

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

LAWRENCE J. HAYE
(CRD No. 4803348),

Respondent.

Disciplinary Proceeding
No. 2010022438801

Hearing Officer – SNB

DEFAULT DECISION

June 4, 2012

Respondent is barred from associating with any FINRA member firm in any capacity for misusing and converting customer funds, in violation of NASD Rules 2330(a) and 2110, and FINRA Rule 2010, and for failing to respond to requests for information and failing to appear for testimony, in violation of FINRA Rules 8210 and 2010. Respondent is also required to pay restitution of \$78,000.

Appearances

David F. Newman, Esq., for the Department of Enforcement.

No appearance by or on behalf of Lawrence J. Haye.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on November 1, 2011. The Complaint charges Respondent Lawrence J. Haye (“Respondent”) with two causes of action. The first cause charges that Respondent misused \$282,750 in customer funds, in violation of NASD Rules 2330(a) and 2110,

and FINRA Rule 2010.¹ The second cause charges that Respondent failed to respond to requests for information and failed to appear and provide on-the-record testimony, in violation of FINRA Rules 8210 and 2010.

Respondent defaulted by failing to answer or otherwise respond to the Complaint. Accordingly, on February 2, 2012, Enforcement filed a Motion for Entry of Default Decision (“Default Motion”), together with the declaration of David F. Newman, Esq. (“Decl.”) and three exhibits.² For the reasons set forth below, Enforcement’s Default Motion is granted.

II. Procedural History

On November 1, 2011, Enforcement served the Complaint and First Notice of Complaint on Respondent by sending them to his most recent residential address recorded in the Central Registration Depository (“CRD”) by first-class and first-class certified mail.³ The certified mail return receipt was returned marked unclaimed, and the first-class mailing was not returned.⁴ Respondent did not answer or otherwise respond to the Complaint.⁵

On November 30, 2011, Enforcement served the Complaint and Second Notice of Complaint on Respondent by mailing them to his CRD address by first-class and first-class certified mail.⁶ The certified mail return receipt was returned marked unclaimed, and the first-

¹ 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 this rule consolidation, NASD Rule 2110 was renumbered to FINRA Rule 2010. The findings in this Default Decision refer to the rules that were in effect at the time of the violations.

² Enforcement’s exhibits are labeled CX-1 through CX-3.

³ Decl. ¶ 25; CX-2.

⁴ Decl. ¶ 27.

⁵ Decl. ¶ 28.

⁶ Decl. ¶ 29; CX-3.

class mailing was not returned.⁷ Respondent did not answer or otherwise respond to the Complaint.⁸

To date, Respondent has not answered or otherwise responded to the Complaint. Based on Respondent'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. Jurisdiction

Respondent was first registered in the securities industry in 2004. From May 2004 through March 2010, Respondent was registered as a General Securities Representative with Quest Capital Strategies, Inc. ("the Firm").⁹

Although Respondent is not currently associated with a member firm, FINRA has jurisdiction to bring this proceeding because (1) the Complaint charges Respondent with misconduct while he was a registered person and with failing to comply with requests for information made prior to the end of the two-year period following termination of his last registration, and (2) the Complaint was filed within that two-year period.

B. Conversion of Customer Funds

The first cause of action alleges that between January 2007 and March 2009, Respondent misused customer funds. Respondent obtained customer funds by soliciting money from at least four customers to invest in a fund that he owned (the "HCG Fund"). He then deposited at least \$282,750 that he received from these customers into a bank account that he owned and controlled. The funds were commingled with his personal funds. He converted \$78,000 of the

⁷ Decl. ¶ 31.

⁸ *Id.* at ¶ 33.

⁹ *Id.* at ¶ 6; CX-1.

funds for his own use to pay for personal credit card bills, personal trading, and other personal debts, without the customers' authorization or consent. Specifically, he converted \$40,000 from customer TD, \$10,000 from customer DD, \$5,000 from customer TM, and \$23,000 from customer TJ.¹⁰

The foregoing facts are sufficient to establish that Respondent converted customer funds, in violation of FINRA Rules 2330(a) and 2010.

C. Failure to Respond and Failure to Appear

The second cause alleges that Respondent failed to respond to requests for information and failed to appear for on-the-record testimony requested by FINRA Staff ("Staff") to answer questions in connection with FINRA's investigation of his misuse of customer funds.

Specifically, in a letter dated September 24, 2010, Staff sent Respondent a request for information pursuant to Rule 8210. Staff sent the letter by first-class and certified mail to Respondent at his CRD address, and requested a response by October 8, 2010. The certified letter was returned as undeliverable. Respondent received the first-class mailing. Although the letter requested a substantial amount of information regarding Respondent's handling of customer funds, Respondent only sent his tax returns and the tax returns for the HCG Fund.¹¹

Accordingly, Staff sent a second request, dated October 18, 2010, by first-class and certified mail to Respondent's CRD address, requesting that Respondent provide the balance of the information previously requested. The certified letter was returned as undeliverable. The first-class mailing was not returned. Respondent did not respond to the request.¹²

¹⁰ Enforcement is not aware of the disposition of the remaining funds (\$204,750), so it does not seek restitution of this amount. Supplemental Decl. dated March 23, 2012, ¶¶ 5-9.

¹¹ Complaint ¶ 11.

¹² Complaint ¶ 12.

On December 22, 2010, Staff sent Respondent another Rule 8210 letter, this time requesting his appearance for testimony on January 11, 2011. Staff sent the letter by first-class and certified mail to Respondent's CRD address. The certified letter was returned as undeliverable. The first-class mailing was not returned. Respondent did not respond to the request.¹³

The facts alleged in the second cause establish that Respondent violated FINRA Rules 8210 and 2010 by failing to appear for testimony.¹⁴ In addition, the facts establish that Respondent did not fully respond to the Staff's requests for information.

IV. Sanctions

The FINRA Sanction Guidelines ("Guidelines") state that a bar is the standard sanction for conversion, failing to appear for testimony or failing to respond to a Rule 8210 request for information.¹⁵ The Hearing Officer finds that a bar is appropriate for both violations. There are no mitigating factors that would warrant consideration of lesser sanctions.¹⁶ Accordingly, the Hearing Officer will bar Respondent from associating with any FINRA member firm in any capacity for each violation.

In addition, the Hearing Officer orders Respondent to pay restitution as follows: \$40,000 to customer TD, \$10,000 to customer DD, \$5,000 to customer TM and \$23,000 to customer TJ.

¹³ Complaint ¶ 13.

¹⁴ Decl. ¶¶ 27-28.

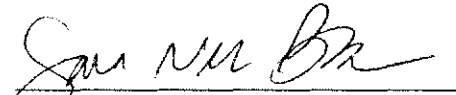
¹⁵ *Guidelines* at 33, 36 (2011), www.finra.org/sanctionguidelines.

¹⁶ While Respondent did provide requested tax returns, he failed to produce a considerable amount of information and documents that Staff requested. Therefore, Respondent's production of tax returns was not mitigating.

V. Order

Respondent is barred from associating with any member firm in any capacity for converting customer funds, in violation of NASD Rules 2330(a) and 2110 and FINRA Rules 2150(a) and 2010; and for failing to appear for testimony and respond to requests for information, in violation of FINRA Rules 8210 and Rule 2010. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.

Respondent is also required to pay restitution of \$78,000 (\$40,000 to customer TD, \$10,000 to customer DD, \$5,000 to customer TM and \$23,000 to customer TJ).


Sara Nelson Bloom
Hearing Officer

Copies to: Lawrence J. Haye (*via overnight and first-class mail*)
 David F. Newman, Esq. (*via electronic and first-class 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.

Lawrence J. Haye
(CRD No. 4803348),

Respondent.

DISCIPLINARY PROCEEDING
No. 20100224388

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From January 2007 to March 2009 (the relevant period), Lawrence J. Haye converted and otherwise misused customers' funds. This conduct violated NASD Conduct Rules 2330(a) and 2110 and FINRA Rule 2010.
2. In addition, Haye failed to respond to FINRA staff's requests for him to appear at an on-the-record interview (OTR) and to provide certain information. This conduct violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. On May 21, 2004, Haye first became registered with FINRA as a General Securities Representative. From May 18, 2004 to March 18, 2010, Haye was registered in that same capacity through member firm Quest Capital Strategies, Inc. Haye is not currently associated with a member firm.
4. Although Haye has not been associated with a FINRA member firm since March 18, 2010, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA 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 and with failing to appear for on-the-record testimony and respond to FINRA requests for information.

FIRST CAUSE OF ACTION

Conversion and Misuse of Customer Funds (NASD Conduct Rules 2330(a) and 2110 and FINRA Rule 2010)

5. The Department realleges and incorporates by reference paragraphs 1 through 4 above.
6. Haye owned a company called Haye Capital Group (HCG). Haye formed an investment partnership for which HCG served as the general partner. The marketing materials described the partnership as "a private investment fund that use an aggressive growth strategy, based on a proprietary trading algorithm and a

compounding growth model to maximize trade potential in the equity, currencies and future indexes.”

7. During the relevant period, Haye solicited money from at least four customers to invest in the HCG investment fund. Haye deposited at least \$282,750 he received from those customers in a bank account that he owned and controlled. Those funds were commingled with his personal funds. Haye commingled customer funds with his own money without their authorization or consent.
8. After the customers’ funds were deposited in the HCG account, Haye converted at least \$78,000 to his own use, making payments on his own credit card accounts, personal trading account and paying other personal debts.
9. By virtue of such conduct, Haye violated NASD Conduct Rule 2330(a), Conduct Rule 2110 (for conduct before December 15, 2008), and FINRA Rule 2010 (for conduct after December 14, 2008).

SECOND CAUSE OF ACTION

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

10. The Department realleges and incorporates by reference paragraphs 1 through 9 above.
11. On September 24, 2010 and pursuant to FINRA Rule 8210, FINRA staff in the Philadelphia District Office sent a letter to Haye requesting information and documentation relating to his activities with HCG. The September 24 letter requested a response by October 8, 2010 and warned Haye that he would be subject to disciplinary action if he failed to respond. The letter was sent by

certified and first class mail to the most current residential address listed for Haye in the Central Registration Depository (CRD address). The certified envelope was returned and was marked "Return to Sender – Not Deliverable as Addressed – Unable to Forward." The first class letter was received by Haye. Although the September 24, 2010 letter requested a substantial amount of information and documentation from Haye, he only provided his and HCG's tax returns.

12. On October 18, 2010 and pursuant to FINRA Rule 8210, FINRA staff in the Philadelphia District Office sent a letter to Haye requesting that he provide the same information and documentation requested in the September 24 letter (with the exception of the tax returns). The October 18 letter requested a response by November 1, 2010 and warned Haye that he would be subject to disciplinary action if he failed to respond. The letter was sent by certified and first class mail to Haye's CRD address. The certified envelope was returned and was marked "Return to Sender – Not Deliverable as Addressed – Unable to Forward." The first class letter was not returned. Haye did not respond to the letter.
13. On December 22, 2010 and pursuant to FINRA Rule 8210, FINRA staff in the Philadelphia District Office sent a letter to Haye requesting his appearance for an OTR in the Philadelphia District Office scheduled for January 11, 2011. The letter also required Haye to bring with him and produce at the OTR the documentation FINRA staff previously requested from him. The December 22 letter warned Haye that he would be subject to disciplinary action if he failed to appear. The letter was sent by certified and first class mail to Haye's CRD address. The certified envelope was returned and was marked "Return to Sender – Not Deliverable as Addressed - Unable to Forward." The first class letter was not

returned. Haye failed to appear for the OTR.

14. FINRA staff is not aware of any more current residential or business address for Haye.
15. By virtue of such conduct, Haye violated FINRA Rules 8210 and 2010.

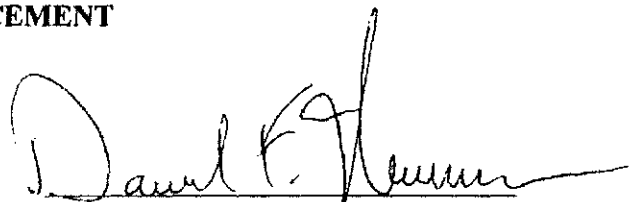
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including 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 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: November 1, 2011



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