

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

THADDEUS NEWEL  
(CRD No. 2998644),

Respondent.

Disciplinary Proceeding  
No. 20100217286

Hearing Officer—Andrew H. Perkins

**DEFAULT DECISION**

March 18, 2011

**Respondent is barred from associating with any FINRA registered firm in any capacity for converting funds from a customer, in violation of Conduct Rules 2110 and 2010; and for failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010.**

**Appearances**

Dale A. Glanzman, Esq., and Mark A. Koerner, Esq., for the Department of Enforcement.

No appearance by or on behalf of Thaddeus Newel.

**DECISION**

**I. Introduction**

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on November 17, 2010. The Complaint charges Thaddeus Newel (“Respondent”) with: (1) converting \$135,000 from customer Y.S., in violation of FINRA

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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.<sup>1</sup>

Respondent did not answer or otherwise respond to the Complaint. Accordingly, on January 28, 2011, Enforcement filed a Motion for Entry of Default Decision and Supporting Memorandum (“Default Motion”), together with the declaration of Dale A. Glanzman, Esq. (“Glanzman Decl.”) and seven exhibits.<sup>2</sup>

## **II. Procedural History**

On November 17, 2010, Enforcement served the Complaint and the First Notice of Complaint on Respondent by mailing them to his residential address recorded in the Central Registration Depository (“CRD”).<sup>3</sup> Enforcement mailed the Complaint and First Notice of Complaint by first-class and certified mail, return receipt requested. The mailings were returned to Enforcement with notations from the United States Postal Service that they were “not deliverable as addressed,” and the Postal Service was unable to forward them.<sup>4</sup> Respondent did not answer or otherwise respond to the Complaint.

On December 20, 2010, Enforcement served a Second Notice of Complaint on Respondent.<sup>5</sup> Enforcement served the Second Notice of Complaint by mailing it to Respondent’s

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<sup>1</sup> The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at [www.finra.org/Rules](http://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. The First Cause of Complaint refers only to FINRA Rule 2010 although some of the misconduct occurred before the effective date of that rule. Nevertheless, the Hearing Officer finds that the Complaint provided adequate notice of the charge because the two rules are identical. The findings in this Default Decision refer to the rules that were in effect at the time of the violations.

<sup>2</sup> Enforcement’s exhibits are labeled C-1 through C-7.

<sup>3</sup> Glanzman Decl. ¶ 6; C-3.

<sup>4</sup> *Id.*

<sup>5</sup> Glanzman Decl. ¶ 7.

CRD address by first-class and certified mail, return receipt requested.<sup>6</sup> The United States Postal Service returned the certified mailing to Enforcement with the notation, “attempted-not known.”<sup>7</sup> The Postal Service did not return the first-class mailing.<sup>8</sup> Respondent did not respond to the Second Notice of Complaint.

The Hearing Officer found that Enforcement properly served the Complaint, Notice of Complaint, and Second Notice of Complaint on Respondent in accordance with Rule 9134 and that Respondent defaulted by failing to file an answer or other response to the Complaint with the Office of Hearing Officers. Accordingly, the Hearing Officer deemed the allegations in the attached Complaint admitted pursuant to Rules 9215(f) and 9269(a) and granted Enforcement’s Default Motion.

### **III. Findings of Fact and Conclusions of Law**

#### **A. Background**

Respondent entered the securities industry in 1990. On July 16, 1997, he joined Equitas America, Inc. (“Equitas”), a FINRA registered firm.<sup>9</sup> From August 1997 until January 26, 2010, Respondent was registered with FINRA as a General Securities Representative.<sup>10</sup> Respondent’s FINRA registration terminated after Equitas discharged him for failure to respond to requests for information regarding a customer complaint.<sup>11</sup> Respondent has not been registered with FINRA or associated with a FINRA registered firm since January 2010.<sup>12</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> C-5.

<sup>8</sup> Glanzman Decl. ¶ 7.

<sup>9</sup> C-1, at 3.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*; Glanzman Decl. ¶ 5.

## **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 Respondent's registration, and (2) the Complaint charges him with misconduct that occurred while he was associated with Equitas, and with failing to respond to Enforcement's requests for information made during the two-year period following the termination of his FINRA registration.<sup>13</sup>

## **C. Conversion**

The First Cause of Action alleges that Respondent converted \$135,000 from customer Y.S. On or about June 17, 2008, and shortly after Y.S.'s husband passed away, Respondent told Y.S. that she had too much cash in savings and that she should invest some of her savings. The Complaint further alleges that Y.S. gave Respondent three checks totaling \$135,000 drawn on her checking account to be invested on her behalf. Each check was made payable to Newel Adams Inc., an entity Respondent owned. Respondent endorsed each check and used the proceeds for his own benefit.<sup>14</sup>

Respondent concealed his misconduct from Y.S. by providing her with a "Statement of Positions" on September 23, 2009, which reflected certain investments he claimed he made in her account, including an annuity valued at \$137,714.<sup>15</sup> The Statement of Positions was a fabrication; Respondent did not purchase any investments for Y.S.<sup>16</sup>

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<sup>13</sup> See Article V, Sec. 4(a), FINRA By-Laws, available at [www.finra.org/Rules](http://www.finra.org/Rules) (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

<sup>14</sup> Compl. ¶ 8; Glanzman Decl. ¶ 10.

<sup>15</sup> Glanzman Decl. ¶ 10.

<sup>16</sup> *Id.*

After Y.S. complained to Equitas, it commenced an investigation and requested information from Respondent. Instead of providing the requested information, Respondent sent an e-mail to the firm's Chief Compliance Officer asking where he should turn himself in.<sup>17</sup> Enforcement learned in the course of its investigation that Respondent later pleaded guilty to a criminal charge that he had used Y.S.'s funds for his personal benefit.<sup>18</sup>

The Hearing Officer finds that the foregoing facts establish that Respondent converted \$135,000 from Y.S. and thereby violated Conduct Rules 2110 and 2010, which rules require members and associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.<sup>19</sup>

**D. Failure to Provide Information**

The Second Cause of Action alleges that Respondent failed to respond to requests for information and documents, which request FINRA staff sent pursuant to FINRA Rule 8210 in connection with the staff's investigation into what Respondent did with Y.S.'s funds. The staff sent the first request on May 19, 2010, to Respondent's CRD address by first-class and certified mail.<sup>20</sup> The Postal Service returned the mailings to the staff with notations that they were not deliverable as addressed.<sup>21</sup> On June 4, 2010, the staff sent Respondent a second request for

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<sup>17</sup> Glanzman Decl. ¶ 10.

<sup>18</sup> *Id.*

<sup>19</sup> *Department of Enforcement v. Saad*, 2009 FINRA Discip. LEXIS 29, at \*11 (N.A.C. Oct. 6, 2009) (finding that Rules 2110 is sufficiently broad to encompass any unethical business-related misconduct, regardless of whether it involves a security).

<sup>20</sup> Glanzman Decl. ¶ 11(a).

<sup>21</sup> *Id.*

information pursuant to Rule 8210 by first-class and certified mail.<sup>22</sup> The Postal Service returned both mailings.<sup>23</sup> Respondent did not respond to either request for information and documents.<sup>24</sup>

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

#### **IV. Sanctions**

##### **A. Conversion**

The FINRA Sanction Guidelines (“Sanction Guidelines”) for conversion state that a bar is “standard,” regardless of the amount converted.<sup>25</sup> The Hearing Officer finds that a bar is the appropriate sanction in this case. Respondent’s conduct was egregious.

##### **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.<sup>26</sup> In addition, the Sanction Guidelines instruct adjudicators to consider the importance of the information requested as viewed from FINRA’s perspective.<sup>27</sup>

The Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is the 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 to FINRA. The staff was investigating serious misconduct—the conversion of \$135,000 from an elderly widow. A bar remedies the risk that

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<sup>22</sup> *Id.* ¶ 11(b).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* ¶ 11(c).

<sup>25</sup> FINRA Sanction Guidelines 36 (2010), [www.finra.org/sanctionguidelines](http://www.finra.org/sanctionguidelines).

<sup>26</sup> Sanction Guidelines 33.

<sup>27</sup> *Id.*

Enforcement will not be able to obtain information necessary for the protection of investors and will serve to deter others from failing to provide Enforcement with information requested under Rule 8210 at the time such requests are made. Accordingly, the Hearing Officer will bar Respondent from associating with any FINRA member firm in all capacities.

**V. Order**

Respondent is barred from associating with any member firm in any capacity for converting funds, in violation of Conduct Rules 2110 and 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.



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Andrew H. Perkins  
Hearing Officer

Copies to:

Thaddeus Newel (*via overnight courier and first-class mail*)  
Dale A. Glanzman, Esq. (*via electronic and first-class mail*)  
Mark A. Koerner, Esq. (*via electronic mail*)  
Mark P. Dauer, Esq. (*via electronic mail*)  
David R. Sonnenberg, Esq. (*via electronic mail*)

**FINANCIAL INDUSTRY REGULATORY AUTHORITY**

**OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Thaddeus Newel  
(CRD No. 2060528),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2010021728601

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. In June 2008, Respondent Thaddeus Newel ("Newel") told one of his customers, a recently-widowed senior investor, that she had too much cash and needed to invest some of her savings. The customer trusted Newel and wrote three checks, totaling \$135,000, to "Newel Adams Inc." over the next 11 months. Newel endorsed the checks and used the proceeds for his own personal use. In addition, on May 19, 2010 and June 4, 2010, the staff sent two requests for information, pursuant to Rule 8210, to Newel's CRD address of record. Newel failed to respond to the staff's requests for information.

## **RESPONDENT AND JURISDICTION**

2. Between approximately August 1997 and January 2010, Newel was registered as a General Securities Representative with Equitas America ("Equitas"), a FINRA registered firm. Newel is not currently registered with a FINRA firm. Although Newel has not been associated with a FINRA firm since January 2010, 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 firm and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA firm, and with failing to respond to FINRA requests for information during the two-year period after the date upon which he ceased to be associated with a FINRA firm.

## **FIRST CAUSE OF ACTION FINRA Rule 2010 Conversion**

3. The Department realleges and incorporates by reference Paragraph 2 above.

4. During all relevant times, Y.S. was a public customer and senior investor who maintained a securities account at Equitas that was serviced by Newel.

5. On or about June 17, 2008, shortly after Y.S.'s husband passed away, Newel told Y.S. that she had too much cash and needed to invest some of her savings.

6. Newel instructed Y.S, who did not know anything about investing and trusted Newel, to write a total of three checks, all payable to Newel's d/b/a, "Newel Adams Inc.," which Y.S. did against her checking account held at a credit union, for the apparent purposes of making investments. The first check, dated June 17, 2008 and

numbered 5088, was written in the amount of \$70,000. The back of the first check was endorsed on June 26, 2008 by Newel. The second check, dated February 24, 2009 and numbered 5225, was written in the amount of \$20,000. The back of the second check was endorsed on February 24, 2009 by Newel. The third check, dated May 13, 2009 and numbered 5272, was written in the amount of \$45,000. The back of the third check was endorsed on May 14, 2009 by Newel.

7. Newel represented to Y.S. that he had invested the \$135,000 in funds that Y.S. had given him in annuities.

8. However, Newel had not invested the \$135,000 that Y.S. had given him, as she had thought. Instead, Newel used the \$135,000 for his own benefit or for the benefit of someone other than Y.S., without the knowledge or consent of Y.S.

9. The acts, practices, and conduct described above constitute a violation of FINRA Rule 2010 by Newel.

**SECOND CAUSE OF ACTION  
FINRA Rules 8210 and 2010  
Failure to Respond to Requests for Information**

10. The Department realleges and incorporates by reference Paragraph 3-8 above.

11. On or about May 19, 2010, FINRA staff sent to Newel a request that he provide certain documents and information, pursuant to and in accordance with the provisions of FINRA Rule 8210. Specifically, the staff asked Newel, among other things, to explain what he did the with \$135,000 in checks given to him by Y.S. That request for information was sent by first class mail and by certified mail, return receipt requested, to [REDACTED] which was

Newel's last known address and Newel's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mail was returned, stamped "Return to Sender, Not Deliverable as Addressed, Unable to Forward." The certified mail was returned, stamped "Return to Sender, Unclaimed, Unable to Forward."

12. The staff received no response from the May 19, 2010 mailing. Accordingly, on or about June 4, 2010, FINRA staff sent to Newel a second request that he provide the same documents and information, pursuant to and in accordance with the provisions of FINRA Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Newel's CRD address. The first class mail was returned, stamped "Return to Sender, Not Deliverable as Addressed, Unable to Forward." The certified mail was returned, stamped "Return to Sender, Unclaimed, Unable to Forward."

13. To date, Newel has failed to respond to the request for documents and information described in Paragraphs 11 and 12 above to date, and the dates for responding to the request have passed.

14. The acts, practices and conduct described above constitute a violation of FINRA Rules 2010 and 8210 by Newel.

## **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; and
- B. order that Respondent Newel bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and

## **FINRA DEPARTMENT OF ENFORCEMENT**

Date: November 17, 2010

  
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and Regional Chief Counsel  
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