

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DOUANGCHAY CHOUNCHANTHARAT
(CRD No. 2998644),

Respondent.

Disciplinary Proceeding

No. 2009018050501

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

September 14, 2010

Respondent is barred from associating with any FINRA registered firm in any capacity for converting funds from her employer, in violation of FINRA Conduct Rule 2010; and failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010.

Appearances

Carolyn Craig, Esq., Washington, DC, for the Department of Enforcement.

No appearance by or on behalf of Douanghay Chounchantharat.

DECISION

I. Introduction

The FINRA Department of Enforcement ("Enforcement") filed the attached Complaint with the Office of Hearing Officers on May 19, 2010. The Complaint charges Respondent Douanghay Chounchantharat ("Chounchantharat") with: (1) converting insurance premium payments for her own use, in violation of FINRA Conduct Rule 2010; and (2) failing to provide information and documents requested by FINRA staff, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

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Chouchantharat did not answer the Complaint. Accordingly, on July 28, 2010, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions (“Default Motion”), together with the declaration of Carolyn Craig (“Craig Decl.”) and seven exhibits.¹ For the reasons set forth below, the Hearing Officer found Chouchantharat in default and granted Enforcement’s Default Motion.

II. Procedural History

On May 19, 2010, Enforcement served the Complaint and the First Notice of Complaint on Chouchantharat by mailing them to her most recent address recorded in the Central Registration Depository (“CRD”), as well as to an alternate address supplied by the United States Postal Service.² Enforcement mailed the Complaint and First Notice of Complaint by first-class and certified mail, return receipt requested. The certified mailing sent to her CRD address was returned to Enforcement because it was unclaimed. The receipt for the certified mailing sent to her alternate address was returned signed by “Toum.”³ Chouchantharat did not answer or otherwise respond to the Complaint.

On June 17, 2010, Enforcement served a Second Notice of Complaint on Chouchantharat by mailing it to her CRD and alternate addresses.⁴ 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 Enforcement sent to Chouchantharat’s CRD address with a notation that her current forwarding address was the

¹ Enforcement’s exhibits are labeled CX-1 through CX-7.

² Craig Decl. ¶ 8.

³ *Id.* ¶ 9; CX-3; CX-4.

⁴ Craig Decl. ¶ 11; CX-5; CX-6.

alternate address.⁵ The United States Postal Service returned the receipt for the certified mailing sent to her alternate address signed by "Toum."⁶ To date, Chounchantharat has not answered or otherwise responded to the Complaint.

On July 7, 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 July 28, 2010. Chounchantharat did not file a response to the motion.

Based on Chounchantharat'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. Background

Chounchantharat entered the securities industry in March 1998. In June 2002, she associated with Farmers Financial Solutions, LLC ("Farmers Financial"), a FINRA registered firm. She also was an appointed insurance agent with Farmers Insurance Group ("Farmers Insurance"), an affiliate of Farmers Financial.⁷ Both companies terminated her employment on or about May 7, 2009, because she improperly used customers' property and casualty insurance premiums to pay her personal expenses.⁸

From September 2002 until May 2009, Chounchantharat was registered with FINRA as an Investment Company and Variable Contracts Products Representative through Farmers Financial.⁹ Farmers Financial filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") with FINRA on Chounchantharat's behalf, and FINRA terminated her

⁵ Craig Decl. ¶ 12.

⁶ CX-6.

⁷ Craig Decl. ¶¶ 5-6.

⁸ CX-1, at 2.

⁹ *Id.*

registration on May 11, 2009.¹⁰ 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 May 11, 2009, the date FINRA terminated Chouchantharat's registration, and (2) the Complaint charges her with misconduct that occurred while she was associated with a FINRA member firm, and with failing to respond to Enforcement's requests for information made during the two-year period following the termination of her FINRA registration.¹¹

C. Conversion of Customers' Insurance Premium Payments

The First Cause of Action alleges that Chouchantharat was responsible for collecting and maintaining insurance premium payments at Farmers Insurance. The Complaint further alleges that in April 2009 she wrongfully converted \$4,383 from Farmers Insurance and applied the funds for her personal use.

Farmers Insurance detected the conversion on April 30, 2009, in the course of an audit of her accounts. Farmers Insurance promptly notified Chouchantharat of the discrepancy. On May 1, 2009, Chouchantharat fully reimbursed Farmers Insurance. On May 5, 2009, Chouchantharat signed a written statement admitting that she had wrongfully taken \$4,383 from Farmers Insurance.

The Hearing Officer finds that the foregoing facts establish that Chouchantharat converted \$4,383 from Farmers Insurance and thereby violated FINRA Conduct Rule 2010,

¹⁰ CX-1; CX-2, at 5.

¹¹ 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").

which requires members and associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Rule 2010 is sufficiently broad to encompass any unethical business-related misconduct, regardless of whether it involves a security.”¹²

D. Failure to Provide Information and Documents

The Second Cause of Action alleges that Chounchantharat failed to respond to five requests for information and documents FINRA staff sent to her pursuant to FINRA Rule 8210 in connection with FINRA’s investigation of her conversion of insurance premium payments from Farmers Insurance. The staff sent the first four requests dated May 18, 2009, August 24, 2009, October 30, 2009, and November 20, 2009, to Chounchantharat’s CRD address by first-class and certified mail. The receipt for the certified mailing dated May 18, 2009, was signed by “Toum Khouphonesy.” The remaining requests were returned with notations indicating that Chounchantharat had moved from the CRD address.

On April 8, 2009, FINRA staff sent Chounchantharat another request for information and documents by first-class and certified mail to an address Chounchantharat provided on her written statement to Farmers Insurance, as well as to her CRD address. The receipts for both certified mailings were signed by “Toum.”

Chounchantharat did not respond to any of the requests.

The facts alleged in the Second Cause of Action establish that Chounchantharat violated FINRA Rules 8210 and 2010 by failing to respond to the staff’s requests for information.

¹² *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.¹³ The Hearing Officer finds that a bar is the appropriate sanction in this case. Chouchantharat converted \$4,383 from Farmers Insurance, and there are no mitigating factors warranting a lesser sanction.

B. Failure to Respond to Requests for Information

For failing to respond to FINRA Rule 8210 requests for information, the Sanction Guidelines provide that a bar should be “standard” when there is a complete failure to respond.¹⁴ The Guidelines for failing to respond to requests for information list principal considerations for adjudicators to assess in determining appropriate sanctions. Adjudicators are instructed to consider “[w]hether the information was provided and, if so, [to] consider the number of requests made, the time respondent took to respond, and the degree of regulatory pressure required to obtain a response.” Adjudicators also consider the nature of the information requested in assessing appropriate sanctions.¹⁵

The Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction given all of the facts and circumstances, including a lack of mitigating factors that would warrant a lesser sanction. The documents and information that the staff sought were important. The staff was investigating serious misconduct. A bar remedies the risk that Enforcement will not be able to obtain information necessary to the protection of investors and will serve to deter others from failing to provide Enforcement with

¹³ FINRA Sanction Guidelines 38 (2007), www.finra.org/sanctionguidelines.

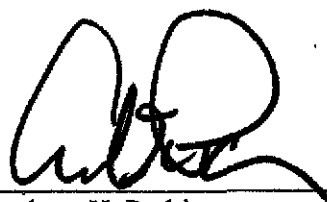
¹⁴ Sanction Guidelines 35.

¹⁵ *Id.*

information requested under Rule 8210 at the time such requests are made. Accordingly, the Hearing Officer will bar Chounchantharat from associating with any FINRA member firm in all capacities.

V. Order

Douanghay Chounchantharat is barred from associating with any member firm in any capacity for converting funds, in violation of FINRA Conduct Rule 2010, as alleged in the First Cause of Action; and for failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010, as alleged in the Second Cause of Action. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.

A handwritten signature in black ink, appearing to read 'Andrew H. Perkins', is written over a horizontal line.

Andrew H. Perkins
Hearing Officer

Copies to:

Douanghay Chounchantharat (*via overnight courier and first-class mail*)
Carolyn Craig, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

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

Department of Enforcement,

Complainant,

v.

**Douangchay Chounchantharat
CRD No. 2998644,**

Respondent.

**DISCIPLINARY PROCEEDING
No. 20090180505**

HEARING OFFICER

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In April 2009, Douangchay Chounchantharat ("Respondent" or "Chounchantharat"), a registered representative with Farmers Financial Solutions, LLC ("Farmers" or the "Firm"), who worked as an insurance agent for the Firm's affiliate, Farmers Insurance Group ("FIG"), misappropriated approximately \$4,383 from FIG. By virtue of this conduct, Chounchantharat violated FINRA Rule 2010.

2. During the course of FINRA's investigation into her alleged misappropriation, FINRA staff members requested information from Chounchantharat, on several occasions, pursuant to FINRA Rule 8210. Chounchantharat did not respond to any of these requests for information, and thus violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Respondent Chouchantharat (CRD No. 2998644) was registered with Farmers as an Investment Company and Variable Contracts Products Representative (Series 6) and Representative and Uniform Securities Agent (Series 63) from June 2002 until her termination on May 7, 2009. While registered with the Firm, Chouchantharat worked as an insurance agent with the Firm's affiliate, FIG, in Arlington, Texas. Chouchantharat has not been associated with any FINRA regulated firm since her termination from Farmers on May 7, 2009. FINRA retains jurisdiction over Chouchantharat pursuant to Article V, Section 4(a) of the By-Laws because the conduct that serves as the basis for this action commenced prior to her termination of registration from a FINRA regulated broker-dealer and this Complaint has been filed within two years after the effective date of Chouchantharat's termination of registration from a FINRA regulated broker-dealer.

FIRST CAUSE OF ACTION

Chouchantharat Wrongfully Converted and Misappropriated Funds (Violation of FINRA Rule 2010)

4. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1 through 3, above.

5. As an insurance agent with FIG, Chouchantharat was responsible for, among other things, maintaining and collecting customer insurance premiums on behalf of FIG.

6. On or about April 2009, Chouchantharat, intentionally and without authorization from FIG, took approximately \$4,383 of the customer premium payments and used the premium payments for her personal use.

7. On or about April 30, 2009, the District Office Manager for FIG conducted an audit of Chounchantharat's accounts in response to a late deposit notice from the bank account that held and processed FIG customer insurance premiums for Chounchantharat's FIG accounts. The audit revealed a shortage of approximately \$4,383 in Chounchantharat's FIG accounts. The District Office Manager promptly notified Chounchantharat.

8. On or about May 1, 2009, Chounchantharat deposited personal funds into the FIG bank account, to reimburse the account for the amount that she misappropriated in the FIG accounts.

9. On May 4, 2009 Chounchantharat verbally admitted that she misappropriated the funds and used them for her personal use and on May 5, 2009, she provided FIG with a signed written statement, admitting her misappropriation of the funds.

10. By virtue of the foregoing, Chounchantharat violated FINRA Rule 2010.

SECOND CAUSE OF ACTION

Chounchantharat Failed to Provide Information and Documents to FINRA (Violation of FINRA Rules 8210 and 2010)

11. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1 through 10, above.

12. FINRA issued to Chounchantharat, requests for information and documents, pursuant to FINRA Rule 8210, on May 18, 2009, August 24, 2009, October 30, 2009 and November 20, 2009. Each of these requests were sent by certified and first class mail to [REDACTED], Chounchantharat's residential address as reflected in the Central Registration Depository ("CRD address"). The May 18, 2009 letter sent by certified mail was signed for by a "Toum Khouphonesy." The May 18, 2009 letter sent via first class

mail was not returned to FINRA. The August 24 letter sent by certified mail, was returned and marked "Return to Sender, Unclaimed, Unable to Forward." The August 24, 2009 letter sent by first class mail was not returned to FINRA. The October 30, 2009 letter, sent via certified and first class mail, was marked "Vacant." The November 20, 2009 letter sent by certified mail was signed for by a "Anakin" and also marked "Notify Sender of New Address." A similar notation to "Notify Sender of New Address" was marked on the returned November 20, 2009 letter sent via first class mail.

13. On or about April 8, 2010, Enforcement sent a request for information and documents, pursuant to FINRA Rule 8210, via certified and first class mail, to Chouchantharat's updated address found in her written statement to FIG and to her CRD address. The April 8, 2010 letters sent via certified mail to her new address and her CRD address were both signed for by a "Toum." The letters sent by first class mail were not returned. Chouchantharat failed to respond to any of the requests noted above.

14. By virtue of the foregoing, Chouchantharat violated FINRA Rule 8210. By failing to respond to these regulatory requests, Chouchantharat also failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

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 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: May 19, 2010



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