

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JUAN J. PEREZ, JR.
(CRD No. 5467624),

Respondent.

Disciplinary Proceeding
No. 2009017437001

Hearing Officer – MC

DEFAULT DECISION

June 9, 2011

Respondent is barred from associating with any FINRA member firm in any capacity for misappropriating funds, in violation of NASD Conduct Rule 2110 and FINRA Rule 2010.

Appearances

Jessica Hopper, Director, Washington, DC, for the Department of Enforcement.

No appearance by or on behalf of Respondent Juan J. Perez, Jr.

DECISION

The Department of Enforcement filed the attached Complaint on January 31, 2011. The single cause of action alleges that Respondent Juan J. Perez, Jr. misappropriated his employer's funds. Because the misappropriations began in July 2008 and continued through January 2009, the Complaint alleges that they initially violated NASD Conduct Rule 2110 and subsequently FINRA Conduct Rule 2010.¹

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). Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. See Regulatory Notice 08-57 (Oct. 2008). FINRA Conduct Rule 2010 replaced NASD Conduct Rule 2110, to which it is identical, as of December 15, 2008. Thus, Perez's misappropriations occurring before December 15, 2008, violated NASD Conduct Rule 2110, and those occurring afterwards violated FINRA Conduct Rule 2010. The rules are available at www.finra.org/rules.

Enforcement served Perez with the Complaint and Notices of Complaint by certified mail at his residential address as it appears in FINRA's Central Registration Depository ("CRD"). Perez failed to file an Answer or otherwise respond to the Complaint. As a result, on April 21, 2011, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion") supported by the Declaration of Jessica Hopper and four exhibits.²

I. Findings of Fact and Conclusions of Law

A. Jurisdiction

Perez became registered with FINRA through member firm Chase Investment Services Corporation ("Chase") as an Investment Company and Variable Contracts Products Representative and as a Uniform Securities Agent in early 2008.³ He was employed by Chase as a Registered Representative and by JPMorgan Chase Bank, N.A. (the "Bank") as a licensed Personal Banker and a teller.⁴ He remained registered with FINRA until Chase terminated his employment on February 13, 2009.⁵ Because Enforcement filed the Complaint less than two years after the last date Perez was registered with FINRA, and because the misconduct described in the Complaint occurred while he was registered, FINRA retains jurisdiction over Perez for the purposes of this disciplinary proceeding.⁶

B. Default

Enforcement served the Complaint and Notice of Complaint upon Perez by certified mail at his CRD address and at two forwarding addresses on January 31, 2011.⁷ A U.S. Postal Service tracking record indicates that the mailing to Perez's CRD address was "Undeliverable as

² Enforcement's exhibits are referred to as "CX-___" with the appropriate exhibit and page numbers. The Declaration of Jessica Hopper is referred to as "Decl." or "Hopper Declaration," with citations to specific paragraphs.

³ Decl. ¶ 6.

⁴ Complaint ¶ 4; Decl. ¶ 14.

⁵ Decl. ¶¶ 6, 7.

⁶ Article V, Section 4, FINRA By-Laws.

⁷ Decl. ¶ 8.

Addressed.” The tracking record for one of the forwarding addresses, however, shows that the mailing was delivered on February 7, 2011.⁸ The mailing to the second forwarding address was returned to Enforcement. Perez did not file an Answer or otherwise respond to the Complaint.⁹

On March 1, 2011, Enforcement sent the Complaint and Second Notice of Complaint by certified mail to Perez at his CRD address and the two forwarding addresses.¹⁰ The U.S. Postal Service returned to Enforcement the mailing sent to Perez’s CRD address; the tracking record indicates that it was “Unclaimed.”¹¹ According to the tracking records, the mailing to one of the forwarding addresses was delivered on March 4, 2011; the mailing to the other forwarding address has not been returned to Enforcement.¹² Perez has not filed an Answer or responded to the Complaint.¹³

By serving the Complaint, Notice of Complaint, and Second Notice of Complaint upon Perez by certified mail at his CRD address, Enforcement complied with the requirements of Rule 9134 and provided him with constructive notice that the Complaint had been filed.¹⁴ By failing to file an Answer or respond in any manner, Perez defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), and for the reasons set forth below, the Default Motion is granted.¹⁵

⁸ Decl. ¶ 9; CX-3.

⁹ Decl. ¶ 9..

¹⁰ Decl. ¶ 10.

¹¹ Decl. ¶ 11; CX-4.

¹² *Id.*

¹³ Decl. ¶ 12.

¹⁴ FINRA Procedural Rule 9134(a); *Dep’t of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent’s most recent CRD address) (citing *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

¹⁵ The factual determinations in this Default Decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the Hopper Declaration and the exhibits filed by Enforcement.

C. Perez Misappropriated Funds

Between July 2008 and January 2009, Perez refunded bank fees for non-sufficient funds ("NSF") charged against his own bank account and against the account of a friend.¹⁶ He effected the refunds by using the computers of fellow employees when they stepped away from their workstations. The Bank did not know about or authorize the refunds.¹⁷ Perez caused 41 NSF fee refunds to be credited to his own bank account, for a total of \$2,357; he caused 30 NSF refunds to be credited to his friend's account, for a total of \$805.¹⁸ When the Bank investigated Perez's unauthorized refund activity, Perez provided a signed statement admitting making the unauthorized refunds and acknowledging that the refunds violated Bank policies and procedures.¹⁹ The funds he refunded were the Bank's; the misappropriations benefitted Perez, and caused the Bank a total loss of \$3,162.²⁰

These facts, as alleged in the Complaint and supported by the Hopper Declaration and Enforcement's exhibits, suffice to establish, for the purposes of this Default Decision, that Perez misappropriated Bank funds in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010.

II. Sanctions

For his misappropriations, Enforcement's Complaint charges Perez with violations of FINRA Rule 2010 and its identical predecessor, NASD Rule 2110. Such violations occur when (i) a respondent commits the misconduct in the course of his business, and (ii) the misconduct violates just and equitable principles of trade.²¹ The ethical requirements of the rule apply to conduct that reflects on the respondent's "ability both to comply with regulatory requirements

¹⁶ Complaint ¶ 1.

¹⁷ Decl. ¶¶ 15-16.

¹⁸ Decl. ¶¶ 17-18.

¹⁹ Decl. ¶ 20.

²⁰ Decl. ¶¶ 21-22; Complaint ¶¶ 6-7.

²¹ *Dep't of Enforcement v. Shvarts*, No. CAF980029, 2000 NASD Discip. LEXIS 6, at *18 (N.A.C. June 2, 2000).

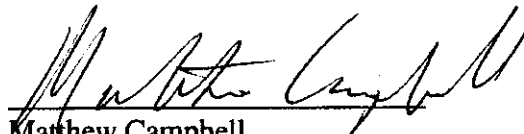
fundamental to the securities business and to fulfill his fiduciary responsibilities in handling other people's money."²² Here, Perez's misconduct occurred in the course of his employment as a registered person working in his capacity as an investment advisor. The acts of misappropriation directly reflect on his inability to comply with the requirements incumbent upon one whose profession involves handling the money of others.

For such misconduct, a bar is standard regardless of the amount of money misappropriated.²³

III. Order

Respondent Juan J. Perez, Jr. is barred from associating with any FINRA member firm in any capacity for misappropriating Bank funds in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010. He is also ordered to pay restitution to the Bank in the amount of \$3,162.

If this Decision becomes FINRA's final disciplinary action, the bar shall be effective immediately.


Matthew Campbell
Hearing Officer

Copies to:

Juan J. Perez, Jr. (*via overnight courier and first-class mail*)
Jessica B. Hopper, Esq. (*via e-mail and first-class mail*)
David R. Sonnenberg, Esq. (*via e-mail*)

²² *Id.* at *35 (quoting *James A. Goetz*, Exch. Act Rel. No. 39796, 1998 SEC LEXIS 499, at *11 (Mar. 25, 1998)).

²³ *FINRA Sanction Guidelines*, p. 36 (2011).

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Juan J. Perez, Jr. (CRD No. 5467624),

Respondent.

**DISCIPLINARY PROCEEDING
No. 2009017437001**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From on or about July 2008 through January 2009, Respondent Juan J. Perez, Jr. ("Perez") misappropriated approximately \$3,162.00 of his employer bank's funds by improperly refunding non-sufficient fund (NSF) bank fees related to his own personal account and a friend's account. Perez effected the refunds and received the personal benefits of those refunds. By virtue of this conduct, Perez violated NASD Rule 2110 and FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. In January 2008, Respondent Perez (CRD No. 5467624), a personal banker with JP Morgan Chase Bank (the "bank"), submitted a U4 application for registration through Chase Investment Services Corp. ("Chase" or the "Firm"), the bank's affiliated broker-dealer unit. Perez became Series 6 licensed as an Investment Company Products/Variable Contracts Limited Representative with Chase on January 10, 2008.

3. On February 12, 2009, the bank terminated Perez for bank Code of Conduct violations, and on February 13, 2009, Chase terminated his association and filed a Form U5 on his behalf on March 18, 2009.

4. Although Respondent has not been associated with a FINRA regulated entity since February 13, 2009, 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 regulated entity and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA regulated entity.

FIRST CAUSE OF ACTION

Misappropriation of Firm Funds (NASD Rule 2110 and FINRA Rule 2010)

5. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1 through 4, above.

4. Between July 2008 and January 2009, Perez was a Registered Representative and Registered Personal Banker and Teller dually employed by the bank and Chase.

5. As a Registered Personal Banker and Teller, Perez had access to banking terminals which were secured by individual log-ins and passwords.

6. From on or about July 2008 through January 2009, Perez used his banking terminal to effect 30 NSF fee refunds relating to an account of one of his friends without the bank's authorization totaling approximately \$805.00 causing the bank a loss of revenue and personally benefiting Perez.

7. From on or about July 2008 through January 2009, Perez effected NSF fee refunds in his personal account at the bank by using fellow bank employees' terminals and passwords, both with and without their knowledge. Perez made 41 NSF fee refunds to his own account, totaling approximately \$2,357.00 without the bank's authorization, personally benefiting Perez and causing the bank a loss of revenue.

8. On or about February 11, 2009, Perez admitted to the bank's district management, through an interview conducted by the bank's Global Security & Investigations, to misappropriating bank funds by improperly refunding approximately \$3,162.00 in bank fees relating to his own personal account and his friend's account without the bank's authorization and for his own personal benefit.

9. The misappropriation constitutes conduct inconsistent with the high standards of commercial honor and just and equitable principles of trade and the foregoing conduct constitutes separate and distinct violations of NASD Rule 2110 and FINRA Rule 2010 by Perez.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests:

- A. an order that one or more of the sanctions provided pursuant to FINRA Rule 8310, including a bar against Respondent from associating with any member firm in any capacity, be imposed.
- B. an order that Respondent pay restitution to the bank in the amount of \$3,162.00.
- C. an order that Respondent bear such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: January 31, 2011



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