

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFFREY S. POOL
(CRD No. 4226678),

Respondent.

Disciplinary Proceeding
No. 20090180372

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

December 23, 2010

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

Appearances

Jessica Hopper, Esq., for the Department of Enforcement.

No appearance by or on behalf of Jeffrey S. Pool.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on August 11, 2010. The Complaint charges Respondent Jeffrey S. Pool (“Pool”) with converting customer insurance premium payments from his firm’s corporate account, in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010.¹

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). Because the Complaint in this case was filed after December 15, 2008, FINRA’s procedural rules apply. The conduct at issue spanned the date the first phase of the new consolidated rules became effective. Accordingly, NASD Conduct Rule 2110 and FINRA Conduct Rule 2010 apply, which rules are identical.

Pool did not answer the Complaint. Accordingly, on October 29, 2010, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions (“Default Motion”), together with the declaration of Jessica Hopper (“Hopper Decl.”) and four exhibits.² For the reasons set forth below, the Hearing Officer found Respondent in default and granted Enforcement’s Default Motion.

II. Procedural History

On August 11, 2010, Enforcement served the Complaint and the First Notice of Complaint on Respondent by mailing them to his most recent address recorded in the Central Registration Depository (“CRD”).³ Enforcement mailed the Complaint and First Notice of Complaint by first-class certified mail, return receipt requested.⁴ Respondent did not answer or otherwise respond to the Complaint.

On September 10, 2010, Enforcement served a Second Notice of Complaint on Respondent by mailing it to his CRD address.⁵ Enforcement mailed the Second Notice of Complaint by first-class and certified mail, return receipt requested. The United States Postal Service returned the certified mailing with a notation that Pool had moved and the United States Postal Service was unable to forward the mailing.⁶ To date, Respondent has not answered or otherwise responded to the Complaint.

² Enforcement’s exhibits are labeled CX-1 through CX-4.

³ Hopper Decl. ¶ 9; CX-3 at 1.

⁴ Although the declaration Enforcement filed in support of the Default Motion states that Enforcement served the Complaint by first-class mail as well as certified mail, and that the certified mailing was delivered, the certificate of service filed with the Complaint states only that service was effected by certified mail, and the exhibits Enforcement filed do not include the mailing receipt reflecting delivery of the certified mailing.

⁵ Hopper Decl. ¶ 11.

⁶ Hopper Decl. ¶ 12; CX-4 at 15.

On October 1, 2010, the Office of Hearing Officers issued an order setting a deadline for Enforcement to file a motion for entry of a default decision, which Enforcement filed on October 29, 2010. Pool did not file a response to the motion.

Based on Pool's default, the Hearing Officer deemed the allegations in the attached Complaint admitted pursuant to Rules 9215(f) and 9269(a).

III. Findings of Fact and Conclusions of Law

A. Pool's Employment Background

In August 2000, Pool, an insurance agent with State Farm Insurance, entered the securities industry through association with State Farm VP Management Corp. ("State Farm VP"), the FINRA registered broker-dealer unit of State Farm Insurance Companies. Pool registered as an Investment Company and Variable Contracts Products Representative on August 7, 2000.⁷

On April 17, 2009, State Farm VP terminated Pool's employment because of the firm's concerns about the manner in which he had handled an insurance premium deposit account.⁸ On April 29, 2009, State Farm VP filed a Uniform Termination Notice for Securities Industry Registration form ("Form U5") with FINRA on Pool's behalf, and FINRA terminated his registration.⁹ FINRA staff commenced the investigation that led to this proceeding after it received the Form U5.

B. 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 after April 29, 2009,

⁷ CX-2, at 3.

⁸ CX-2, at 7.

⁹ CX-1; CX-2 at 5.

the date FINRA terminated Pool's registration, and (2) the Complaint charges him with misconduct that occurred while he was associated with a FINRA member firm.¹⁰

C. Conversion

Pool maintained a Premium Fund Checking Account with State Farm Bank. State Farm Insurance Company required its agents to maintain such accounts for the deposit and processing of premium payments. Although the accounts were maintained in the agents' names, the funds in the accounts were owned by State Farm Insurance Company.

From March 2007 through March 2009, Pool misappropriated funds from the Premium Fund Checking Account at State Farm Bank for his personal use. State Farm Insurance Company did not authorize any of the withdrawals Pool made for his personal use.

On or about March 30, 2009, State Farm Insurance Company audited Pool's account and discovered that the account was missing \$10,224.20. Upon discovery of the shortfall, Pool admitted to his supervisors at State Farm Insurance Company that he had taken the funds for his personal use.

The Hearing Officer finds that the foregoing allegations in the Complaint establish that Pool converted \$10,224.20 from State Farm Insurance Company and thereby violated NASD Conduct Rule 2110 and FINRA Conduct Rule 2010, which rules require members and associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. The rules are "sufficiently broad to encompass any unethical business-related misconduct, regardless of whether it involves a security."¹¹

¹⁰ 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").

¹¹ *Department of Enforcement v. Saad*, 2009 FINRA Discip. LEXIS 29, at *11 (N.A.C. Oct. 6, 2009) (finding that a registered person's submission of false expense reimbursement requests and receipts to his broker-dealer violated Rule 2110 (now Rule 2010)).

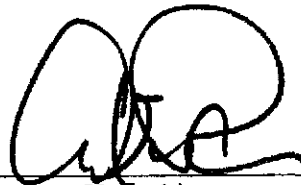
IV. Sanctions

A. Conversion

The FINRA Sanction Guidelines ("Sanction Guidelines") for conversion state that a bar is "standard," regardless of the amount converted.¹² Here, there are no mitigating factors. Accordingly, the Hearing Officer finds that a bar is the appropriate sanction in this case.

V. Order

Respondent Jeffrey S. Pool is barred from associating with any FINRA member firm in any capacity for converting funds, in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Andrew H. Perkins
Hearing Officer

Copies to:

Jeffrey S. Pool (*via overnight courier and first-class mail*)
Jessica Hopper, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

¹² FINRA Sanction Guidelines 38 (2007), www.finra.org/sanctionguidelines.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Jeffrey S. Pool (CRD No. 4226678),

Respondent.

DISCIPLINARY PROCEEDING
No. 20090180372

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between March 2007 and March 2009 (the “relevant period”), Jeffery S. Pool (“Pool” or “Respondent”) misappropriated his employer insurance company funds totaling over \$10,000 without authorization. Pool admitted that he withdrew policyholder premium money from the firm’s corporate account for his own personal use. By reason of the foregoing, Pool violated NASD Rule 2110 and FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. In August 2000, Pool, an insurance agent with State Farm Insurance, entered the securities industry through association with State Farm VP Management Corp, the

broker-dealer unit of State Farm Insurance Companies. Pool passed his Series 6 on August 7, 2000, as a Limited Representative of Investment Company and Variable Contracts products.

3. On April 17, 2009, State Farm VP Management Company filed a Form U5 on behalf of Pool, terminating his association on that date.
4. Although Respondent has not been associated with a FINRA member firm since April 17, 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 member and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member.

FIRST CAUSE OF ACTION

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

5. The Department realleges and incorporates by reference paragraphs 1-4 above.
6. Between January 2007 and March 2009, Pool was a Registered Representative and Insurance Agent dually employed by State Farm VP Management Company and State Farm Insurance Company.
7. As a State Farm Insurance Agent, State Farm Insurance Company required that he maintain a Premium Fund Checking Account with State Farm Bank. Premium Fund Accounts (PFAs) are opened and held in the agent's name, but the funds deposited are owned by State Farm Insurance Company. The sole purpose of the account is for processing premium payments received from State Farm Insurance customers in the

agent's office for insurance or variable annuity products. Typically, the agent forwards the customers' insurance or other product applications to State Farm Insurance, which then processes the application with the corresponding deposited funds from the PFA account.

8. From on or about March 2007 through March 2009, Pool misappropriated State Farm funds by withdrawing PFA funds for his own personal use without State Farm's knowledge or authorization.
9. On or about March 30, 2009, State Farm conducted an audit investigation of Pool's PFA and determined that Pool's PFA was missing a total of \$10,224.20 in customer cash deposits, all intended as payments for insurance products.
10. On or about March 30, 2009, Pool met with his State Farm supervisors and admitted to misappropriating the missing customer funds by taking or withdrawing PFA funds without State Farm's knowledge or authorization and for his own personal use.
11. 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 Pool.

RELIEF REQUESTED

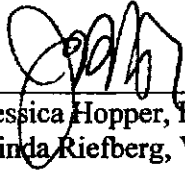
WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, 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: 5/11/10



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