

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BUKA UZOMA Nwigwe
(CRD No. 5289362),

Respondent.

Disciplinary Proceeding
No. 2009019332001

Hearing Officer—MAD

DEFAULT DECISION

November 12, 2010

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

Appearances

David L. Fenimore, Senior Counsel, Washington, D.C., for the Department of Enforcement.

No appearance by or on behalf of Buka Uzoma Nwigwe.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on July 16, 2010. The Complaint charges Respondent Buka Uzoma Nwigwe (“Nwigwe”), a former registered representative with Chase Investment Services Corporation (“CISC”), with misappropriating customer funds, in violation of Conduct Rule 2010.¹

¹ The applicable rules are available at www.finra.org/rules.

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Nwigwe defaulted by failing to answer or otherwise respond to the Complaint. On October 6, 2010, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions with the Office of Hearing Officers, together with the Declaration of David L. Fenimore ("Fenimore Decl.") and four exhibits. Nwigwe did not respond to the motion.

Based on the facts alleged in the Complaint, which are deemed admitted pursuant to Rules 9215(f) and 9269(a), as well as the additional evidence Enforcement filed in support of its motion for entry of default decision, the Hearing Officer barred Nwigwe from associating with any member firm in any capacity for the violation.

II. Background

Nwigwe first entered the securities industry in January 2007. From October 2007 through July 2009, Nwigwe was registered with FINRA as an Investment Company and Variable Contracts Products Representative.² On August 19, 2009, CISC filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on Nwigwe's behalf.³ The Form U5 disclosed that CISC's affiliate, J.P. Morgan Chase Bank, NA ("Chase Bank"), discharged Nwigwe for obtaining a credit card for a bank client and using it for his personal use.⁴ Upon review of the Form U5, Enforcement commenced an investigation of the facts and circumstances surrounding Nwigwe's discharge.⁵

III. 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 August 19,

² Fenimore Decl. ¶ 6; CX-2, at 4.

³ Fenimore Decl. ¶ 5; CX-1.

⁴ Fenimore Decl. ¶ 5; CX-1, at 2.

⁵ Fenimore Decl. ¶ 5.

2009, the date FINRA terminated Nwigwe's registration, and (2) the Complaint charges him with misconduct that occurred while he was registered with a FINRA member firm.⁶

IV. Nwigwe's Default

On July 16, 2010, Enforcement served Nwigwe with the Notice of Complaint and Complaint by certified mail (return receipt requested) and first-class mail sent to his residential address recorded in the Central Registration Depository ("CRD") and a Pennsylvania address provided by Respondent.⁷ The first-class mailings were not returned.⁸ The United States Postal Service ("USPS") on-line delivery confirmation service indicated that the USPS delivered the certified mailings on July 19, 2010.⁹

On August 17, 2010, Enforcement served Nwigwe with the Second Notice of Complaint and Complaint by certified mail (return receipt requested) and first-class mail sent to his CRD and Pennsylvania addresses.¹⁰ Again, the first-class mailings were not returned.¹¹ On August 19, 2010, the USPS attempted to deliver the certified mailing sent to Respondent's CRD Address.¹² The USPS left a notice at Respondent's CRD address regarding the certified mailing.¹³ The certified mailing sent to the Pennsylvania address was returned to Enforcement unclaimed, marked "Notified, 8/19."¹⁴ To date, Nwigwe has not responded to the Complaint.¹⁵

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 Fenimore Decl. ¶ 8; CX-3.

⁸ Fenimore Decl. ¶ 8.

⁹ *Id.*; CX-3.

¹⁰ Fenimore Decl. ¶ 10; CX-4.

¹¹ Fenimore Decl. ¶ 10.

¹² *Id.*; CX-4, at 2.

¹³ Fenimore Decl. ¶ 10; CX-4, at 2.

¹⁴ Fenimore Decl. ¶ 10; CX-4, at 3-4.

¹⁵ Fenimore Decl. ¶ 11.

The Hearing Officer finds that Nwigwe received constructive notice of this proceeding.¹⁶ Accordingly, the Hearing Officer finds that Nwigwe defaulted by failing to answer or otherwise respond to the Complaint.

V. Findings of Fact and Conclusions of Law

The Complaint alleges that Nwigwe misappropriated \$1,746 from a customer between April 7 and July 27, 2009. Nwigwe worked as a personal banker at Chase Bank.¹⁷ On April 7, 2009, Nwigwe called the credit card group at Chase Bank and requested a credit card for a customer, without authorization from the customer.¹⁸ He told the credit card group to deliver the credit card to his attention at the branch.¹⁹ When Nwigwe received the credit card, he incurred unauthorized charges, totaling approximately \$1,746, for his personal use.²⁰ In order to complete the purchases, Nwigwe forged the customer's signature on numerous occasions.²¹ On July 27, 2009, Nwigwe admitted to investigators for CISC that he used the unauthorized credit card for his personal use.²²

The Hearing Officer finds that the foregoing facts establish that Nwigwe intentionally misappropriated (or converted)²³ customer funds and thereby violated Conduct Rule 2010.

¹⁶ *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 n.1 (N.A.C. Dec. 9, 2003) (Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

¹⁷ Fenimore Decl. ¶ 6; CX-2, at 3.

¹⁸ Fenimore Decl. ¶ 14.

¹⁹ *Id.*

²⁰ *Id.* ¶ 15.

²¹ *Id.*

²² *Id.* ¶ 16.

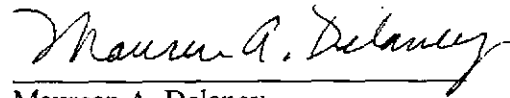
²³ An intentional taking of customer funds can be alleged as either a "misappropriation" or a "conversion." Conversion is the wrongful exercise of dominion over the personal property of another. *Department of Enforcement v. Paratore*, No. 2005002570601, 2008 FINRA Discip. LEXIS 1, at *10 (N.A.C. Mar. 7, 2008) (citations omitted).

VI. Sanctions

The FINRA Sanction Guidelines ("Sanction Guidelines") for conversion state that a bar is "standard," regardless of the amount converted.²⁴ The Hearing Officer finds that Nwigwe's intentional conversion of the bank customer's funds was egregious. The Hearing Officer finds no evidence of mitigating factors that would justify permitting Nwigwe to remain in the securities industry. Accordingly, the Hearing Officer will bar Nwigwe from associating with any member firm.

VII. Order

Buka Uzoma Nwigwe is barred from associating with any member firm in any capacity for misappropriating customer funds, in violation of Conduct Rule 2010, as alleged in the Complaint. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.²⁵



Maureen A. Delaney
Hearing Officer

Copies to: Buka Uzoma Nwigwe (*via overnight courier and first-class mail*)
David L. Fenimore, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

²⁴ FINRA Sanction Guidelines 38 (2007), www.finra.org/sanctionguidelines.

²⁵ The Hearing Officer did not order restitution because the customer was not required to pay for the unauthorized charges on the credit card.

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OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Buka Uzoma Nwigwe
(CRD No. 5289362),

Respondent.

**DISCIPLINARY PROCEEDING
No. 2009019332001**

HEARING OFFICER:

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. On or about April 7, 2009, Buka Uzoma Nwigwe, a registered representative with Chase Investment Services Corp. ("CISC" or the "Firm"), who worked as a personal banker for the Firm's affiliate, JPMorgan Chase Bank, NA ("Chase Bank"), requested a credit card for customer L.T. and had it sent to his attention at the branch. L.T. did not request the credit card. Nwigwe used the credit card for his personal use, incurring approximately \$1,746 in unauthorized charges. Nwigwe also forged L.T.'s signature on multiple occasions to complete purchases with the credit card. By virtue of this conduct, Nwigwe violated FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. Respondent Nwigwe entered the securities industry in January 2007. Between approximately October 2007 and August 19, 2009, Nwigwe was registered as an Investment Company Products/Variable Contracts Representative (Series 6) and Uniform Securities Agent –

State (Series 63) with CISC. Nwigwe's registrations with CISC were terminated on August 19, 2009 and he has not been associated with a FINRA-regulated firm since. FINRA retains jurisdiction over Nwigwe for purposes of this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws because the conduct that serves as the basis for this action commenced prior to his termination of registration from a FINRA-regulated firm and the Complaint has been filed within two years after the effective date of Nwigwe's termination of registration from a FINRA-regulated firm.

CAUSE OF ACTION

**MISAPPROPRIATION OF CUSTOMER FUNDS
(VIOLATION OF FINRA RULE 2010)**

3. The Department re-alleges and incorporates by reference paragraphs one and two, above.

4. On or about April 7, 2009, Nwigwe, a personal banker at Chase Bank, called the credit card group and requested that a credit card for customer L.T. be rush-delivered to his attention at the branch. Customer L.T. did not authorize Nwigwe to request the credit card.

5. The credit card was delivered to Nwigwe, as he requested, and, without the permission of L.T., Nwigwe used the credit card to incur approximately \$1,746 in unauthorized charges for his personal use. Nwigwe also forged L.T.'s signature on multiple occasions to complete purchases with the credit card.

6. On or about July 27, 2009, Nwigwe admitted verbally and in writing to internal investigators for the Firm that he used the unauthorized credit card issued at his request for L.T. for his personal use.

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 a bar from association with any FINRA registered firm in any capacity, be imposed, and
- 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:

July 16, 2010



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