

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RYAN KIMBALL ADAMS
(CRD No. 5510273),

Respondent.

Disciplinary Proceeding
No. 2010023238301

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

March 1, 2012

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

Appearances

Myles L. Orosco, Esq., for the Department of Enforcement.

No appearance by or on behalf of Ryan Kimball Adams.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on October 20, 2011. The Complaint charges Respondent Ryan Kimball Adams (“Respondent”) with: (1) misappropriation of funds, in violation of FINRA 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.

II. Procedural History

On October 20, 2011, Enforcement served the Complaint and the First Notice of Complaint on Respondent at his most recent address recorded in the Central Registration Depository (“CRD”) by first-class certified mail, return receipt requested.¹ Enforcement mailed the Complaint and First Notice of Complaint by first-class and certified mail, return receipt requested. The mailing was returned to Enforcement with a notation that Respondent had moved and his “forwarding order [had] expired.”² Respondent did not answer or otherwise respond to the Complaint.

On November 18, 2011, Enforcement served a Second Notice of Complaint on Respondent at his CRD address by first-class certified mail, return receipt requested.³ The United States Postal Service also returned this mailing with the same notation that Respondent’s forwarding order had expired.⁴ To date, Respondent has not answered or otherwise responded to the Complaint.

On January 6, 2012, Enforcement filed with the Office of Hearing Officers a Motion for Entry of Default Decision and Request for Sanctions (“Default Motion”) after Respondent failed to answer or otherwise respond to the Complaint. The Default Motion is supported by the affidavit of Myles L. Orosco (“Aff.”) and 20 exhibits.

The Hearing Officer finds that Respondent defaulted by failing to answer the Complaint. Based on Respondent’s default, the Hearing Officer grants Enforcement’s Default Motion and deems the allegations in the attached Complaint admitted pursuant to Rules 9215(f) and 9269(a).

¹ Aff. ¶ 22.

² Ex. 14.

³ Aff. ¶ 27.

⁴ Ex. 15.

III. Findings of Fact and Conclusions of Law

A. Background

From March 11, 2008, to May 20, 2010, Respondent was employed as a “career agent” with Farm Bureau Life Insurance Company (“Farm Bureau”), which is affiliated with EquiTrust Marketing Services, LLC, (“EquiTrust”), a FINRA-registered firm. Adams was registered with FINRA as an Investment Company and Variable Contracts Products Representative from March 27, 2008, until June 16, 2010.⁵

On June 16, 2010, FINRA received a Uniform Termination Notice of Securities Industry Registration (“Form U5”) from EquiTrust, reporting that Farm Bureau discharged Respondent because he was under investigation for misappropriating funds from another Farm Bureau agent.⁶ FINRA’s Central Review Group commenced the investigation that led to the Complaint in this proceeding based upon the allegations in the Form U5.

Respondent has not been registered with FINRA or associated with a FINRA-registered firm since June 16, 2010.

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 of when FINRA terminated Respondent’s registration, and (2) the Complaint charges him with misconduct that occurred while he was registered with a FINRA member firm, and with failing to respond to

⁵ Ex. 1, at 4.

⁶ Ex. 2.

Enforcement's requests for information made during the two-year period following the termination of his FINRA registration.⁷

C. Respondent Misappropriated Funds Belonging to Another Farm Bureau Agent

The First Cause of Action alleges that on March 8, 2010, RJA, another Farm Bureau career agent, requested the surrender of his Farm Bureau annuity. On March 10, 2010, Farm Bureau issued a check for \$2,883.12 payable to the order of RJA,⁸ which Farm bureau mistakenly sent to Respondent. Respondent endorsed the check and deposited it into his personal bank account on March 17, 2010.⁹

Between March 25 and April 26, 2010, representatives of Farm Bureau questioned Respondent about whether he had received and deposited the check. At first, Respondent denied that he had taken the check. However, on April 27, 2010, Respondent finally admitted that he deposited the Farm Bureau check into his personal bank account.¹⁰ On May 6, 2010, Respondent wrote a check to reimburse Farm Bureau.¹¹ However, Respondent's check was returned because it was written on a "frozen/blocked account."¹²

In May 2010, Farm Bureau referred the matter to the Fraud Division of the Utah Department of Insurance. The referral resulted in a joint investigation between the Utah Department of Insurance and the Utah Attorney General's Office.¹³ Following the investigation,

⁷ 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").

⁸ Ex. 4

⁹ Compl. ¶ 7.

¹⁰ Aff. ¶¶ 9-10.

¹¹ Ex. 6.

¹² *Id.*

¹³ Aff. ¶ 12.

the State of Utah charged Respondent with wrongful appropriation, a Class A misdemeanor.¹⁴ Respondent pled guilty to the charge in June 2010. Under the terms of his plea agreement, Respondent paid restitution of \$2,883.12 to Farm Bureau, which he paid in court when he entered his guilty plea.¹⁵ On June 29, 2011, the State of Utah forwarded the restitution payment to Farm Bureau.¹⁶

The Hearing Officer finds that the foregoing facts establish that Respondent converted \$2,883.12 and thereby violated FINRA Conduct Rule 2010, which requires members and associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Rule 2010 is sufficiently broad to encompass any unethical business-related misconduct, regardless of whether it involves a security.¹⁷

D. Respondent Failed to Respond to Requests for Information

The Second Cause of Action alleges that Respondent failed to respond to two requests for information Enforcement sent to him pursuant to FINRA Rule 8210.¹⁸ The requests sought information Respondent had omitted from his July 14, 2010 letter in response to earlier requests for information issued by FINRA's Central Review Group.

The first of the two requests at issue is dated September 23, 2010.¹⁹ Enforcement served the request on Respondent by first-class certified mail at his CRD address. In summary, Enforcement requested that Respondent provide a detailed written statement concerning

¹⁴ Ex. 7.

¹⁵ Ex. 7, at 7; Aff. ¶ 13.

¹⁶ Aff. ¶ 13.

¹⁷ *Department of Enforcement v. Saad*, 2009 FINRA Discip. LEXIS 29, at *11 (NAC Oct. 6, 2009) (finding that a registered person's submission of false expense reimbursement requests and receipts to his broker-dealer violated Rule 2110 (now Rule 2010)).

¹⁸ Ex. 8; Ex. 10.

¹⁹ Ex. 8.

allegations that he had cashed and deposited a check made payable to another Farm Bureau agent. Respondent did not respond to the request.

On October 5, 2010, Enforcement sent Respondent another request for the same information.²⁰ Enforcement served Respondent by first-class certified mail at his CRD address.²¹ Respondent did not respond to the request.

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

IV. Sanctions

A. Misappropriation of Funds

In this case, the evidence establishes that Respondent converted \$2,883.12 by depositing the annuity withdrawal check belonging to another Farm Bureau agent. Under FINRA's Sanctions Guidelines, improper use of another's funds or securities rises to the level of conversion "when the associated person intends permanently to deprive the customer of the use" of his funds or securities.²² "Conversion is the wrongful exercise of dominion over the personal property of another."²³

²⁰ Ex. 10.

²¹ Enforcement also sent the request to two additional addresses Enforcement obtained from an on-line search.

²² *District Bus. Conduct Comm. v. Arnold*, No. 005960034, 1997 NASD Discip. LEXIS 79, at *10 n.8 (NBCC Feb. 25, 1997). See also *Dep't of Enforcement v. Kendzierski*, No. C9A980021, 1999 NASD Discip. LEXIS 40, at *7 (NAC Nov. 12, 1999) (holding that "[i]mproper use' rises to the level of conversion where a registered representative deposits a customer's check into his own account instead of into his customer's account, without authorization, and fails to repay the customer").

²³ *Dep't of Enforcement v. Paratore*, No. 2005002570601, 2008 FINRA Discip. LEXIS 1, at *10 (NAC Mar. 7, 2008).

The FINRA Sanction Guidelines (“Sanction Guidelines”) for conversion state that a bar is standard, regardless of the amount converted.²⁴ Conversion “is extremely serious and patently antithetical to the ‘high standards of commercial honor and just and equitable principles of trade’ that [FINRA] seeks to promote.”²⁵ Accordingly, the Hearing Officer will bar Respondent for this violation.

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.²⁶ When an individual provides an incomplete response, a bar should be standard unless the individual can demonstrate that the information provided substantially complied with all aspects of the request.²⁷

In addition, the Sanction Guidelines list a number of principal considerations for adjudicators to assess in determining appropriate sanctions. For a failure to respond, adjudicators are instructed to consider the importance of the information requested from FINRA’s perspective. For a partial response, adjudicators are instructed to consider: (1) the importance of the information requested that was not provided as viewed from FINRA’s perspective, and whether the information provided was relevant and responsive to the request; (2) the number of requests made, the time the respondent took to respond, and the degree of regulatory pressure

²⁴ FINRA Sanction Guidelines 36 (2011), www.finra.org/sanctionguidelines.

²⁵ *Wheaton D. Blanchard*, 46 S.E.C. 365, 366 (1976).

²⁶ Sanction Guidelines 33.

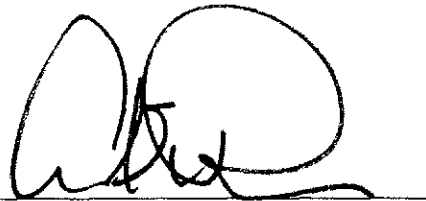
²⁷ *Id.*

required to obtain a response; and (3) whether the respondent thoroughly explains valid reasons for the deficiencies in the response.²⁸

Applying the foregoing principles to this case, the Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction. The two requests at issue reflect that Respondent's earlier response was inadequate; he had not substantially complied with all aspects of FINRA's earlier requests for information. Moreover, the information Enforcement sought was important. Enforcement was investigating serious misconduct. And Respondent did not respond at all to the two requests for detailed information about his misappropriation of funds. Accordingly, the Hearing Officer also will bar Respondent from associating with any FINRA member firm in all capacities for his violation of Rules 8210 and 2010.

V. Order

Ryan Kimball Adams is barred from associating with any member firm in any capacity for misappropriating funds, in violation of FINRA Conduct Rule 2010, as alleged in the First Cause of Action; and 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 final.

A handwritten signature in black ink, appearing to read 'A. Perkins', is written over a horizontal line.

Andrew H. Perkins
Hearing Officer

²⁸ Sanction Guidelines 33.

Copies to:

Ryan Kimball Adams. (*via overnight courier and first-class mail*)

Myles L. Orosco, Esq. (*via electronic and first-class mail*)

David R. Sonnenberg, Esq. (*via electronic mail*)

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

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

V.

RYAN KIMBALL ADAMS
(CRD# #5510273)

RESPONDENT.

DISCIPLINARY PROCEEDING
NO. 2010023238301

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Adams, a registered career agent of Farm Bureau Financial Services ("Farm Bureau") and a resident of Utah, improperly deposited a check for \$2,883.12 into his personal account that was issued by Farm Bureau and payable to a "RYAN ADAMS" of Wichita, Kansas, another Farm Bureau registered career agent ("RJA"). When notified of the improper deposit, Adams initially denied making the deposit and denied owning the bank account into which the check was deposited. Adams subsequently admitted that he deposited the check. Thereafter, Adams issued a check to reimburse Farm Bureau. However, that check was returned. Adams failed to reimburse Farm Bureau until he received a court order from the State of Utah. Furthermore, Adams has also failed to respond to two

Enforcement requests, pursuant to FINRA Rule 8210, for information related to his depositing of the check.

RESPONDENT AND JURISDICTION

2. From March 11, 2008 through May 20, 2010, Adams was contractually employed as a career agent with Farm Bureau, the affiliated life insurance company to FINRA-regulated firm EquiTrust Marketing Services, LLC, ("EquiTrust" or the "Firm"). Adams held series 6 and 63 registrations with EquiTrust.
3. On June 16, 2010, FINRA received a Uniform Termination Notice of Securities Industry Registration ("Form U5") from EquiTrust, reporting that Farm Bureau terminated Adams' employment.
4. By letter dated October 20, 2010, the Firm disclosed to FINRA's Department of Enforcement that Adams' employment was terminated for his failure to reimburse Farm Bureau funds in the amount of \$2,883.12.
5. Adams has not been registered in the securities industry since May 20, 2010. However, pursuant to Article V, Section 4 of FINRA's By-Laws, he remains subject to FINRA's jurisdiction until at least May 19, 2012.

FIRST CAUSE OF ACTION

Misappropriation of Funds in Violation of FINRA Rule 2010

6. The Department realleges and incorporates by reference paragraphs 2 through 5 above.
7. On March 8, 2010, RJA, a Farm Bureau career agent who also held a personal account at Farm Bureau, requested the surrender of his Farm

Bureau annuity, totaling \$2,883.12. Farm Bureau issued a check, dated March 10, 2010, made payable to "RYAN ADAMS" with an address in Wichita, Kansas. The check, however, was mistakenly sent to Adams in Utah. Subsequently, on March 17, 2010, Adams endorsed and deposited the Farm Bureau check into a personal account at a JP Morgan Chase branch in Orem, Utah.

8. During the period March 25, 2010 to April 26, 2010, despite conversations with RJA and Farm Bureau representatives about the check, Adams did not admit to RJA or Farm Bureau that he had deposited the check into his personal bank account.
9. Subsequently, on April 27, 2010, Adams admitted that he deposited the Farm Bureau check into a personal bank account.
10. As purported reimbursement, Adams issued a personal check, dated May 6, 2010, payable to Farm Bureau in the amount of \$2,883.12. The check, however, was returned for insufficient funds.
11. In May 2010, based upon the facts relating to Adams' conduct, Farm Bureau referred the matter to the Fraud Division of the Utah Department of Insurance ("UDI"). The referral resulted in a joint investigation between UDI and the Utah Attorney General's Office.
12. On June 29, 2011, after a court order was issued to Adams from the State of Utah, which ordered Adams to reimburse Farm Bureau, the State of Utah received payment on behalf of Adams and reimbursed Farm Bureau \$2,883.12.

13. Based upon the facts above, Adams misappropriated RJA's funds and Adams converted the funds for his personal use and benefit, in violation of FINRA Rule 2010.

SECOND CAUSE OF ACTION

Failure to Provide a Written Response in Violation of FINRA Rules

8210 and 2010

14. The Department realleges and incorporates by reference paragraphs 2 through 13 above.
15. In a letter dated July 14, 2010, Adams responded to information requests, dated June 18, 2010 and July 6, 2010, from FINRA's Central Review Group ("CRG") addressed to Adams' last known address as reflected in the Central Registration Depository: [REDACTED] (the "CRD Address"). Each of CRG's letters (*the July 6th letter was a second request for information*), requested that Adams provide information regarding the allegations set forth in the June 16, 2010 Form U5 that EquiTrust had filed.
16. By letter dated September 23, 2010, sent to Adams via certified mail, return receipt requested and a copy by first class mail to Adams' CRD Address, Enforcement requested, pursuant to FINRA Rule 8210, that Adams provide a detailed written statement concerning allegations that he had cashed and deposited a check made payable to another Farm Bureau career agent after the check was sent to him in error. Adams was required to submit the statement by October 7, 2010.

17. The letter dated September 23, 2010, sent via certified mail was returned to Enforcement marked "Attempted-Not Known". The letter dated September 23, 2010, sent by first class mail was not returned to Enforcement.
18. Adams did not respond to Enforcement's letter of September 23, 2010.
19. By letter dated October 5, 2010, sent via certified mail, return receipt requested and by first class mail to the CRD Address, and two additional addresses for Adams, obtained from a Lexis search [REDACTED] and [REDACTED] Enforcement requested, pursuant to FINRA Rule 8210, that Adams provide a written explanation concerning allegations that he had cashed and deposited a check made payable to another Farm Bureau career agent after the check was sent to him in error. The statement was due by no later than October 19, 2010.
20. The letter dated October 5, 2010, sent by certified mail, return receipt requested to Adams' CRD address and the additional residential addresses were returned to Enforcement marked "Attempted-Not Known" and "Unclaimed". The letter dated October 5, 2010, sent via first class mail, to Adams' CRD address and the additional residential addresses were not returned to Enforcement.
21. Adams has not responded to the September 23, 2010 and October 5, 2010 letters from Enforcement requesting, pursuant to FINRA Rule 8210, detailed information related to the depositing of the check. In addition,

each letter from Enforcement to Adams contained admonitions and notices that his failure to respond could expose him to sanctions, including a permanent bar from the securities industry.

22. In light of the above, Adams failed to respond to requests for information in violation of FINRA Rule 8210 and FINRA Rule 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 monetary sanctions, be imposed.
- 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: October 20, 2011

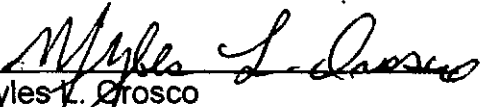
By: 
Myles L. Grosco
Enforcement Director
FINRA Department of Enforcement
One World Financial Center
200 Liberty Street, 11th Floor
New York, New York 10281-1003
646-315-7383 Fax: 202-689-3419

Exhibit A

Nature of Respondent Adams' Failures to Comply

<u>Date</u>	<u>Address</u>	<u>Mailed</u>	<u>Information Requested</u>	<u>Delivery Received</u>
9/23/2010	[REDACTED]	Certified Mail, Return Receipt Requested and First Class	Written Response	1) Attempted-Not Known First Class <u>Not</u> Returned
10/5/2010	[REDACTED]	Certified Mail, Return Receipt Requested and First Class	Written Response	1) Attempted-Not Known 2) Unclaimed 3) Unclaimed First Class <u>Not</u> Returned