

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DEREK MATTHEW CHRISTENSON
(CRD No. 2285093),

Respondent.

Disciplinary Proceeding
No. 20090194067-01

Hearing Officer – MC

DEFAULT DECISION

November 19, 2010

Respondent converted customer funds, in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010. Subsequently, Respondent failed to respond to requests for information, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210. For these violations, Respondent is barred from associating with any FINRA member firm in any capacity.

Appearances

Adeline Liu, Senior Counsel, and Tracy Timbers, Director, New York, NY, for the Department of Enforcement.

No appearance by or on behalf of Respondent Derek Matthew Christenson.

DECISION

I. Introduction

The First Cause of Action of the attached two-cause Complaint filed by the Department of Enforcement on July 27, 2010, charges Respondent Derek Matthew Christenson with converting customer funds. The conversions occurred in nine transactions, the first on December 3, 2008, and the last on August 10, 2009, in which Christenson transferred money from a customer's savings account to his own checking accounts. The conversions violated NASD

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Conduct Rule 2110 and FINRA Conduct Rule 2010.¹ When FINRA staff learned of Christenson's alleged conversions, it initiated an investigation, and, pursuant to Procedural Rule 8210, requested Christenson to provide a written statement and other information relevant to the allegations. Christenson did not do so. The Second Cause of Action of the Complaint charges Christenson with failing to respond to the staff's request for information, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.

When Christenson failed to file an Answer to the Complaint, on October 18, 2010, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion") supported by the Declaration of Adeline Liu and 18 exhibits.²

II. Findings of Fact and Conclusions of Law

A. FINRA's Jurisdiction

During the period of his alleged misconduct, Christenson was registered as a general securities representative with Chase Investment Services Corp. ("Chase").³ Chase terminated Christenson's employment on August 12, 2009.⁴ Christenson has not been associated with any FINRA member firm since his termination.⁵

¹ As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this Decision to FINRA include, where appropriate, NASD. Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008, including certain conduct rules and procedural rules. See Regulatory Notice 08-57 (Oct. 2008). Christenson's initial conversion as alleged in the First Cause of Action occurred prior to the adoption of the new rules, and the remaining eight conversions occurred after their adoption. Thus, the First Cause of Action alleges that Christenson's misconduct violated NASD Conduct Rule 2110 and FINRA Conduct Rule 2010, which is identical to former Rule 2110. The rules are available at www.finra.org/rules.

² The exhibits attached to Enforcement's Default Motion will be referred to as "CX-" with the appropriate exhibit number. References in this Default Decision to the Declaration will be referred to as "Decl." or "Liu Declaration" with citation to specific paragraphs.

³ Decl. ¶ 5; CX-1, p. 2.

⁴ Decl. ¶ 6; CX-2, p. 2.

⁵ Decl. ¶ 7; CX-1, p. 2.

Because his alleged misconduct occurred while Christenson was registered with FINRA through Chase, and because the Complaint was filed less than two years after Christenson was last registered with a FINRA member firm, FINRA retains jurisdiction over him for the purposes of this disciplinary proceeding.

B. Christenson Defaulted

Enforcement served Christenson on July 23, 2010, with the Complaint and Notice of Complaint by certified mail at his most recent address recorded in the Central Registration Depository (“CRD address”) and a second address.⁶ The Complaint and Notice of Complaint sent to Christenson’s CRD address were returned to Enforcement marked “not deliverable as addressed – unable to forward.”⁷ The return receipt for the certified mailing sent to the second address was returned to Enforcement signed “Erica Christenson.”⁸

On August 23, 2010, Enforcement served the Complaint and the Second Notice of Complaint on Christenson by certified mail at his CRD address and the second address.⁹ The return receipt for the certified mailing sent to the second address was, once again, returned to Enforcement signed “Erica Christenson.”¹⁰ Christenson, however, filed no Answer to the Complaint.¹¹

By serving the Complaint, Notice of Complaint, and Second Notice of Complaint upon Christenson at his CRD address by certified mail, Enforcement complied with the service

⁶ Decl. ¶¶ 15, 26.

⁷ Decl. ¶ 29; CX-15.

⁸ Decl. ¶ 30; CX-16.

⁹ Decl. ¶ 31; CX-17.

¹⁰ Decl. ¶ 33; CX-18.

¹¹ Decl. ¶ 34.

requirements of Procedural Rule 9134.¹² By failing to file an Answer, Christenson defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), and for the reasons given below, the Default Motion is granted.¹³

C. Christenson Converted Customer Funds

On August 11, 2009, a Chase manager discovered a transfer of funds from a customer's savings account to Christenson's personal checking account. Further investigation revealed that Christenson had transferred \$66,000 from the customer's savings account into several of his personal checking accounts in nine transactions between December 3, 2008, and August 10, 2009.¹⁴ When questioned, Christenson admitted taking money from the customer's savings account without the customer's knowledge. He characterized what he did as "borrowing" the money with the intention that he would repay it, but stated that instead he found that he "got ... in deeper and deeper."¹⁵

These facts, as alleged in the Complaint and supported by the Liu Declaration and Enforcement's exhibits, are sufficient to establish, for the purposes of this Default Decision, that Christenson converted customer funds, in violation NASD Conduct Rule 2110 and FINRA Conduct Rule 2010.

D. Christenson Failed to Respond to Requests for Information

To investigate this matter, Enforcement sent a request for information to Christenson pursuant to Procedural Rule 8210 by certified and first-class mail to his CRD address on

¹² *Dep't of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (NASD Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (citing *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

¹³ The factual determinations in this Default Decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the Liu Declaration and the exhibits filed by Enforcement.

¹⁴ CX-4, p. 1.

¹⁵ CX-3, pp. 1-2.

September 10, 2009.¹⁶ Both mailings were returned to Enforcement with a notation that identified a forwarding address.¹⁷ As a result, on October 21, 2009, Enforcement sent another request for information to Christenson by certified and first-class mail to his CRD address and the forwarding address.¹⁸ As before, both mailings to the CRD address were returned to Enforcement.¹⁹ The receipt for the certified mailing sent to the forwarding address, however, was returned to Enforcement signed “Erica Christenson.” The first-class mailing sent to the forwarding address was not returned to Enforcement.²⁰ On February 25, 2010, Enforcement sent a third request for information to Christenson by certified and first-class mail to his CRD address.²¹ Both mailings were returned.²² On March 17, 2010, Enforcement sent a copy of the third request for information to Christenson at the forwarding address by certified and first-class mail. The receipt for the certified mailing was returned to Enforcement with illegible initials written in the space provided to identify the recipient.²³ The first-class mailing was not returned to Enforcement.²⁴

Christenson failed to respond to the letters requesting information.²⁵ These facts, as alleged in the Complaint and supported by the Liu Declaration and the exhibits filed by

¹⁶ Decl. ¶ 14; CX-6.

¹⁷ Decl. ¶ 15; CX-7.

¹⁸ Decl. ¶ 17; CX-8.

¹⁹ Decl. ¶ 18; CX-9.

²⁰ Decl. ¶ 19; CX-10.

²¹ Decl. ¶ 21; CX-11.

²² Decl. ¶ 22; CX-12.

²³ Decl. ¶ CX-13.

²⁴ Decl. ¶ 23.

²⁵ Decl. ¶¶ 16, 20.

Enforcement, are sufficient to establish, for the purposes of this Default Decision, that Christenson violated FINRA Conduct Rule 2010 and Procedural Rule 8210.

III. Sanctions

For each of the violations, Enforcement recommends the imposition of a bar.

Conduct Rule 2010 requires a registered person, “in the conduct of his business,” to “observe high standards of commercial honor and just and equitable principles of trade.” Conversion is “the wrongful exercise of dominion over the personal property of another”²⁶ and violates NASD Conduct Rule 2110 and FINRA Conduct Rule 2010.²⁷ For conversion, the FINRA Sanction Guidelines recommend the imposition of a bar from associating with any FINRA member firm in any capacity regardless of the amount of funds converted.²⁸

For failure to respond in any manner to a request for information issued pursuant to Procedural Rule 8210, the Sanction Guidelines recommend a bar. If there are mitigating factors, the Guidelines recommend consideration of a suspension in any or all capacities for up to two years.²⁹ In this case, there are no mitigating factors. Christenson did not respond in any manner to the multiple requests for information issued by FINRA pursuant to Procedural Rule 8210.

It is axiomatic that “Conduct Rule 2110 and Procedural Rule 8210 are crucial components of [FINRA’s] examinations and investigations. ... Procedural Rule 8210 gives [FINRA] the right to require a member or person associated with a member to provide information, orally or in writing, in connection with an examination or investigation. The Rule

²⁶ *Dep’t of Enforcement v. Paratore*, No. 2005002570601, 2008 FINRA Discip. LEXIS 1, at *10 (N.A.C. Mar. 7, 2008).

²⁷ *Dep’t of Enforcement v. Foran*, No. CSA990017, 2000 NASD Discip. LEXIS 8, at *13-14 (N.A.C. Sept. 1, 2000).

²⁸ *FINRA Sanction Guidelines*, at 38 (2007).

²⁹ *Guidelines*, at 35.

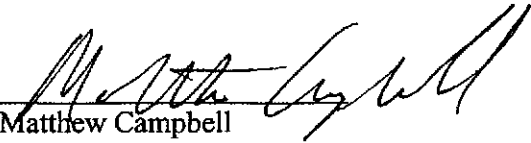
further states that no member or person shall fail to provide such information.”³⁰ Concerning sanctions for violating Rule 8210, “[t]he Guidelines treat a failure to respond ... as egregious.”³¹

For these reasons, Enforcement’s recommendation of a bar from the securities industry is the appropriate sanction to impose for each of Christenson’s violations.³²

IV. Order

Respondent Derek Matthew Christenson is barred from associating with any FINRA member firm in any capacity for converting customer funds, in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010, and for failing to respond in any manner to requests for information issued by Enforcement pursuant to Procedural Rule 8210, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.

If this Decision becomes FINRA’s final disciplinary action, the bars shall be effective immediately.


Matthew Campbell
Hearing Officer

Copies to:

Derek Matthew Christenson (via FedEx and first-class mail)
Adeline Liu, Esq. (via electronic and first-class mail)
Tracy Timbers, Esq. (via electronic mail)
David R. Sonnenberg, Esq. (via electronic mail)

³⁰ *Dep’t of Enforcement v. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at *35-36 (N.A.C. Dec. 18, 2006).

³¹ *Id.* at *41.

³² No restitution order is necessary because the customer was made whole by Chase. CX-4.

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DEREK MATTHEW CHRISTENSON,
(CRD No. 2285093),

Respondent.

COMPLAINT

**DISCIPLINARY PROCEEDING
No. 20090194067**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

During the period from December 3, 2008 through August 10, 2009 ("Relevant Period"), former Chase Investment Services Corp. registered representative Derek Matthew Christenson ("Christenson" or "Respondent") misappropriated customer funds by effecting unauthorized electronic transfers of funds totaling approximately \$66,000 from a customer savings account to Christenson's personal checking accounts. In addition, Christenson failed to comply with multiple requests from the FINRA Department of Enforcement for information and documents which were issued in connection with Enforcement's investigation of this matter.

RESPONDENT AND JURISDICTION

1. Christenson entered the securities industry in May 2000 with Dean Witter Reynolds Inc., where he was registered as a general securities representative until March 2001. From March 2001 until July 2005, he was registered as a general securities representative with Bank One Securities Corporation. In July 2005, Christenson joined the Cincinnati, Ohio branch of Chase Investment Services Corp. ("Chase" or the "Firm") as a registered representative in its Cincinnati, Ohio location. Christenson's employment with Chase was terminated on August 12, 2009. He is currently not employed in the securities industry.
2. Although Respondent has not been associated with a FINRA member firm since August 12, 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

Conversion of Customer Funds (NASD Rule 2110 and FINRA Rule 2010)

3. Enforcement re-alleges and incorporates by reference paragraphs 1 through 2 above.
4. During the Relevant Period, Christenson was registered as a general securities representative with the Firm. Christenson worked in a retail banking branch of

the Firm's affiliate bank, J.P. Morgan Chase Bank (the "Bank") located in Cincinnati, Ohio.

5. At the Firm, Christenson handled the securities account of Customer SD.

Customer SD also maintained a savings account at the Bank.

6. Christenson maintained at least two personal checking accounts at the Bank.

7. During the Relevant Period, on at least nine occasions, Christenson effected electronic transfers of funds from the Bank savings account belonging to Customer SD to two personal checking accounts belonging to Christenson. These fund transfers were effected without the knowledge or consent of Customer SD.

The electronic fund transfers described above totaled \$66,000.

8. The fund transfers from Customer SD's account to one of Christenson's Bank accounts, referred to above, occurred on the following dates:

Transfer date	Amt. of transfer	
12/3/08	\$7,000	
12/30/08	\$7,000	
1/30/09	\$6,000	
3/25/09	\$9,000	
4/20/09	\$9,000	
5/07/09	\$5,000	
6/11/09	\$5,000	
7/20/09	\$9,000	
8/10/09	\$9,000	

9. Christenson effected these fund transfers by surreptitiously utilizing Bank computer terminals where Bank employees were logged in, without their knowledge or consent.
10. NASD Rule 2110 and FINRA Rule 2010 require that members and associated persons observe "high standards of commercial honor and just and equitable principles of trade."
11. Christenson engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in that he converted funds from one of his customers. As a result of his conduct, Christenson violated NASD Rule 2110 with respect to the December 3, 2008 conversion of funds, and FINRA Rule 2010 with respect to the remaining incidents of conversion.

SECOND CAUSE OF ACTION

Failure to Respond to Requests for Information (FINRA Rules 8210 and 2010)

Enforcement re-alleges and incorporates by reference paragraphs 1-11 above.

12. In connection with FINRA's investigation of this matter, by letter dated September 10, 2009, FINRA requested a written statement, pursuant to FINRA Rule 8210, from Christenson regarding the allegations of misappropriation against him, as well as for copies of correspondence or memoranda referring to the matter (the "September 2009 Letter"). The September 2009 Letter was sent via certified mail and first class mail to the address listed in CRD as Christenson's last known home address, namely: [REDACTED] (hereafter referred to as the "CRD Address"). Both the copy sent by certified mail, and the

copy sent by first-class mail, were returned to FINRA by the postal authorities, with the envelope stamped "Forward Time Exp Rtn to Send – Christenson, [REDACTED]

[REDACTED] (hereafter referred to as the "Forwarding Address"). Christenson failed to respond to the September 2009 Letter.

13. On October 21, 2009, FINRA sent a second request for information, pursuant to FINRA Rule 8210, to Christenson, via certified mail and first class mail, to both the CRD Address, and the Forwarding Address (the "October 2009 Letter"). Both copies of the October 2009 Letter sent to the CRD Address were returned to FINRA. A return receipt was received by FINRA, however, for the copy of the October 2009 Letter sent to the Forwarding Address by certified mail. The return receipt bears the signature of Erica Christenson. The first-class copy sent to the Forwarding Address was not returned to FINRA.
14. On February 25, 2010, a third request for information, pursuant to FINRA Rule 8210, was sent to Christenson via certified and first class mail to the CRD Address (the "February 2010 Letter"). In the February 2010 Letter, FINRA staff requested that Christenson produce copies of his bank statements and deposit slips for his Bank accounts, as well as copies of his monthly account statements for securities accounts at the Firm. Both copies of the February 2010 Letter were returned to FINRA by the postal authorities, stamped with the Forwarding Address.
15. On March 17, 2010, FINRA resent a copy of the February 2010 Letter to Christenson at the Forwarding Address. A return receipt was received by FINRA

on or about March 23, 2010, signed with illegible initials. The copy sent by first-class mail was not returned.

16. To date, Christenson has failed to cooperate and has not complied with any of FINRA's requests for information made pursuant to FINRA Rule 8210.
17. FINRA Rule 8210 (a) provides that Enforcement may "require a member, person associated with a member, or a person subject to the Association's jurisdiction to provide information orally, in writing or electronically..."
18. FINRA Rule 8210 (c) provides that "No member or person shall fail to provide information or testimony or to permit an inspection and copying of books and records, or accounts pursuant to this Rule."
19. As a result of the conduct set forth in paragraphs 1 through 16 above, Christenson violated FINRA Rules 8210 and 2010.

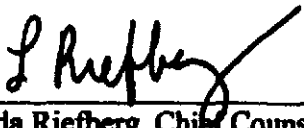
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.
- 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: 7/23/10



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