

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RONALD JOHN KAMBIC
(CRD No. 1920540),

Respondent.

Disciplinary Proceeding
No. 20090165646

Hearing Officer – MAD

DEFAULT DECISION

November 10, 2011

Respondent is barred from associating with any member firm in any capacity for converting employee retirement funds, in violation of NASD Conduct Rule 2110, and failing to respond to requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010. Respondent is also ordered to pay restitution to the employees.

Appearances

Clarence E. Sanders, Jr., Senior Counsel, New York, NY, for the Department of Enforcement.

No appearance by or on behalf of Ronald John Kambic.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on July 25, 2011. The Complaint alleges that Respondent Ronald John Kambic (“Kambic”), while employed with Securities America, Inc. (“Securities

America”), converted employee retirement funds, in violation of NASD Conduct Rule 2110.¹

The Complaint also alleges that Kambic failed to respond to FINRA requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010.

Kambic defaulted by failing to answer or otherwise respond to the Complaint. On October 12, 2011, Enforcement filed a Motion for Entry of Default Decision and Imposition of Sanctions with the Office of Hearing Officers, together with the Declaration of Clarence E. Sanders, Jr. (“Sanders Decl.”) and 16 exhibits. On October 26, 2011, Enforcement filed a Supplemental Declaration of Clarence E. Sanders, Jr. in Support of Motion for Entry of Default Decision (“Sanders Supp. Decl.”) to address restitution. Kambic did not respond to the motion.

Based on the facts alleged in the Complaint, which are deemed admitted pursuant to Rules 9215(f) and 9269(a), as well as the additional evidence Enforcement filed in support of its motion for entry of default decision, the Hearing Officer barred Kambic from associating with any member firm in any capacity for these violations.

II. Background

Kambic first entered the securities industry in January 1989.² He was employed by several FINRA member firms from January 1989 to December 2007.³ From December 6, 2007 through December 29, 2008, Kambic was registered with FINRA as a General Securities

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. Conduct Rule 2110 was renumbered as Rule 2010 in the Consolidated Rulebook without substantive change. The applicable rules are available at www.finra.org/rules.

² Sanders Decl. ¶ 4; CX-1.

³ Sanders Decl. ¶ 4; CX-1.

Representative through his association with Securities America.⁴ He was registered with another FINRA member firm from February through June 2009.⁵ Since June 2009, Kambic has not been associated with a FINRA member firm.⁶

On September 13, 2010, Securities America filed an amended Uniform Termination Notice for Securities Industry Registration (“Form U5”) on Kambic’s behalf.⁷ The amended Form U5 disclosed two customer complaints, filed on August 16, 2010, alleging that Kambic made misrepresentations and unsuitable investment recommendations.⁸

III. Jurisdiction

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 of the filing of the amended Form U5 by Securities America, and (2) the Complaint charges Kambic with misconduct that occurred while he was registered with a FINRA member firm, and with failing to respond to Enforcement’s requests for information made during the two-year period following the filing of the amended Form U5.⁹

IV. Kambic’s Default

On July 25, 2011, Enforcement served Kambic with the Notice of Complaint and Complaint by first-class and certified mail (return receipt requested) sent to his residential address recorded in the Central Registration Depository (“CRD”), as well as to two alternative

⁴ Sanders Decl. ¶ 4; CX-1, at 3.

⁵ Sanders Decl. ¶ 4; CX-1.

⁶ Sanders Decl. ¶ 4; CX-1.

⁷ Sanders Decl. ¶ 7; CX-4.

⁸ Sanders Decl. ¶ 7; CX-4, at 6-7.

⁹ 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”).

addresses (“Alternate Addresses”).¹⁰ Enforcement also served electronic copies of the Complaint and Notice of Complaint to Kambic’s personal email addresses.¹¹ The United States Postal Service (“USPS”) returned the signed, certified receipt card associated with the CRD mailing, with a signature that appeared to be Kambic’s.¹² The USPS returned the certified mailings for the Alternate Addresses, marked “Unable to Forward – Return to Sender.”¹³ None of the first-class mailings were returned.¹⁴

On August 23, 2011, Enforcement served Kambic with the Second Notice of Complaint and Complaint in the same manner.¹⁵ Again, the USPS returned the certified receipt card for the CRD mailing to Enforcement, with a signature that appeared to be Kambic’s.¹⁶ The USPS also returned the certified mailings for the Alternate Addresses as undeliverable.¹⁷ None of the first-class mailings were returned.¹⁸ To date, Kambic has not responded to the Complaint.

The Hearing Officer finds that Kambic received constructive, if not actual, notice of this proceeding. Accordingly, the Hearing Officer finds that Kambic defaulted by failing to answer or otherwise respond to the Complaint.

¹⁰ Sanders Decl. ¶ 12; CX-6. Enforcement discovered the alternate addresses while conducting a search on LexisNexis for Kambic’s contact information. Sanders Decl. ¶ 12.

¹¹ Sanders Decl. ¶ 13; CX-7.

¹² Sanders Decl. ¶ 15; CX-8.

¹³ Sanders Decl. ¶ 17; CX-9, 10.

¹⁴ Sanders Decl. ¶¶ 16, 18.

¹⁵ Sanders Decl. ¶¶ 21, 22; CX-11, 12.

¹⁶ Sanders Decl. ¶ 24; CX-13.

¹⁷ Sanders Decl. ¶ 26; CX-15, 16.

¹⁸ Sanders Decl. ¶¶ 25, 27.

V. Findings of Fact and Conclusions of Law

A. Conversion

The First Cause of the Complaint alleges that, between May and December 2008, while Kambic was associated with Securities America, he converted retirement contributions from two Golden Financial Partners, Inc. (“GFP”) employees, AB and CD. Kambic established GFP in 2003 and was the sole owner from its inception until 2009.¹⁹ GFP provided financial and insurance products to investors, working with Securities America and other FINRA member firms with which Kambic was associated.²⁰

Employees AB and CD had funds withheld from their paychecks to serve as contributions to a tax-deferred retirement account.²¹ GFP maintained retirement accounts at Securities America for the benefit of AB and CD.²² Securities America assigned Kambic to service their accounts.²³ Therefore, it was his responsibility to deposit AB’s and CD’s contributions into their Securities America retirement accounts.²⁴

Kambic failed to deposit \$4,738.90 into AB’s retirement account, and \$4,543.50 into CD’s retirement account.²⁵ Instead, Kambic used their funds to finance GFP’s business operations without AB’s or CD’s knowledge or consent.²⁶ During FINRA’s investigation,

¹⁹ Compl. ¶ 13.

²⁰ Sanders Decl. ¶ 8.

²¹ Compl. ¶ 16.

²² *Id.* ¶ 17.

²³ *Id.* ¶ 18.

²⁴ *Id.*

²⁵ *Id.* ¶¶ 20, 23.

²⁶ *Id.* ¶¶ 21, 24.

Kambic admitted to converting AB's and CD's retirement funds.²⁷ To date, Kambic has not reimbursed AB or CD.²⁸

The Hearing Officer finds that the foregoing facts establish that Kambic intentionally converted employee retirement funds thereby violating NASD Conduct Rule 2110 as alleged in the First Cause of the Complaint.

B. Failure to Respond

The Second Cause of the Complaint alleges that Kambic failed to respond to FINRA's written requests for information, sent pursuant to Procedural Rule 8210. Enforcement's requests were dated February 7, April 28, June 21, and July 1, 2011,²⁹ and sought information and documentation regarding GFP's banking records and employee retirement plans, customer complaints, unsuitable trading allegations, and Kambic's ownership interest in two companies, amongst other things.

Enforcement sent the February 7 request to Kambic's CRD address by first-class and certified mail.³⁰ The staff also sent a copy of the Rule 8210 request to Kambic's attorney by certified mail; it was delivered on February 10, 2011.³¹

The April 28 request was sent to Kambic's CRD address by Express Mail and electronically.³² A copy was also sent to Kambic's attorney by Express Mail, which was delivered on April 30, 2011.³³

²⁷ Sanders Decl. ¶ 31.

²⁸ Sanders Supp. Decl. ¶ 6.

²⁹ Sanders Decl. ¶¶ 33, 36, 40, 43.

³⁰ *Id.* ¶ 34.

³¹ *Id.* ¶¶ 34, 35.

³² *Id.* ¶ 37.

³³ *Id.* ¶¶ 37, 38. On June 13, 2011, Kambic's attorney advised Enforcement that he no longer represented Kambic. *Id.* ¶ 39.

The June 21 request was sent to Kambic's CRD address by Express Mail, certified mail, and first-class mail.³⁴ The staff also sent the request letter to one of Kambic's Alternate Addresses and his personal email addresses.³⁵

Enforcement sent the July 1 request letter to Kambic by certified mail and first-class mail at his CRD address and one of his Alternate Addresses.³⁶ The staff also sent the letter to Kambic's personal email addresses.³⁷

Kambic did not respond to any of FINRA's information request letters.³⁸

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 Kambic violated FINRA Procedural Rule 8210 and Conduct Rule 2010.

VI. Sanctions

A. Conversion

The FINRA Sanction Guidelines ("Guidelines") for conversion state that a bar is "standard," regardless of the amount converted.³⁹ The Hearing Officer finds that Kambic's intentional conversion of the GFP employees' retirement funds was egregious. The Hearing Officer finds no evidence of mitigating factors that would justify permitting Kambic to remain in the securities industry. Accordingly, the Hearing Officer will bar Kambic from associating with any member firm in any capacity for violating NASD Conduct Rules 2110, as alleged in the First

³⁴ *Id.* ¶¶ 40, 41.

³⁵ *Id.* ¶ 41.

³⁶ *Id.* ¶¶ 43, 44.

³⁷ *Id.* ¶ 44.

³⁸ *Id.* ¶ 46.

³⁹ *FINRA Sanction Guidelines* 36 (2011), www.finra.org/sanctionguidelines.

Cause of the Complaint. The Hearing Officer also orders that Kambic pay \$4,738.90 in restitution to AB, and \$4,543.50 in restitution to CD, plus interest on both amounts.

B. Information Requests

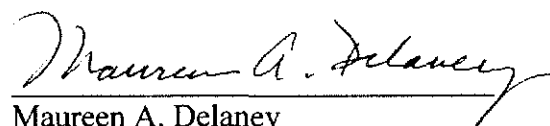
The Guidelines also recommend a bar where a respondent fails to respond in any manner to a request for information issued pursuant to Procedural Rule 8210.⁴⁰ Here, Kambic failed to respond to FINRA's four written requests for information issued in connection with the staff's investigation into his alleged conversion and other misconduct. There are no mitigating factors. Accordingly, the Hearing Officer will bar Kambic from associating with any FINRA member in any capacity for violating FINRA Rules 8210 and 2010, as alleged in the Second Cause of the Complaint.

VII. Order

Ronald John Kambic is barred from associating with any member firm in any capacity for (1) converting employee retirement funds, in violation of NASD Conduct Rule 2110, and (2) failing to respond to FINRA requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010, as alleged in the Complaint. Kambic is also ordered to pay (1) AB restitution in the amount of \$4,738.90 plus interest, and (2) CD restitution in the amount of \$4,543.50 plus interest. The interest will be calculated at the rate established under Section 6621(a)(2) of the Internal Revenue Code from the date each retirement contribution was

⁴⁰ *Sanction Guidelines* at 33.

withheld until the date of payment.⁴¹ The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Maureen A. Delaney
Hearing Officer

Copies to:

Ronald John Kambic (*via overnight and first-class mail*)
Clarence E. Sanders, Jr., Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

⁴¹ 26 U.S.C. § 6621(a)(2). The interest rate, which is used by the Internal Revenue Service to determine interest due on underpaid taxes, is adjusted each quarter and reflects market conditions. Employees AB and CD are identified in the Addendum to this decision, which is served only on the parties.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Ronald John Kambic
CRD No. 1920540,

Respondent.

DISCIPLINARY PROCEEDING
No. 20090165646

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between approximately May 2008 and December 2008 (the "Relevant Period"), while associated as a registered representative with Securities America, Inc. ("Securities America"), Ronald John Kambic ("Respondent") converted retirement contributions totaling approximately \$9,282 from two Golden Financial Partners, Inc. ("Golden Financial") employees. Respondent also failed to comply with requests by FINRA for information.
2. By virtue of this conduct, Respondent violated NASD Conduct Rule 2110, FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

RESPONDENT AND JURISDICTION

3. In January 1989, Respondent entered the securities industry with Pruco Securities, L.L.C. ("Pruco") and was approved as a registered representative in February 1989. In February

1989, Respondent became associated with the Prudential Insurance Company of America ("Prudential"). Respondent remained associated with Pruco and Prudential until September 1990.

4. From September 1990 to December 2007, Respondent was associated as a registered representative with various FINRA regulated entities. In December 2007, Respondent became associated with Securities America, Inc. ("Securities America"), where he served as a registered representative until December 2008.
5. Respondent became associated with Summit Brokerage Services, Inc. ("Summit") as a registered representative in or about February 2009.
6. On June 24, 2009, Summit filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") reporting the termination of Respondent's association with the firm on June 19, 2009. The Form U5 also reported that Respondent failed to report a complaint to the firm, which Respondent settled without notice to or authorization from the firm.
7. On August 6, 2009, Commonwealth Financial Network filed an amended Form U-5 reporting, for the first time, a customer complaint filed on July 31, 2009, alleging that Respondent failed to properly execute an annuity exchange transaction.
8. On September 13, 2010, Securities America filed an amended Form U-5 reporting, for the first time, complaints filed on August 16, 2010, alleging that Respondent made misrepresentations and unsuitable investment recommendations.
9. Respondent is not currently associated with a FINRA regulated entity.
10. Although Respondent has not been associated with a FINRA regulated entity since June 19, 2009, he remains subject to FINRA's jurisdiction for purposes of this proceeding,

pursuant to Article V, Section 4 of FINRA's By-Laws, in that the misconduct occurred while Respondent was associated with a FINRA regulated entity and the Complaint was filed within two years of the filing of amended Forms U5, which reported that Respondent may have engaged in conduct actionable under applicable statutes, rules or regulations.

11. In addition, the Complaint charges Respondent with failing to respond to FINRA requests for information, during the two-year period after the date upon which Respondent ceased to be associated with a FINRA regulated entity and within two years of the filing of amended Forms U5, which reported that Respondent may have engaged in conduct actionable under applicable statutes, rules or regulations.

FIRST CAUSE OF ACTION

CONVERSION OF EMPLOYEE RETIREMENT FUNDS - NASD CONDUCT RULE 2110

12. Enforcement realleges and incorporates by reference paragraphs 3 through 11 above.
13. In or about 2003, Respondent established Golden Financial and was the sole owner of the entity between approximately 2003 and 2009.
14. During the Relevant Period, Respondent was a registered representative with Securities America and, through Securities America and Golden Financial, Respondent sold financial and insurance products including mutual funds, variable and fixed annuities to the investing public.
15. Golden Financial employed AB, a registered representative and CD, an assistant and office manager. Golden Financial compensated AB and CD on a semi-monthly basis.
16. AB and CD had funds withheld from their semi-monthly pay as contributions to a tax-deferred retirement account ("Retirement Contributions").

17. Golden Financial maintained Simple Individual Retirement Accounts (“Simple IRAs”) at Securities America for the benefit of AB and CD.
18. Respondent was assigned by Securities America to service AB and CD’s Simple IRAs and was responsible for sending a check to National Financial Services (“NFS”) to deposit AB and CD’s Retirement Contributions into their Simple IRAs.

Conversion from AB

19. During the Relevant Period, Golden Financial withheld approximately \$4,738.90 from AB’s pay for Retirement Contributions.
20. However, Respondent failed to deposit the approximately \$4,738.90 into AB’s Simple Individual Retirement Account.
21. Instead, Respondent used AB’s funds to finance Golden Financial’s business operations, without AB’s knowledge or consent.

Conversion from CD

22. During the Relevant Period, Golden Financial withheld approximately \$4,543.50 from CD’s pay for Retirement Contributions.
23. However, Respondent failed to deposit the approximately \$4,543.50 into CD’s Simple Individual Retirement Account.
24. Instead, Respondent used CD’s funds to finance Golden Financial’s business operations, without CD’s knowledge or consent.

Conclusion

25. As a result of the foregoing conduct, Respondent violated NASD Rule 2110 by converting retirement funds belonging to one or more employee.

SECOND CAUSE OF ACTION
FAILURE TO COMPLY WITH REQUESTS FOR INFORMATION
FINRA PROCEDURAL RULE 8210 AND FINRA CONDUCT RULE 2010

26. Enforcement realleges and incorporates by reference paragraphs 3 through 11 above.
27. On four separate occasions, Respondent failed to provide information requested pursuant to FINRA Rule 8210.
28. On February 7, 2011, Enforcement sent a letter to Respondent, requesting that, pursuant to FINRA Rule 8210, Respondent provide information and documents related to Respondent's ownership interests in two companies, the complaints of GH and IJ, Respondent's association in a non-registered capacity with a FINRA regulated entity, Golden Financial's payroll records and employee retirement plan, and medical information. The letter was sent by certified mail, return receipt requested and a copy was sent by first class mail to Respondent at his last known residential address as reflected in the Central Registration Depository: [REDACTED] [REDACTED] (the "CRD Address"). A copy of the letter was also sent by certified mail, return receipt requested to Respondent's attorney, EF.
29. According to U.S. Postal Service ("USPS") records, the letter sent to Respondent at the CRD Address by certified mail was returned to Enforcement. The copy of the letter sent by first class mail to Respondent at the CRD Address was not returned to Enforcement. The copy of the letter sent by certified mail, return receipt requested to EF was delivered on February 10, 2011. Respondent failed to provide the requested documents and information to Enforcement.
30. On April 28, 2011, Enforcement sent a letter to Respondent, requesting that, pursuant to FINRA Rule 8210, Respondent provide documents relating to Respondent's and Golden

Financial's banking records, Golden Financial's employee retirement plan, a detailed written explanation and documents concerning misrepresentation and unsuitable trading allegations related to investments in Medical Capital ("MedCap") for the accounts of customers GH and the IJ. The letter was sent by Express Mail to Respondent at the CRD Address and copies electronically to Respondent at: [REDACTED] and [REDACTED] (the "Electronic Addresses"). A copy of the letter was also sent by Express Mail to EF.

31. The letter sent to Respondent by Express Mail at the CRD address was returned to Enforcement and the copy sent by Express Mail to EF was delivered on April 30, 2011. Respondent failed to provide the requested documents and information to Enforcement.
32. On June 21, 2011, Enforcement sent a letter to Respondent, requesting that, pursuant to FINRA Rule 8210, Respondent provide the documents and the written explanations requested on April 28, 2011 and, additional written explanations regarding MedCap investments for customers GH, IJ and ten additional customers. The letter was sent by Express Mail and copies of the letter were sent by certified mail, return receipt requested and first class mail, to Respondent at the CRD Address. Copies of the letter were also sent by Express Mail, certified mail, return receipt requested and first class mail to Respondent at an alternate address [REDACTED] [REDACTED] (the "Alternate Address") and to the Electronic Addresses.
33. The letter sent to Respondent by Express Mail and the copy sent by first class mail to the CRD address were not returned to Enforcement. The copy sent by certified mail, return receipt requested to the CRD Address was returned to Enforcement. The copies sent by

Express Mail and first class mail to the Alternate Address were returned to Enforcement. Respondent failed to provide the requested documents and information to Enforcement.

34. On July 1, 2011, Enforcement sent a letter to Respondent, requesting that, pursuant to FINRA Rule 8210, Respondent provide documents and the written explanations requested on April 28, 2011 and on June 21, 2011. The letter was sent by certified mail, return receipt requested and a copy was sent by first class mail to Respondent at the CRD Address. Copies of the letter were sent by certified mail, return receipt requested and first class mail to Respondent at the Alternate Address and an additional alternate address: [REDACTED] ("Alternate Address 2") and to the Electronic Addresses.
35. The letter sent to Respondent by certified mail, return receipt requested and the copy sent by first class mail at the CRD address were not returned to Enforcement. The copy sent by certified mail, return receipt requested to the Alternate Address was returned to Enforcement. The copies sent by first class mail to the Alternate Address and by certified mail, return receipt requested and first class mail to Alternate Address 2, were not returned to Enforcement. Respondent failed to provide the requested documents and information.
36. To date, Respondent has failed to provide the requested documents and information to Enforcement.
37. Respondent's failure to provide the documents and information requested by Enforcement has materially impeded the staff's investigation.
38. Accordingly, Respondent violated FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010 by failing to provide the requested 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 that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.
- 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:

July 25, 2011



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