

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

CHARLES E. SEVERT
(CRD No. 2866408),

Respondent.

Disciplinary Proceeding
No. 2010023062101

Hearing Officer – LBB

DEFAULT DECISION

March 24, 2011

For misuse of funds (conversion) in violation of FINRA Rule 2010, Respondent is barred from associating with any FINRA member firm in any capacity. Respondent is also barred for failure to respond to requests for information, in violation of FINRA Rules 8210 and 2010.

Appearances

For the Department of Enforcement, Richard A. March, Senior Regional Counsel, Chicago, Illinois.

No appearance by or for Respondent.

DECISION

The Department of Enforcement filed the Complaint in this disciplinary proceeding on December 3, 2010, charging Respondent Charles Edward Severt, Jr. ("Respondent") with misuse of the funds of the church of which he was treasurer, in violation of FINRA Conduct Rule 2010, and failure to respond to requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010. Respondent has not answered or otherwise responded to the Complaint. By failing to respond, Respondent defaulted.

Enforcement filed its Motion for Entry of Default Decision on February 28, 2011.

Respondent has not filed a response to Enforcement's motion. Accordingly, pursuant to FINRA

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Procedural Rules 9215(f) and 9269, Enforcement's motion is granted, and the allegations of the Complaint are deemed admitted.¹

I. Respondent's Default

On December 3, 2010, Enforcement served the Complaint and Notice of Complaint on Respondent at his residential address, as listed in the Central Registration Depository ("CRD address"), by first-class and certified mail. The Postal Service returned the certified mailing unclaimed. The first-class mailing was not returned. Decl. ¶ 6; CX-2, CX-3. Respondent did not answer or otherwise respond to the Complaint.

On January 3, 2011, Enforcement served the Second Notice of Complaint, Notice of Complaint, and Complaint on Respondent at his CRD address, by first-class and certified mail. Postal Service records indicate that the certified mailing was returned unclaimed. The first-class mailing was not returned. Decl. ¶ 7; CX-4, CX-5. Respondent has not answered or otherwise responded to the Complaint.

Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with FINRA Procedural Rule 9134, giving him constructive notice of this proceeding. By failing to respond, he defaulted.

II. Jurisdiction

Respondent first registered as an Investment Company and Variable Contracts Products Representative with FINRA member firm ING Financial Partners, Inc. ("ING") in July 1997. Respondent was registered with ING until June 2010, when his employment was terminated. Complaint ¶ 2; Decl. ¶ 5; CX-1.

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion, which included the Declaration Supporting a Motion for the Entry of Default Decision, signed by counsel for the Department of Enforcement, and supporting documentation that was attached to counsel's declaration. Counsel's declaration is cited herein as "Decl. ¶ __." The supporting documentation is cited as "CX-__."

Pursuant to Article V, Section 4 of FINRA's By-Laws, Respondent was subject to FINRA's jurisdiction at the time the Complaint was filed, and remains subject to FINRA's jurisdiction, because the Complaint was filed within two years after the termination of his registration with a member firm, and the Complaint charges him with violations that occurred while he was registered with a member firm, and with failure to respond to requests for information issued within two years after the termination of his registration with a member firm.

III. Misuse of Funds (Conversion) in Violation of FINRA Rule 2010

Conversion is "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." *FINRA Sanction Guidelines* at 36 n.2 (2010). FINRA has regularly found that associated persons have violated Rule 2010 by converting the funds of non-customers. *Dist. Bus. Conduct Comm. v. Vail*, No. C06920051, 1994 NASD Discip. LEXIS 192, at *13 (N.B.C.C. Sept. 22, 1994), *aff'd*, *Henry E. Vail*, 52 S.E.C. 339, 342 (1995), *aff'd*, 101 F.3d 37 (5th Cir. 1996) (barred for misappropriation of funds of private political club); *Daniel D. Manoff*, Exchange Act Rel. No. 46708, 2002 SEC LEXIS 2684 (Oct. 23, 2002) (barred for unauthorized use of co-worker's credit card numbers); *Dist. Bus. Conduct Comm. v. Kwikkel-Elliott*, No. C04960004, 1998 NASD Discip. LEXIS 4 (N.B.C.C. Jan. 16, 1998) (barred for converting funds from employer by submission of false expense reimbursement requests).

Between approximately August 2009 and January 2010, while serving as treasurer of the FT Church, Respondent took approximately \$20,000 from the church without the church's authorization. Complaint ¶ 4; Decl. ¶ 10. The funds were subsequently repaid, apparently by Respondent's father. Decl. ¶ 10.²

² Although not stated in the Complaint or counsel's declaration, Enforcement represents in its default motion that Respondent's father was the person who repaid the funds to the church. Motion for Entry of Default Decision at 3.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated FINRA Rule 2010 by misusing the church's funds.

IV. Failure to Provide Information in Violation of FINRA Procedural Rule 8210 and Conduct Rule 2010

On July 2, 2010, pursuant to FINRA Rule 8210, FINRA staff sent a request for information to Respondent, directing him to provide certain information by July 16, 2010. The request was sent by first-class and certified mail to Respondent's CRD address. The Postal Service returned the certified mailing to FINRA unclaimed. The first-class mailing was not returned. Complaint ¶ 8. FINRA staff sent a second request for the same information to Respondent at his CRD address on July 22, 2010, by first-class and certified mail. The letter directed Respondent to provide the information by August 5, 2010. Postal Service records indicate that the certified mailing was returned unclaimed. The first-class mailing was not returned. Complaint ¶ 9. Respondent has not responded to either request for information. Complaint ¶ 10.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to provide information, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.³

V. Sanctions

A bar is standard for conversion. There are no mitigating factors. A bar is the appropriate sanction in this matter.⁴

³A violation of FINRA Rule 8210 is also a violation of FINRA Conduct Rule 2010. *Dep't of Enforcement v. Hooper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001) (violation of NASD Procedural Rule 8210 was a violation of NASD Conduct Rule 2110).

⁴ *FINRA Sanction Guidelines* 36 (2010).

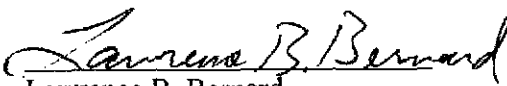
Enforcement is not seeking restitution because Respondent's father repaid the funds to the church. The Hearing Officer does not order restitution.

The Sanction Guidelines recommend a bar where a respondent fails to respond in any manner to a request for information issued pursuant to Procedural Rule 8210.⁵ Where mitigation exists, the Sanction Guidelines recommend consideration of a suspension in all capacities of up to two years. Respondent failed to respond to two requests for information. There are no mitigating factors. A bar is the appropriate sanction.

VI. Conclusion

Respondent Charles Edward Severt, Jr. is barred from associating with any FINRA member firm in any capacity for conversion of funds, in violation of FINRA Conduct Rule 2010. Respondent is also barred for failing to provide information, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.

The bars will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.


Lawrence B. Bernard
Hearing Officer

Copies to: Charles Edward Severt, Jr. *(via overnight courier and first-class mail)*
Richard A. March, Esq. *(via electronic and first-class mail)*
Mark P. Dauer, Esq. *(via electronic mail)*
David R. Sonnenberg, Esq. *(via electronic mail)*

⁵ FINRA Sanction Guidelines 33 (2010).

EXHIBIT A

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

Department of Enforcement,

Complainant,

v.

Charles E. Severt,
(CRD No. 2866408),

Respondent.

DISCIPLINARY PROCEEDING
No. 2010023062101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. While Charles Severt was associated with a FINRA member, he obtained possession of approximately \$20,000 in funds from an Ohio church, without that entity's authorization, in violation of FINRA Rule 2010. Severt also failed to respond to FINRA's requests for information about his taking of the church's funds, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Charles Severt became registered as an Investment Company and Variable Contracts Products Representative (Series 6) in July 1997 with ING Financial Partners, Inc. In June 2010, Severt was terminated. He is not currently registered with a FINRA member. Although Severt has not been associated with a FINRA member firm since June 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 member and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member 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 member.

**First Cause of Action
Misuse of Funds – FINRA Rule 2010**

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. Between approximately August 2009 and January 2010, Severt, while serving as treasurer of the Fellowship Tabernacal Church in Xenia, Ohio, took approximately \$20,000 in funds from the church, without that entity's authorization.
5. By misusing the funds from the church, Severt violated FINRA Rule 2010.

**SECOND CAUSE OF ACTION
Failure to Respond – FINRA Rules 8210 and 2010**

6. The Department realleges and incorporates by reference paragraphs 1 through 5 above.
7. Pursuant to FINRA Rule 8210, the staff sent Severt two written requests for information relating to his misuse of funds as described above.
8. On or about July 2, 2010, FINRA staff sent Severt a request that he provide certain information by July 16, 2010, 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 Severt's address of record as contained in the records of the Central Registration Depository ("CRD address"). The letter sent by first class mail was not returned to FINRA staff. The letter sent by certified mail was returned to FINRA staff with the following notation: "Return to Sender, Unclaimed, Unable to Forward."

9. On or about July 22, 2010, FINRA staff sent Severt the same request that he provide certain information by August 5, 2010, 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 Severt's CRD address of record. The letter sent by first class mail was not returned to FINRA staff. Although the letter sent by certified mail was not returned, the Track and Confirm system for the United States Postal Service provides as follows: "Your item was returned to the sender on August 7, 2010 because it was not claimed by the addressee."

10. Severt failed to respond to the written requests for information described above.

11. The acts, practices and conduct described above constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Severt.

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 monetary sanctions, be imposed, and 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: December 3, 2010


Richard A. March, Senior Regional Counsel
Mark A. Koerner, Associate Vice President and
Regional Chief Counsel
FINRA Department of Enforcement
55 West Monroe Street, Suite 2700
Chicago, IL 60603
Phone: (312) 899-4351; Fax: (312) 899-4600
e-mail: Richard.March@finra.org