable rules are available at www.finra.org/rules.

² Enforcement's exhibits will be referred to as "CX-" with the appropriate exhibit number. References in this Default Decision to the Declaration will be referred to as "Decl." with citation to specific paragraphs.

³ The factual determinations in this Default Decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the Chodosh Declaration, and the exhibits filed by Enforcement.

employment at CISC was terminated.⁴ Since his termination, Brahe has not been associated with a FINRA member firm.

The Complaint alleges that Brahe's misconduct occurred from on or about August 1, 2001, through October 18, 2007. Because Enforcement filed the Complaint within two years of the date Brahe was last registered with a FINRA member firm, pursuant to Article V, Section 4 of FINRA's By-Laws, he remains subject to FINRA's jurisdiction for the purposes of this disciplinary proceeding.

B. Brahe Defaulted

Enforcement initially served the Complaint and Notice of Complaint on Brahe by certified and first-class mail at both his CRD address and his current address on September 15, 2009.⁵ Brahe's current address is a New York State Department of Correction Services facility. Brady is serving a sentence of three to nine years of imprisonment as a consequence of his conviction of Grand Larceny, arising from his theft of customer bank deposits as alleged in the single cause of action of the Complaint.⁶

The first-class mailing to Brahe's CRD address was returned with notations including "return to sender," "unclaimed," and "unable to forward," with notification of a new address ("third address").⁷ The certified mailing to Brahe's CRD address was returned with the notations "unclaimed," "FWD," and "notify sender of new address," the third address of which Enforcement became aware.⁸

⁴ CX-1; CX-2.

⁵ Decl., ¶ 19.

⁶ *Id.*, ¶¶ 17-18.

⁷ *Id.*, ¶ 20; CX-6.

⁸ Decl., ¶ 21; CX-7.

The return receipt for the certified mailing sent to Brahe's current address was returned with a notation confirming that it was delivered on September 22, 2009.⁹ The first-class mailing to the current address was not returned.¹⁰ Despite these mailings, and the confirmed service of the Complaint and Notice of Complaint at Brahe's current address, Brahe failed to file an Answer.¹¹

Enforcement served Brahe with the Complaint and Second Notice of Complaint on October 21, 2009, again by certified and first-class mail, at all three addresses: the CRD address; the current address; and the third address.¹² The certified and first-class mailings to the CRD address were returned with notations "return to sender" and "not deliverable as addressed, unable to forward."¹³ The return receipt card for the certified mailing to the current address was returned with a notation that it was delivered on October 26, 2009.¹⁴ The first-class mailing to the current address was not returned.¹⁵ The certified and first-class mailings to the third address were returned with the notations "return to sender," "attempted - not known," and "unable to forward."¹⁶ Once again, despite the confirmed service of the Complaint and Second Notice of Complaint at his current address, Brahe has failed to file an Answer.

By its service of the Complaint through multiple mailings to Brahe, Enforcement complied with the requirements of Rule 9134. Service of the Complaint at Brahe's CRD address

⁹ *Id.*, ¶ 22; CX-8

¹⁰ Decl., ¶ 23.

¹¹ *Id.*, ¶ 24.

¹² *Id.*, ¶ 25.

¹³ *Id.*, ¶ 26; CX-10; CX-11.

¹⁴ Decl., ¶ 27; CX-12.

¹⁵ Decl., ¶ 28.

¹⁶ *Id.*, ¶ 29; CX-13; CX-14.

provided Brahe with constructive notice of this proceeding,¹⁷ and the confirmed service of the Complaint and First and Second Notices of Complaint on two occasions at Brahe's current address appears to have provided him with actual notice. By failing to answer the Complaint, Brahe defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a) (2), the allegations in the Complaint are deemed admitted.

C. Brahe Converted Customer Funds in Violation of Conduct Rule 2110

From August 11, 2001, through October 18, 2007, Brahe was a branch manager at CISC's bank affiliate, JP Morgan Chase Bank, in Carle Place, New York. Working in that capacity, Brahe withdrew approximately \$1,078,400 from the accounts of a number of bank customers and, without permission or authority, deposited the funds into his own accounts.¹⁸ On August 8, 2008, Brahe entered a plea of guilty in New York Supreme Court, County of Nassau, to Grand Larceny in the First Degree, in violation of New York Penal Law §155.42, for stealing over \$1 million from bank customers of JP Morgan Chase Bank.¹⁹ The Court sentenced Brahe to serve three to nine years of imprisonment and ordered him to pay restitution in the amount of \$1,078,400.²⁰

By converting the funds of customers of JP Morgan Chase Bank, Brahe violated Conduct Rule 2110.

¹⁷ *Dep't of Enforcement v. 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)).

¹⁸ Complaint, ¶¶ 7-8.

¹⁹ *Id.*, ¶ 9; Decl., ¶¶ 12-13; CX-4.

²⁰ CX-4; Complaint, ¶ 10.

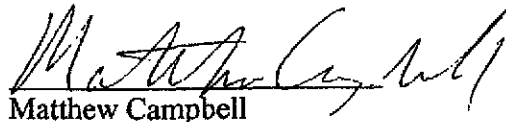
III. Sanctions

Enforcement requests imposition of a bar in this case. For conversion, FINRA Sanction Guidelines recommend a bar regardless of the amount converted.²¹ In this case, the amount of funds converted by Brahe, and the period of more than six years during which Brahe engaged in his egregious misconduct, are serious aggravating factors. There are no apparent mitigating factors present. For these reasons, the appropriate sanction is a bar. Because Brahe's criminal sentence includes an order to pay restitution, no restitution order is necessary in this proceeding.

IV. Order

Respondent William F. Brahe, Jr., is barred from association with any FINRA firm in all capacities for converting funds from customers of J.P. Morgan Chase Bank in violation of Conduct Rule 2110. The bar will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.

SO ORDERED.


Matthew Campbell
Hearing Officer

Copies to:

William F. Brahe, Jr. (via overnight courier and first-class mail)
Gary A. Chodosh, Esq. (via electronic and first-class mail)
Mark P. Dauer, Esq. (via electronic mail)
David R. Sonnenberg, Esq. (via electronic mail)

²¹ *FINRA Sanction Guidelines*, p. 38 (2007).

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**WILLIAM F. BRAHE, JR.
(CRD No. 3195240),**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2008014231001**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. While registered with FINRA through a FINRA regulated broker-dealer and acting as a manager at a bank affiliate of that broker-dealer, Respondent William F. Brahe, Jr. ("Brahe") converted over \$1 million in customer deposits for his own use and benefit. In connection with this conversion, in August 2008, Brahe pled guilty in New York to grand larceny in the first degree, a felony. In May 2009, Brahe was sentenced to serve three to nine years in prison.
2. Brahe first became registered with FINRA as an Investment Company and Variable Contracts Products Representative through Chase Investment Services Corporation (BD No. 25574) ("CISC") in April 1999.
3. On October 20, 2007, Brahe's employment at CISC was terminated.

4. On October 24, 2007, CISC filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of Brahe.
5. Brahe is not currently associated with a FINRA member firm. However, FINRA retains jurisdiction over him pursuant to Article V, Section 4 of FINRA's By-Laws.

**CAUSE OF ACTION
CONVERSION
(VIOLATION OF NASD CONDUCT RULE 2110)**

6. The Department realleges and incorporates by reference paragraphs 1 through 5 above.
7. From on or about August 1, 2001 through October 18, 2007, Brahe was a branch manager at CISC's bank affiliate, JP Morgan Chase Bank, in Carle Place, New York.
8. During that time period, Brahe, without permission or authority, wrongfully withdrew from the accounts of different bank customers a total of approximately \$1,078,400 and deposited the money into his own account or accounts.
9. On or about August 8, 2008, in connection with his above-referenced conduct, Brahe pled guilty in New York Supreme Court, in the County of Nassau, to the crime of Grand Larceny in the First Degree, in violation of New York Penal Law §155.42, a class B felony. Specifically, Brahe pled guilty to charges that from on or about August 1, 2001 through on or about October 18, 2007, he stole in excess of \$1 million in United States currency from bank customers of JP Morgan Chase Bank.
10. On or about May 6, 2009, Brahe was sentenced to three to nine years in prison and required, among other things, to pay restitution in the amount of \$1,078,400.

11. The above acts, practices and conduct, as described in paragraphs 7 to 9 above, constitute a violation of NASD Conduct Rule 2110.

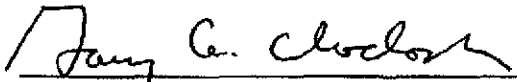
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA Rule 8310(a), including a permanent bar from associating with any FINRA-regulated broker-dealer, be imposed.
- B. 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: September 15, 2009


Gary A. Chodosh, Senior Regional Counsel
David Jaffe, Regional Chief Counsel
FINRA Department of Enforcement
Two Jericho Plaza, 2nd Floor
Jericho, New York 11753
(516) 949-4215; Fax No. (202) 721-6564
gary.chodosh@finra.org