

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL DOUGLAS LARSEN
(CRD No. 4796817),

Respondent.

Disciplinary Proceeding
No. 2009018143701

Hearing Officer – RSH

DEFAULT DECISION

March 14, 2011

For converting funds from a customer of a non-FINRA-regulated bank, in violation of Rules 2110 and 2010; and failing to provide requested documents, in violation of Rules 8210 and 2010, the Respondent was barred from associating with any FINRA-regulated firm in any capacity.

Appearances

Howard Alan Grinsberg, Senior Counsel, and Myles L. Orosco, Director, New York, NY,
for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

I. Introduction

The FINRA Department of Enforcement commenced the investigation that led to the Complaint against Respondent Michael Douglas Larsen after FINRA-regulated firm HSBC Securities USA, Inc. ("HSBC") filed an amended Uniform Termination Notice for Securities Industry Registration ("Form U5"). The amended Form U5, which was filed on or about May 26, 2009, disclosed that after the Firm terminated Larsen's employment earlier in the month, it commenced an investigation of Larsen's alleged misappropriation of funds from a customer of HSBC's non-FINRA-regulated bank affiliate ("Bank").

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FINRA staff investigated Larsen's conduct, and as a result of the investigation, Enforcement filed the Complaint on October 22, 2010.¹

In the First Cause of Action of its Complaint, Enforcement charged that between April 2008 and April 17, 2009, Larsen misappropriated approximately \$355,000 from NP, a customer of Bank, and thereby violated Rules 2110 and 2010. Although Enforcement charged Larsen with "misappropriation," rather than "conversion," the two terms are synonymous.² The Complaint's Second Cause of Action alleged that Larsen failed to provide documents that FINRA had requested during Larsen's on-the-record interview ("OTR"), thereby violating Rules 8210 and 2010.³

Enforcement filed the Complaint with the Office of Hearing Officers on October 22, 2010. Larsen did not answer or otherwise respond to the Complaint. Consequently, on January 10, 2011, Enforcement filed a Motion for Entry of Default Decision, supported by the Affidavit of Howard Alan Grinsberg and 28 exhibits. Larsen did not reply to the motion.⁴

II. Jurisdiction

Larsen obtained his Series 6 and Series 63 registrations in 2004 and 2005, respectively. He was registered through HSBC from April 25, 2005, through April 17, 2009, when he was discharged. He has not been associated with a FINRA-regulated firm since then.⁵

¹ Affidavit of Howard Alan Grinsberg ("Grinsberg Aff.") ¶ 5.

² *Ballentine's Law Dictionary*. Copyright (c) 2010 LexisNexis.

³ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. On December 15, 2008, the first phase of new consolidated FINRA Rules went into effect. See, Regulatory Notice 08-57. In the rule consolidation, NASD Rule 2110 was renumbered to FINRA Rule 2010, which is identical to Rule 2110. Unless otherwise noted, the relevant FINRA Rules cited in this decision are identical to the corresponding NASD Rules.

⁴ The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

⁵ Complainant's Exhibit ("CX")-1; Grinsberg Aff. ¶¶ 4- 6.

Although Larsen is not currently registered with a FINRA-regulated firm, 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 following the termination of his registration with a FINRA-regulated firm and (2) the Complaint charges him with misconduct that occurred while he was registered with a FINRA-regulated firm, and with failing to respond to FINRA's requests for information made during the two-year period following the termination of his association with a FINRA-regulated firm.⁶

III. Larsen's Default

On October 22, 2010, Enforcement sent the Notice of Complaint and Complaint to Larsen by first-class and certified mail (return receipt requested) at his residential address recorded in FINRA's Central Registration Depository ("CRD Address"). Neither mailing was returned to Enforcement. Larsen did not respond to the Complaint by November 19, 2010, the deadline specified in the Notice of Complaint.⁷

On November 29, 2010, Enforcement sent the Second Notice of Complaint and Complaint by first-class and certified mail to Larsen at his CRD Address. Enforcement received the certified mail receipt indicating that Larsen had signed for delivery on December 11, 2010. Larsen did not respond to the Complaint by December 16, 2010, the deadline specified in the Second Notice of Complaint.⁸

To date, Larsen has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.

⁶ 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").

⁷ Grinsberg Aff. ¶¶ 64-68; CX-24, 25.

⁸ Grinsberg Aff. ¶¶ 69-74; CX-24-27.

By failing to answer the Complaint, Larsen defaulted. Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's Motion for Entry of Default Decision.

IV. Violations

A. Conversion of Customer Funds

The Complaint's First Cause of Action alleges that Larsen misappropriated approximately \$355,000 from NP, a customer of Bank, in violation of Rules 2110 and 2010.

Between April 2008 and April 17, 2009, NP, a man in his eighties, was caring for his sick wife, who is now deceased. During that time, Larsen developed a close relationship with NP, who was often unable to visit Bank personally. Larsen visited NP at his home to assist in transferring money, reviewing bank statements, and balancing his checkbook. NP spent the winter months in Florida, leaving New York in October and returning in May. In April 2008, Larsen convinced NP to surrender an annuity valued at approximately \$94,000. The funds were deposited in NP's checking account at Bank. In December 2008, Larsen convinced NP to surrender another annuity, valued at approximately \$261,000, which was also deposited into NP's checking account at Bank. Larsen told NP that the proceeds from the surrendered annuities would be used for investments that would yield greater returns than his current annuities. Instead, Larsen used the proceeds from the surrendered annuities to effect a series of transactions that ultimately allowed Larsen to use NP's money for his own personal expenses.

1. Agape World, Inc.

In April 2008, Larsen took \$94,000 from NP's checking account at Bank and purchased a bank check in that amount made payable to Agape World, Inc. ("Agape"). Although the funds were initially invested in Agape in NP's name, Larsen executed an internal Agape form that changed the name on the account to 41 Ventures, Inc. ("41 Ventures"), an entity that Larsen had set up years earlier to promote events at local night clubs. Larsen was the sole owner of 41 Ventures and the sole signatory on the account in 41 Ventures' name. NP did not authorize Larsen to use any of NP's funds for Larsen's personal benefit.

2. 41 Ventures, Inc.

On or about December 9, 2008, Larsen took approximately \$261,000 from NP's Bank checking account. The money was from the annuity that NP had surrendered in December based on Larsen's recommendation. Larsen kept \$4,500 for his personal use, and gave \$1,250 to NP. Larsen then had a Bank check issued for the remaining \$255,000 made payable to 41 Ventures. This \$255,000 was deposited into a 41 Ventures account held at TD Bank over which Larsen had sole signatory and debit card rights. Between December 2008 and May 2009, Larsen used the debit card associated with the 41 Ventures account at TD Bank to make several purchases for personal expenses totaling \$72,000. NP did not authorize Larsen to use any of NP's funds for Larsen's personal benefit.

Upon NP's return from Florida to New York on or about May 4, 2009, he reviewed his bank statements and noted that some of his money was not in his bank account. NP made inquiries to Bank. Bank sued Larsen to recover the funds that Larsen had transferred out of NP's Bank account. Bank was able to recover approximately

\$183,000 from Larsen, which it used to repay NP. Bank paid NP an additional \$171,000 to make him whole.

FINRA Conduct Rule 2010 and its predecessor, Rule 2110, state that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” FINRA Sanction Guidelines (“Guidelines”) define conversion as “an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it.”⁹ It is clearly a violation of just and equitable principles of trade to convert funds from a customer, and the Guidelines specifically recognize conversion as a violation of Rule 2010.¹⁰

The facts alleged in the Complaint establish that, for purposes of this default decision, Larsen converted NP’s funds, and thereby violated Rules 2110 and 2010.

B. Failure to Respond to FINRA’s Requests for Documents

The Complaint’s Second Cause of Action alleges that Larsen violated Rules 8210 and 2010 by failing to provide documents as requested by FINRA.

On December 16, 2009, Enforcement took Larsen’s OTR. During the OTR, Enforcement requested that Larsen produce documents, including Larsen’s personal and corporate tax returns, Larsen’s personal and 41 Ventures’ bank and brokerage account statements, and copies of NP’s bank and brokerage account statements. In an e-mail sent to Larsen on December 17, 2009, Enforcement memorialized the document request, which was made pursuant to Rule 8210, and requested that Larsen produce the

⁹ *FINRA Sanction Guidelines* 36 (2010), <http://www.finra.org/sanctionguidelines>.

¹⁰ *Department of Enforcement v. Easley*, 2009 FINRA Discip. LEXIS 31 (N.A.C. Sept. 14, 2009).

documents by January 6, 2010.¹¹ Larsen acknowledged receipt of the e-mail, but failed to provide any of the documents.¹²

By letters dated May 12, 2010, and June 4, 2010, which were sent by certified and first-class mail to Larsen's CRD Address, Enforcement repeated its requests for the documents originally requested in its December 17, 2009, e-mail. The letters advised Larsen that his failure to produce the documents might expose him to sanctions, including a permanent bar from the securities industry. To date, Larsen has failed to provide any of the requested documents.¹³

The facts alleged in the Complaint establish that, for purposes of this default decision, Larsen failed to provide documents requested by FINRA, and thereby violated Rule 8210. A violation of Rule 8210 is also a violation of Rule 2010.¹⁴

V. Sanctions

A. Conversion of Funds

Larsen converted NP's funds, inasmuch as he used NP's funds for his own purposes without NP's authorization. For conversion, the Guidelines recommend a bar, regardless of the amount converted.¹⁵ Larsen will therefore be barred from associating with any FINRA-regulated firm in any capacity.

B. Failure to Provide Documents

A violation of Rule 8210 is serious because Rule 8210 is a key element in FINRA's oversight function and allows FINRA to carry out its regulatory functions

¹¹ Grinsberg Aff. ¶ 56; CX-19.

¹² Grinsberg Aff. ¶ 57; CX-20.

¹³ Grinsberg Aff. ¶¶ 58-61; CX-21.

¹⁴ *Department of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

¹⁵ Guidelines 36.

without subpoena power.¹⁶ When an individual fails to provide information, FINRA's ability to perform its regulatory functions is subverted.¹⁷ For these reasons, the Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.¹⁸ Larsen failed to respond in any manner to three requests for documents from FINRA. There is no evidence of any mitigating facts that would justify a sanction less than a bar.

Accordingly, the Hearing Officer finds that Larsen should be barred from associating with any FINRA-regulated firm in any capacity.

VI. Order

For converting funds, in violation of Rules 2110 and 2010, and failing to provide requested documents, in violation of Rules 8210 and 2010, Michael Douglas Larsen is barred from associating with any FINRA-regulated firm in any capacity. The bars shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.



Rochelle S. Hall
Hearing Officer

Copies to: Michael Douglas Larsen (*via overnight delivery and first-class mail*)
Howard Alan Grinsberg, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

¹⁶ Howard Brett Berger, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141 (Nov. 14, 2008); Joseph G. Chiulli, Exchange Act Rel. No. 42359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000).

¹⁷ Joseph P. Hannan, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

¹⁸ Guidelines 33.