

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SALVATORE DEMEO, JR.
(CRD No. 2927685),

Respondent.

Disciplinary Proceeding
No. 2009018139301

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

April 27, 2011

Respondent is barred from associating with any FINRA registered firm in any capacity for converting funds from a customer's bank account, in violation of FINRA Conduct Rule 2010; and for failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010.

Appearances

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

No appearance by or on behalf of Salvatore Demeo, Jr.

DECISION

I. Introduction

The FINRA Department of Enforcement ("Enforcement") filed the attached Complaint with the Office of Hearing Officers on January 19, 2011. The Complaint charges Respondent Salvatore Demeo, Jr. ("Demeo") with: (1) converting funds from a customer's bank account, in violation of FINRA Conduct Rule 2010; and (2) failing to respond to requests that he appear and provide testimony, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

Demeo defaulted by failing to answer or otherwise respond to the Complaint. Accordingly, on March 14, 2011, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion"). The Default Motion is supported by the Declaration of Jessica B. Hopper, Esq., and five attached exhibits.¹ For the reasons set forth below, Enforcement's Default Motion is granted.

II. Procedural History

On January 19, 2011, Enforcement served the Complaint and the First Notice of Complaint on Demeo by mailing them to his most recent residential address recorded in the Central Registration Depository ("CRD") and to his most recent known forwarding address by certified mail, return receipt requested.² The United States Postal Service returned the certified mailing addressed to Demeo's forwarding address with the notation, "unclaimed." The certified mailing sent to his CRD address was not returned by the United States Postal Service.³ Demeo did not answer or otherwise respond to the First Notice of Complaint.

On February 17, 2011, Enforcement served the Complaint and Second Notice of Complaint on Demeo by mailing it to his CRD address and his forwarding address by certified mail, return receipt requested.⁴ The certified mailing sent to the CRD address was not returned by the United States Postal Service.⁵ The certified mailing sent to Demeo's forwarding address was delivered on February 19, 2011.⁶ To date, Demeo has not answered or otherwise responded to the Complaint.

¹ Enforcement's exhibits are labeled CX-1 through CX-5.

² Hopper Decl. ¶ 8.

³ *Id.* ¶ 9.

⁴ *Id.* ¶ 11.

⁵ *Id.* ¶ 12.

⁶ Hopper Decl. ¶ 12; CX-4.

Based on Demeo'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

Demeo was registered with FINRA as a General Securities Representative from September 6, 2007, until May 15, 2009, through Chase Investment Services Corp. ("Chase"), a FINRA registered firm.⁷

On May 15, 2009, Chase filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on Demeo's behalf, which disclosed that he had been discharged because he failed to disclose an outside business activity and for misapplying funds he accepted for investment in his outside business activity.⁸ FINRA staff commenced the investigation that led to this proceeding after it received the Form U5.⁹

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 FINRA terminated Demeo's registration, and (2) the Complaint charges him with misconduct that occurred while he 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 his FINRA registration.¹⁰

⁷ CX-2.

⁸ CX-1.

⁹ Hopper Decl. ¶ 5.

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").

C. Conversion of Funds

The First Cause of Action alleges that, on April 14, 2009, Demeo withdrew \$9,417.11 from one of his customer's bank accounts without the customer's knowledge or consent. The customer's account was at a bank affiliated with Chase. Demeo used the proceeds to purchase a cashier's check that he deposited into a bank account for his company, Hydra Capital LLC ("Hydra").¹¹ Demeo used the funds for his personal benefit.¹²

The Hearing Officer finds that the foregoing facts establish that Demeo converted \$9,417.11 from his customer's bank account, in violation of FINRA Conduct Rule 2010, which requires members and associated persons to observe high standards of commercial honor and just and equitable principles of trade. Rule 2010 is sufficiently broad to encompass any unethical business-related misconduct, regardless of whether it involves a security.¹³

D. Failure to Appear and Testify

The Second Cause of Action alleges that Demeo failed to respond to requests that he appear and provide testimony regarding the reason Chase terminated his employment. FINRA staff sent the first request to Demeo on April 14, 2010, by FedEx and certified mail addressed to his CRD address. The request sent by FedEx was delivered on April 15, 2010, and the request sent by certified mail was delivered the next day.¹⁴

On April 21, 2010, Demeo informed FINRA staff by telephone that he could not travel to Washington, DC for the scheduled on-the-record interview. Accordingly, the staff rescheduled

¹¹ Compl. ¶¶ 8-9.

¹² *Id.* ¶ 12.

¹³ *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)).

¹⁴ Hopper Decl. ¶ 15.

the on-the-record interview for May 26, 2010, in Phoenix, Arizona, where Demeo lived.¹⁵ On May 3, 2010, FINRA staff sent Demeo a letter with the new date and location.¹⁶

Two days before the rescheduled on-the-record interview, Demeo telephoned FINRA staff and left a voicemail message that he could not attend the on-the-record interview because he was moving.¹⁷ The staff made several attempts to return Demeo's call, but was unable to reach him.¹⁸

On June 4, 2010, FINRA staff sent Demeo another request pursuant to Rule 8210 that he appear for an on-the-record interview on June 29, 2010. The staff sent the request to Demeo's CRD address.¹⁹ Demeo failed to appear for his interview on June 29, 2010.²⁰

On July 8, 2010, FINRA staff sent Demeo another request that he appear for an on-the-record interview, which was scheduled for July 21, 2010. The staff sent the request to Demeo's CRD address by certified mail pursuant to Rule 8210. Demeo failed to appear for the on-the-record interview on July 21, 2010.²¹

The Hearing Officer finds that the facts alleged in the Second Cause of Action establish that Demeo violated FINRA Rules 8210 and 2010 by failing to appear and provide testimony.

¹⁵ Hopper Decl. ¶ 16.

¹⁶ *Id.*

¹⁷ *Id.* ¶ 17.

¹⁸ *Id.*

¹⁹ *Id.* ¶ 18.

²⁰ *Id.* ¶ 19.

²¹ *Id.* ¶ 21.

IV. Sanctions

A. Conversion of Funds

The FINRA Sanction Guidelines (“Sanction Guidelines”) for conversion state that a bar is “standard,” regardless of the amount converted.²² The Hearing Officer finds that a bar is the appropriate sanction in this case.

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.²³ In addition, the Sanction Guidelines direct adjudicators to consider the importance of the information requested as viewed from FINRA’s perspective.²⁴ In this case, FINRA staff was investigating serious misconduct, and there is no evidence of mitigating factors that would warrant a lesser sanction. Accordingly, the Hearing Officer finds that a bar from associating with any FINRA member firm in any capacity is the appropriate sanction for this violation.

V. Order

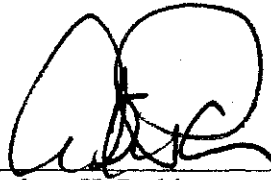
Salvatore Demeo, Jr. is barred from associating with any member firm in any capacity for converting funds from a customer’s bank account, in violation of FINRA Conduct Rule 2010; and for failing to appear and testify, in violation of Procedural Rule 8210 and Conduct

²² FINRA Sanction Guidelines 36 (2011), www.finra.org/sanctionguidelines.

²³ Sanction Guidelines 33.

²⁴ *Id.*

Rule 2010. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.²⁵



Andrew H. Perkins
Hearing Officer

Copies to:

Salvatore Demeo, Jr. (*via overnight courier and first-class mail*)
Jessica B. Hopper, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

²⁵ The Hearing Officer did not order Demeo to pay restitution to the bank customer because Enforcement did not request an order of restitution, and the record does not show whether the bank repaid the customer after it discovered the unauthorized withdrawal.

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OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Salvatore Demeo, Jr. (CRD No.2927685),

Respondent.

DISCIPLINARY PROCEEDING
No. 2009018139301

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. On or about April 14, 2009, while a registered representative of a FINRA-regulated entity, Respondent misappropriated \$9,417.11 from a customer bank account. Respondent withdrew funds from the customer's bank account without the customer's authorization, and deposited the funds into a bank account under his exclusive control and ownership. This conduct violated FINRA Rule 2010.
2. On June 4, 2010 and on July 8, 2010, FINRA sent Respondent letters requiring him to appear and testify at on-the-record interviews scheduled for June 29, 2010 and July 21, 2010, respectively, in Phoenix, Arizona. The testimony was requested in connection with an investigation into the misappropriation of funds from the

customer bank account described above. The letters requesting his interview were sent to respondent pursuant to Rule 8210 and were properly served. Respondent, however, failed to appear and testify. This conduct violates Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. On or about September 23, 2005, Demeo became registered with FINRA as an Investment Company and Variable Contracts Products Representative (Series 6) through a member firm. On or about September 4, 2007, Demeo became registered with FINRA as a General Securities Representative (Series 7). From September 2005 to May 4, 2009, Demeo was registered in those capacities through member firm Chase Investment Securities Corporation ("Chase"). On May 4, 2009, Demeo was discharged from Chase for, among other things, using customer funds "for personal expenses". Demeo has not been associated with a FINRA-regulated entity since that time.
4. Although Respondent has not been associated with a FINRA-regulated entity since May 4, 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/she 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 and with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be associated with a FINRA-regulated entity.

FIRST CAUSE OF ACTION

Misappropriation of Funds (Violation of FINRA Rule 2010)

5. The Department realleges and incorporates by reference paragraphs 1-4 above.
6. In February 2009, Demeo opened a bank account in the name of Hydra Capital, LLC with Chase's affiliate bank. Demeo was the sole owner and retained exclusive control of the account until it was closed in June 2009.
7. The purported reason for the account was as a business checking account for the purpose of buying and selling residential real estate.
8. On April 14, 2009, Demeo completed a bank withdrawal form requesting \$9,417.11 from his customer MT's bank savings account without MT's knowledge or authorization, and used the proceeds to purchase a cashier's check in the same amount made payable to H Capital LLC.
9. On that same day, Demeo deposited the cashier's check from the MT withdrawal in his Hydra Capital bank account without MT's knowledge or authorization.
10. On or about April 30, 2009, the bank's retail management informed the bank's Global Securities and Investigations ("GSI") department about a suspicious transaction—the transaction was Demeo's April 14, 2009 deposit into the Hydra Capital bank account.
11. GSI conducted an investigation and contacted customer MT, who told GSI that Demeo did not have her permission to withdraw money from her retail bank account for any purpose.
12. None of the funds Demeo withdrew from the Hydra Capital checking account were used for real estate investment, and were instead used for Demeo's personal benefit.

13. By misappropriating funds from MT's retail bank account, Demeo violated FINRA Rule 2010.

SECOND CAUSE OF ACTION

Failure to Provide On-the-Record Testimony (Violation of FINRA Rule 8210)

14. The Department realleges and incorporates by reference paragraphs 1-13 above.
15. By a letter dated April 14, 2010, FINRA staff requested, pursuant to FINRA Rule 8210, that Demeo provide on-the-record testimony at the Washington D.C. office on May 5, 2010. The letter was sent by FedEx and certified mail to Demeo's residential address listed in Central Registration Depository (CRD), [REDACTED]. [REDACTED] The letter sent by FedEx was delivered to Demeo's address on April 15, 2010. The letter sent via certified mail was successfully delivered on April 16, 2010.
16. On April 21, 2010, Demeo informed FINRA staff by telephone that travel to Washington D.C. would be an untenable financial burden for him. In order to accommodate Demeo, FINRA Staff, by letter dated May 3, 2010, and pursuant to FINRA Rule 8210, agreed to reschedule the on-the-record testimony to take place at Abacus Executive Suites in Phoenix, Arizona, on May 26, 2010. The letter was sent by FedEx and certified mail to Demeo's residential address listed in CRD, [REDACTED]. [REDACTED] The letter sent by FedEx was delivered to Demeo's address on May 4, 2010. The letter sent via certified mail was returned to FINRA Enforcement as "unclaimed".

17. On May 24, 2010, two days before the scheduled on-the-record interview, Demeo contacted FINRA staff by telephone and, in a voicemail, informed them that he knew he was scheduled for his on-the-record testimony on May 26, but that he would be unable to attend because he was moving residences. FINRA Staff attempted to contact Demeo by telephone several times between May 24, 2010 and May 27, 2010 in order to discuss dates for testimony and to learn his new address, and left voicemails to that effect each time. Demeo failed to return FINRA staff's calls.
18. By letter dated June 4, 2010, FINRA staff requested, pursuant to FINRA Rule 8210, that Demeo provide on-the-record testimony at Abacus Executive Suites in Phoenix, Arizona on June 29, 2010. The letter was sent by FedEx and certified mail to Demeo's residential address listed in CRD, [REDACTED]. [REDACTED] The letter sent by FedEx was delivered to Demeo's address on June 7, 2010. The letter sent via certified mail was returned to FINRA staff and marked as "Unclaimed".
19. On June 29, 2010, Demeo failed to appear for testimony.
20. By letter dated July 8, 2010, FINRA staff requested, pursuant to FINRA Rule 8210, that Demeo provide on-the-record testimony at Abacus Executive Suites in Phoenix, AZ on July 21, 2010. The letter was sent by certified mail to Demeo's residential address listed in CRD, [REDACTED]. The U.S. Postal Service forwarded the certified letter to Demeo's forwarding address, which was [REDACTED] but the letter was returned to FINRA staff as "Unclaimed".
21. On July 21, 2010, Demeo failed to appear for testimony.

22. By failing to appear for on-the-record testimony, Demeo violated FINRA Rules 8210 and 2010.

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: January 19, 2011



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