

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ROBERT A. HOFFMANN
(CRD No. 5291155)

Respondent.

Disciplinary Proceeding
No. 20080147395

DEFAULT DECISION

Hearing Officer – SNB

November 15, 2010

Respondent converted customer funds, in violation of NASD Rule 2110, signed customer names on signature cards, in violation of NASD Rule 2110, and failed to respond to requests for information, in violation of FINRA Rules 8210 and 2010. For these violations, Respondent is barred from associating with a member firm.

Appearances

Jessica Dennehy, Esq., New York, NY, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

On April 29, 2010, the Department of Enforcement ("Enforcement") filed the attached three-cause Complaint in this matter. The first cause of action alleges that Respondent Robert Hoffman ("Respondent") converted bank funds, in violation of NASD Rule 2110. The second cause of action charges that Respondent signed customer names on bank account signature cards, in violation of NASD Rule 2110. The third

cause of action charges that Respondent failed to provide information, in violation of FINRA Rules 8210 and 2010.¹

Respondent did not file an Answer to the Complaint. Accordingly, on September 13, 2010, Enforcement filed a Motion for Entry of Default Decision and Imposition of Sanctions, supported by the declaration of Jessica Dennehy, Esq. ("Dennehy Decl.") and 23 exhibits.² On October 27, 2010, Enforcement filed a supplement to its motion, supported by the supplemental declaration of Jessica Dennehy, Esq. ("Dennehy Supp. Decl."). Respondent did not file a response to the motion.

For the reasons set forth below, Enforcement's motion is *granted*.³

I. Respondent's Default

On April 29, 2010, Enforcement served Respondent with the Complaint and Notice of Complaint by first-class and certified mail at his residential address as reflected in the Central Registration Depository ("CRD"), as well as an alternate address (the "Alternate address") provided by Respondent during his on-the-record ("OTR") testimony. The receipts for the certified mailings were returned to FINRA marked

¹ Following the consolidation of NASD and the member regulation, enforcement, and arbitration functions of NYSE Regulation into FINRA, FINRA began developing a new "Consolidated Rulebook" of FINRA Rules. The first phase of the new consolidated rules became effective on December 15, 2008. See FINRA Regulatory Notice 08-57 (Oct. 2008). In that process, Rule 2110 was renumbered as 2010. Because the Complaint in this case was filed after December 15, 2008, the procedural rules that apply are the current FINRA Rules. The conduct rules that apply are the NASD Rules that existed at the time of the conduct at issue. The applicable rules are available at www.finra.org/rules.

² The motion included 21 exhibits. On November 3, 2010, and November 10, 2010, Enforcement filed CX-22 and CX-23, respectively, in support of its motion.

³ The factual determinations in this Decision are based on the allegations of the attached Complaint, which are deemed admitted, and the declarations and exhibits filed by Enforcement with its motion. The exhibits are referred to as "CX-__."

“Unclaimed.” The first-class mailings were not returned. Respondent did not file an answer. Dennehy Decl. ¶¶ 37, 39-40; CX-2, CX-10, CX-11.

On June 1, 2010, Enforcement served Respondent with the Second Notice of Complaint and Complaint in the same manner. The receipt for the certified mailing to the CRD address was returned, signed “R. Hoffmann.” The first-class mailing to the CRD address was returned marked, “Attempted Not Known.” The return receipt for the certified mailing sent to the Alternate address was not returned. The first class mailing to the Alternate address was returned marked “Not Deliverable as Addressed Unable to Forward.” Dennehy Decl. ¶¶ 43, 46-49; CX-12 – CX-15.

On June 14, 2010, Enforcement discovered another address linked to Respondent (the “Second Alternate address”). Accordingly, on the same day, Enforcement re-served Respondent with the Notice of Complaint and Complaint to the CRD, Alternate, and Second Alternate addresses by first-class and certified mail. All certified mailings were returned to FINRA by the Postal Service marked “Unclaimed.” The first-class mailing to Respondent’s CRD address was returned marked “Attempted Not Known.” The first-class mailings sent to the Alternate and Second Alternate addresses were not returned. Respondent did not file an answer. Dennehy Decl. ¶¶ 51-58; CX-16 – CX-18.

On July 15, 2010, Enforcement re-served Respondent with the Second Notice of Complaint and Complaint to the CRD, Alternate, and Second Alternate addresses in the same manner. The certified mailings to the CRD and alternate addresses were returned marked “Unclaimed.” The certified mailing to the Second Alternate address was marked “Not Deliverable as Addressed, Unable to Forward.” All first-class mailings were not

returned. Respondent did not file an answer to the Complaint. Dennehy Decl. ¶ 59, 62-65; CX-19 - CX-21.

Enforcement complied with Rule 9134(b)(1) by mailing the Complaint and Notices of Complaint to Respondent's CRD and Alternate and Second Alternate addresses, thereby giving him constructive notice of this proceeding. In addition, Respondent appears to have received actual notice of this proceeding, as evidenced by his signature on the return receipt for one of the certified mailings. By failing to file an Answer, Respondent defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

II. Jurisdiction

In January 2007, Respondent became employed with JP Morgan Chase, Inc. ("Chase Bank") as a personal banker. From March 5, 2007, until August 28, 2008, Respondent was registered with member firm Chase Investment Services Corporation (the "Firm") as an Investment Company Products/Variable Contracts Representative. Complaint ¶ 1; Dennehy Decl. ¶¶ 4-6; CX-2, CX-23.

Although Respondent has not been registered with any FINRA member firm since the termination of his employment with the Firm, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the termination of his registration with a member firm, and it charges him with misconduct while he was registered with a member firm and with failing to respond to Rule 8210 requests issued during the two year period following the termination of his registration with a member firm.

III. Violations

A. Conversion of Customer Funds - NASD Rule 2110

The first cause of the Complaint alleges that Respondent, while employed by the Firm, converted funds from the Chase Bank checking accounts of two customers.

Specifically, on May 22, 2008, a Chase Bank checking account was opened for customer AN. In connection with the opening of the account, a signature card was completed and an automated teller machine ("ATM") card was sent to the attention of Respondent at Chase Bank. Complaint ¶¶ 6-8; Dennehy Decl. ¶ 9; Dennehy Suppl. Decl. ¶ 13.

On June 10, 2008, at 12:56 p.m., Respondent was photographed at a Chase Bank drive-through ATM withdrawing \$500 from AN's account. AN did not give Respondent permission to make this withdrawal. Complaint ¶¶ 7-9; Dennehy Decl. ¶ 10.

Similarly, on May 3, 2008, a Chase Bank checking account was opened for customer JL. JL did not contribute any money to the account. In connection with the opening of the account, a signature card was completed and an ATM card was sent to the attention of Respondent at Chase Bank. In addition, a credit card was opened in JL's name for overdraft protection purposes. Complaint ¶ 10; Dennehy Decl. ¶ 11; Dennehy Supp. Decl. ¶¶ 14-15.

On July 25, 2008, at 1:15 p.m., Respondent was photographed at a Chase Bank drive-through ATM withdrawing \$400 from JL's account. Complaint ¶¶ 11-12. The withdrawal was unauthorized. Complaint ¶¶ 11-13; Dennehy Decl. ¶ 12; Dennehy Supp. Decl. ¶ 16.

The FINRA Sanction Guidelines (“Guidelines”) specifically recognize conversion as a violation of Rule 2110. The 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.”⁴

The allegations of the Complaint are sufficient to establish, for purposes of this default decision, that Respondent violated NASD Rule 2110 by converting Chase Bank customer funds.

B. Signing Customer Names on Account Signature Cards – NASD Rule 2110

The second cause of the Complaint alleges that Respondent signed three customer names to six signature cards in order to reactivate the customers’ inactive checking accounts at Chase Bank.

Specifically, in June 2008, after the accounts of SC, HC, and DO became dormant due to inactivity, Respondent signed the customers’ names to account signature cards to reactivate the accounts, without permission from the customers or Chase Bank to do so. Complaint ¶¶ 18-20, 25-27, 32-34; Dennehy Decl. ¶¶ 15, 17, 19.

In July 2008, Respondent repeated this procedure when the customer accounts again became dormant because they were not used within 30 days of reactivation. Complaint ¶¶ 21-23, 28-30, 35-37; Dennehy Decl. ¶¶ 16, 18, 20.

The allegations of the Complaint are sufficient to establish, for purposes of this default decision, that Respondent violated Rule 2110 by improperly signing and submitting six signature cards for three customer accounts to Chase Bank.

⁴ FINRA Sanction Guidelines 38 (2007), available at www.finra.org/sanctionguidelines.

C. Failure to Provide Information – FINRA Rules 8210 and 2010

The third cause of the Complaint alleges that Respondent failed to respond to requests for documents and information, in violation of FINRA Rules 8210 and 2010. Specifically, following Respondent's November 12, 2009, OTR testimony, FINRA Staff ("Staff") sent Respondent a Rule 8210 request for personal bank account statements from May 2008 through July 2008. The request was sent to Respondent at his CRD and alternate addresses, as well as an electronic mail ("e-mail") address. The certified mailing receipts were returned bearing Respondent's signature. The first-class mailings were not returned. Dennehy Decl. ¶¶ 22-25; Complaint ¶¶ 41-42.

Again, on March 1, 2010, in the same manner, FINRA Staff renewed its request for bank statements, and also requested documentation relating to a post office box used for the JL and AN accounts. The certified mailing to the CRD address was returned marked "Return to Sender. Insufficient Address. Unable to Forward." The certified letter to the Alternate Address was returned marked "Unclaimed." The first-class mailings were not returned. However, on March 1, 2010, Respondent sent an e-mail acknowledging receipt of Enforcement's e-mail request, and requesting that Enforcement stop sending correspondence to his CRD address because he no longer resided there. Dennehy Decl. ¶¶ 27-31; Complaint ¶ 43; CX-6-8.

The allegations are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of FINRA Rules 8210 and 2010.⁵

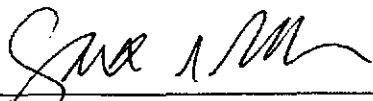
⁵ *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (NAC Nov. 2, 2001) (a violation of Rule 8210 is a violation of Rule 2110).

IV. Sanctions

For conversion, the Guidelines recommend a bar, regardless of the amount converted. *Guidelines* at 38. A bar is also recommended for falsification of documents in egregious cases where no mitigation is present. *Guidelines* at 39. A bar is also standard for failing to provide requested information in any manner. *Guidelines* at 35. Here, Respondent's initial appearance for an OTR does not mitigate his later failure to provide requested documents. There is no evidence of any mitigating circumstances that would justify a lesser sanction for these violations. Therefore, the Hearing Officer imposes a bar for each violation.⁶

V. Conclusion

Respondent converted customer funds, in violation of NASD Rule 2110, signed customer names on signature cards, in violation of NASD Rule 2110, and failed to respond to requests for information, in violation of FINRA Rules 8210 and 2010. For these violations, Respondent is barred from associating with a member firm. These bars will become effective immediately if this decision becomes FINRA's final disciplinary action in this proceeding.


Sara Nelson Bloom
Hearing Officer

Copies to: Robert A. Hoffman (*via overnight and first-class mail*)
Jessica Dennehy, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

⁶ Enforcement did not seek restitution for AN and JL because Chase Bank sustained the losses from Respondent's ATM withdrawals. Dennehy Supp. Decl. ¶¶ 9-11, 18-20.

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

Department of Enforcement,

COMPLAINANT,

V.

**Robert A. Hoffmann
CRD No. 5291155**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 20080147395**

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT & JURISDICTION

1. In January 2007, Respondent Robert A. Hoffmann ("Respondent") became registered with Chase Investment Services Corporation ("Chase" or the "Firm") as a result of his employment as a personal banker with the Firm's affiliate JP Morgan Chase, Inc. ("Chase Bank"). In November 2007, Respondent became a Branch Manager at Chase Bank's branch office located at 6315 South Higley Road, Gilbert, Arizona (the "Branch Office Address"). On August 28, 2008, Chase filed a Form U5 reporting that Chase Bank had terminated Respondent's employment on August 6, 2008. Since that time, Respondent has not been associated with any other FINRA member.

2. Although Respondent is not currently associated with a FINRA member, he remains subject to the jurisdiction of FINRA pursuant to Article V, Section 4, of the FINRA By-Laws in that the misconduct alleged occurred while Respondent was associated with a member and a complaint was filed within two years following Respondent's registration termination.

OVERVIEW

3. Respondent wrongfully converted customer funds from the Chase Bank checking accounts of two customers, improperly signed the names of three customers on six Chase Bank signature cards and failed to fully cooperate with FINRA's investigation.

FIRST CAUSE OF ACTION **Conversion of Funds** **(FINRA Conduct Rule 2110)**

4. The Department realleges and incorporates by reference paragraphs 1-2 above.

5. From May 2008 through July 2008, Respondent converted funds from the Chase Bank checking accounts of two customers.

The AN Account

6. On May 22, 2008, a signature card was completed for a Chase Bank checking account assigned to customer AN (the "AN Account"). The AN Account was funded with several referral bonuses totaling \$200, which were paid by Chase Bank.¹ In between June 6, 2008 and July 7, 2008, \$1,450 in overdraft protection was transferred to the AN Account from an existing Chase Bank credit card previously issued to AN.

7. According to Chase Bank records, on June 10, 2008 at 12:56 p.m., a \$500 withdrawal was made from the AN Account using the drive-through automated teller machine ("ATM") at the Branch Office Address.

¹ Chase Bank awarded referral bonuses to any existing customer that referred a new client to Chase Bank. Referring retail customers were given \$25 for every individual account opened from a referral. For every business account opened from a referral, the referring customer received \$50.

8. A photograph taken with a Chase Bank digital video recording device shows the Respondent making a withdrawal from the same drive-through ATM at the Branch Office Address on the same date and time as the \$500 withdrawal from the AN Account.

9. Neither AN nor Chase Bank gave Respondent permission or authority to withdraw \$500 from the AN Account on June 10, 2008.

The JL Account

10. On May 3, 2008, a signature card was completed for a Chase Bank checking account assigned to customer JL (the "JL Account"). In addition to the checking account opened in May 2008, a credit card was opened in JL's name and linked to the JL Account for overdraft protection purposes. The ATM/debit card associated with the JL Account was sent to the attention of the Respondent at the Branch Office Address.

11. According to Chase Bank ATM records, on July 25, 2008, at 1:15 p.m., a \$400 withdrawal was made from the JL Account using the drive through ATM located at the Branch Office Address.

12. A photograph taken with a Chase Bank digital video recording device shows the Respondent making a withdrawal from the same ATM at the Branch Office Address on the same date and time as the \$400 withdrawal from the JL Account.

13. Chase Bank did not give Respondent permission or authority to withdraw the \$400 taken from JL's account on July 25, 2008.

14. As a result of this conduct, Respondent violated FINRA Procedural Rule 8210 and Conduct Rule 2110 by converting funds from the AN Account and the JL Account.

SECOND CAUSE OF ACTION

Signing Customers' Names on Account Signature Cards (FINRA Conduct Rule 2110)

15. The Department realleges and incorporates by reference paragraphs 1-2 above.

16. In June 2008 and July 2008, Respondent signed three customer names to six banking signature cards in order to reactivate the customers' inactive checking accounts at Chase Bank.

Customer SC

17. Customer SC opened a Chase Bank checking account in October 2006 and signed a signature card dated October 14, 2006.

18. In June 2008, SC's account had become dormant due to inactivity.

19. On June 28, 2008, an additional signature card was placed on file for SC with a new checking account number.

20. Respondent signed SC's name on this signature card in order to reactivate the account, even though he did not have permission from SC or Chase Bank to do so.

21. The checking account opened with the June 28, 2008 signature card bearing SC's name was again designated as dormant in July 2008 since it was not used within 30 days of having been reactivated.

22. On July 18, 2008, Respondent signed SC's name on another signature card and submitted it to Chase Bank in order to reactivate SC's dormant checking account.

23. Respondent did not have permission or authority from SC or Chase Bank to sign SC's name on this signature card.

Customer HC

24. Customer HC opened a Chase Bank checking account in December 2006 and signed a signature card dated December 23, 2006.

25. In June 2008, HC's account had become dormant due to inactivity.

26. On June 28, 2008, an additional signature card was placed on file for HC with a new checking account number.

27. Respondent signed HC's name on this signature card in order to reactivate the account even though he did not have permission or authority from HC or Chase Bank to do so.

28. The HC checking account opened with the June 28, 2008 signature card bearing HC's name was again designated as dormant in July 2008 since it was not used within 30 days of being reactivated.

29. On July 18, 2008, Respondent signed HC's name on another signature card and submitted it to Chase Bank in order to reactivate the account.

30. Respondent did not have permission or authority from HC or Chase Bank to sign HC's name on this signature card.

Customer DO

31. Customer DO opened a Chase Bank checking account in December 2006 and signed a signature card dated December 23, 2006.

32. In June 2008, his account had become dormant.

33. On June 28, 2008, an additional signature card was placed on file for DO with a new checking account number.

34. Respondent signed DO's name on this signature card in order to reactivate the account even though he did not have permission or authority from DO or Chase Bank to do so.

35. The account opened with the June 2008 signature card bearing DO's name was again designated as dormant in July 2008 since it was not used within 30 days of being reactivated.

36. On July 18, 2008, Respondent signed DO's name on another signature card and submitted it to Chase Bank

37. Respondent did not have permission or authority from DO or Chase Bank to sign DO's name on this signature card.

38. Based upon this conduct, Respondent violated FINRA Conduct Rule 2110 by improperly signing signature cards for SC, HC and DO and submitting those signature cards to Chase Bank.

THIRD CAUSE OF ACTION

Failing to Provide Requested Documents

(FINRA Procedural Rule 8210 and Conduct Rule 2010)

39. The Department realleges and incorporates by reference paragraphs 1-2 above.

40. On several occasions, Respondent failed to provide certain documents and information requested pursuant to FINRA Rule 8210.

41. Pursuant to an Enforcement request, Respondent appeared and provided sworn, on-the-record testimony in connection with this matter on November 12, 2009.

42. As a follow-up to that testimony, on November 23, 2009, Enforcement sent a letter to Respondent, requesting that, pursuant to FINRA Rule 8210, he provide account statements from May 2008 through July 2008 from all of his personal bank accounts held at any banking institution (the "Bank Account Statements"). The letter instructed Respondent to provide the requested information to Enforcement on or before December 4, 2009. The letter was sent via certified mail, return receipt requested, and first class mail to Respondent at his last

known residential address as reflected in the Central Registration Depository (the "CRD Address"), as well as a residential address Respondent provided to Enforcement during his OTR (the "Alternate Address"). Enforcement received the return receipts associated with the letters sent via certified mail to Respondent's CRD Address and the Alternate Address. The receipts were both signed "R. Hoffmann" and were not dated. The letters sent via first class mail were never returned to Enforcement. The letter was also sent to an email address Respondent provided to Enforcement. To date, Respondent has failed to provide the requested information.

43. On March 1, 2010, Enforcement sent a letter pursuant to FINRA Rule 8210 which renewed its previous written requests for Respondent's Bank Account Statements and also asked Respondent to provide all documentation relating to the PO Box Address. The letter instructed Respondent to provide the requested information to Enforcement on or before March 15, 2010. The letter was sent via first class mail, and certified mail, return receipt requested to the CRD Address and the Alternate Address. The letter was also sent to an email address Respondent provided to Enforcement. The letter sent via certified mail to the CRD Address was returned to Enforcement and marked "Return to Sender. Insufficient Address. Unable to Forward." The letter sent via certified mail to the Alternate Address was returned to Enforcement and marked "Unclaimed." The letters sent via first class mail were not returned to Enforcement. On March 1, 2010, Respondent replied to Enforcement via email and requested that Enforcement stop sending correspondence to his CRD Address because he no longer resides there. Although Respondent acknowledged receipt of Enforcement's email correspondence, he failed to provide the requested information to Enforcement.

44. Accordingly, Respondent violated FINRA Procedural Rule 8210 and Conduct Rule 2010 by failing to fully provide requested documents and information.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

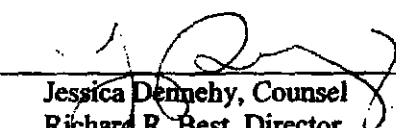
A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions and restitution, be imposed; and

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

Dated:

4/29/2010



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To:

