

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

Department of Enforcement,

Complainant,

v.

Dustin E. Polage,
CRD No. 5310751,

Respondent.

Disciplinary Proceeding

No. 2008014784001

Hearing Officer : Maureen A. Delaney

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: 6/28/10

INTRODUCTION

Disciplinary Proceeding No. 200801478401 was filed on December 31, 2009, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA") (Complainant). Respondent Polage submitted an Offer of Settlement ("Offer") to Complainant dated June 3, 2010. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of

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findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

1. Polage was born in [REDACTED]. He was employed in the securities industry as a Series 6 registered Licensed Personal Banker at Chase Bank from March 19, 2007 until March 29, 2008 when he voluntarily resigned.
2. Polage has not been employed in the securities industry since March 29, 2008, but remains subject to FINRA's jurisdiction pursuant to FINRA By-law Article V, Section 4 by virtue of the Complaint filed December 31, 2009.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

FIRST CAUSE OF ACTION

Conversion of Funds from Bank Customers (Rule 2110)

CUSTOMER A

3. The Department realleges and incorporates by reference paragraphs 1 through 2 above.
4. From at least March 2008 through June 2008, Customer A maintained a retail deposit account at the Bank.
5. In March 2008, while holding a Series 6 registration with Chase and employed as a Personal Banker with the Bank, Polage accessed the Bank's systems to obtain information regarding customer A and his retail bank account.
6. Without Customer A's prior knowledge or authorization, Polage used Customer A's personal account information to generate and activate an ATM card linked to Customer A's Bank savings account. From March 10, 2008 through June 2, 2008, Polage, for his own personal benefit, used this ATM card to withdraw a total of \$24,638.50 from Customer A's retail Bank deposit account without customer A's knowledge or consent.
7. To date, Polage has not returned any of the funds to Customer A or reimbursed the Bank after the Bank reimbursed funds to Customer A.

CUSTOMER B

8. In or around April 2008 through June 2008, Customer B maintained a Bank deposit account.
9. In March 2008, while holding a Series 6 registration with Chase and employed as a Personal Banker with the Bank, Polage accessed the Bank's systems to obtain information regarding Customer B and his retail bank account.
10. Without Customer B's knowledge or authorization, Polage used Customer B's personal account information, to generate and activate an ATM card linked to Customer B's Bank savings account. From April 26, 2008 through June 2, 2008, Polage, for his own personal benefit, used this ATM card to withdraw funds from Customer B's account on approximately 37 occasions, for a total aggregate unauthorized withdrawal of \$11,463.50.
11. To date, Polage has not returned any of the funds to Customer B or reimbursed the Bank after the Bank reimbursed funds to Customer B.
12. Such acts, practices and conduct, as set forth in Paragraphs 4 through 13, constitute Polage's separate and distinct violations of NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION

Failure to Respond (NASD Rules 8210 and 2110)

13. The Department realleges and incorporates by reference paragraphs 1 through 12 above.
14. By letter dated September 8, 2008, sent via certified mail, return receipt requested and a copy by first class mail to Polage's residential address as reflected in the Central Registration Depository ("CRD") [REDACTED] Enforcement notified Polage that it was investigating the alleged misappropriation of funds from Bank customers. In the letter, Enforcement requested that, pursuant to NASD Rule 8210, Polage provide a detailed written statement addressing the allegations that he had misappropriated funds from Bank customers.
15. A signature of "Dustin Polage" was placed on the certified receipt and dated September 12, 2008, evidencing receipt of the request, but Polage never responded to the request. The first class copy of the request letter dated September 8, 2009 was not returned to Enforcement.
16. By letter dated October 27, 2008, pursuant to NASD Rule 8210, Enforcement sent a second request to Polage's residential address, as reflected in the CRD, via certified mail, return

receipt requested and a copy by first class mail, requesting a written statement addressing the theft allegations. In the letter, Enforcement notified Polage that his failure to comply with the request could result in the institution of formal disciplinary action.

17. A signature of "Dustin Polage" was placed on the certified receipt, dated November 5, 2008, evidencing receipt of the request, but Polage never responded to the request. The first class copy of the request letter dated October 27, 2008 was not returned to Enforcement.
18. By virtue of the foregoing conduct, Polage violated NASD Rules 8210 and 2110.

THIRD CAUSE OF ACTION

Failure to Respond (FINRA Rules 8210 and 2010)

19. The Department realleges and incorporates by reference paragraphs 1 through 18 above.
20. By letter dated January 22, 2009, sent via certified mail, return receipt requested, to Polage's address at the Ohio Department of Rehabilitation and Correction - Southeastern Correctional Institution [REDACTED] and a copy to his residential address as reflected in the CRD, Enforcement requested, pursuant to FINRA Rule 8210, that Polage provide a written explanation to the allegations that he had misappropriated funds from Bank customers.¹
21. A signature of "Scott Douglas," an employee at the Ohio Department of Rehabilitation and Correction-Southeastern Correctional Facility, was placed on the certified receipt and dated January 27, 2009, evidencing receipt of the request, but Polage never responded to the request. The first class copy of the request letter dated January 22, 2009 was not returned to Enforcement.
22. By letter dated February 25, 2009, pursuant to FINRA Rule 8210, Enforcement sent a second request to Polage's address at the Ohio Department of Rehabilitation and Correction - Southeastern Correctional Institution via certified mail, return receipt requested and a copy by first class mail to his residential address as reflected in the CRD, requesting a written statement addressing the theft allegations.

¹ On November 21, 2008, Polage was convicted of one count of theft, two counts of grand theft, and three counts of unauthorized use of property, all felonies, for his activities in connection with these allegations. Polage is currently serving a 4 ½ year prison sentence in the Ohio Department of Rehabilitation and Correction - Southeastern Correctional Institution in Licking County, Ohio.

23. A signature of "Scott Douglas" was placed on the certified receipt and dated March 3, 2009, evidencing receipt of the request, but Polage never responded to the request. The first class copy of the request was not returned to Enforcement.

24. To date, Polage has not responded to Enforcement's requests for information.

25. By virtue of the foregoing conduct, Polage violated FINRA Rules 8210 and 2010.

Based on the foregoing, Respondent violated NASD Rules 8210 and 2110 and FINRA Rules 8210 and 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be barred from association with any member of FINRA in any capacity.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

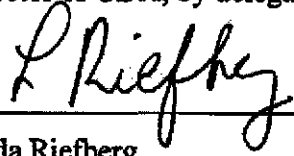
Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, Respondent may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See FINRA Rules 8310 and 8311.)

SO ORDERED.

FINRA

Signed on behalf of the

Director of ODA, by delegated authority

A handwritten signature in black ink, appearing to read "L Riefberg", written over a horizontal line.

Linda Riefberg

Vice President and Chief Counsel

FINRA Department of Enforcement

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