

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BRENNAN LOLLAR
(CRD No. 5287737),

Respondent.

Disciplinary Proceeding
No. 2010024098101

Hearing Officer – MAD

DEFAULT DECISION

August 10, 2012

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

Appearances

Frank Mazzairelli, Counsel, and Lane Thurgood, Director, Rockville, MD, for the Department of Enforcement.

No appearance by or on behalf of Brennan Lollar.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on February 10, 2012. The Complaint alleges that Respondent Brennan Lollar (“Lollar”) misappropriated SunTrust Bank funds, in violation of Conduct Rule 2010. The Complaint also alleges that Lollar failed to respond to FINRA requests for information and testimony, in violation of Procedural Rule 8210 and Conduct Rule 2010.

Lollar defaulted by failing to answer or otherwise respond to the Complaint. On June 21, 2012, Enforcement filed a Motion for Entry of Default Decision and Imposition of Sanctions

(“Default Motion”) with the Office of Hearing Officers, together with the Declaration of Frank Mazzairelli (“Mazzairelli Decl.”) and six exhibits. Lollar did not respond to the Default Motion.

Based on the facts alleged in the Complaint, which are deemed admitted pursuant to Rules 9215(f) and 9269(a), as well as the additional evidence Enforcement filed in support of its Default Motion, the Hearing Officer barred Lollar from associating with any member firm in any capacity for the violation.

II. Background

Lollar first entered the securities industry in 2006.¹ From March 2007 until July 2010, Lollar was registered with FINRA as a General Securities Representative through his association with SunTrust Investment Services, Inc. (“SunTrust”).² On July 16, 2010, SunTrust filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) on Lollar’s behalf, and terminated Lollar’s registration.³ Upon review of the Form U5, Enforcement commenced an investigation of the facts and circumstances surrounding Lollar’s discharge.⁴

III. 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 the termination of his registration with FINRA, and (2) the Complaint charges him with misconduct that occurred while he was registered with a FINRA member firm, and failing to respond to FINRA requests for information and testimony.⁵

¹ CX-1, at 3.

² Mazzairelli Decl. ¶ 4; CX-1, at 2.

³ Mazzairelli Decl. ¶ 6; CX-1.

⁴ Mazzairelli Decl. ¶¶ 6, 7.

⁵ 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”).

IV. Lollar's Default

On February 10, 2012, Enforcement served Lollar with the Notice of Complaint and Complaint by first-class certified mail (return receipt requested) sent to his residential address recorded in the Central Registration Depository ("CRD"), and an alternate address ("Alternate address") that Enforcement located through an internet search.⁶ The United States Postal Service ("USPS") returned both certified mailings to Enforcement as undeliverable.⁷

On March 12, 2012, Enforcement served Lollar with the Second Notice of Complaint and Complaint by first-class certified mail (return receipt requested) sent to his CRD and Alternate addresses.⁸ The USPS again returned both certified mailings to Enforcement as undeliverable.⁹ To date, Lollar has not responded to the Complaint.

The Hearing Officer finds that Lollar received constructive notice of this proceeding.¹⁰ Accordingly, the Hearing Officer finds that Lollar defaulted by failing to answer or otherwise respond to the Complaint.

V. Findings of Fact and Conclusions of Law

A. Conversion

The First Cause of the Complaint alleges that between June 2009 and July 2010, Lollar misappropriated funds from SunTrust Bank. Lollar worked as a branch manager at the bank.¹¹ Without the bank's permission or authority, Lollar transferred funds into customers' accounts

⁶ Mazzaelli Decl. ¶¶ 8, 10.

⁷ Mazzaelli Decl. ¶¶ 9, 11; CX-2, CX-3.

⁸ Mazzaelli Decl. ¶¶ 13, 15.

⁹ Mazzaelli Decl. ¶¶ 14, 16; CX-4, CX-5.

¹⁰ *Dep't of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

¹¹ Compl. ¶ 5.

and labeled the transfers as refunds of bank fees.¹² No bank fees had ever been assessed to the customers and Lollar knew the customers were not entitled to any refunds.¹³ Through a series of several small transactions, Lollar misappropriated a total of \$3,242.90 into 12 customer accounts.¹⁴ Lollar admitted to SunTrust Bank that he issued the false refunds and claimed that he did so to assist, or to curry favor with, certain customers.¹⁵ SunTrust obtained reimbursement through the liquidation of Lollar's retirement fund.¹⁶

The Hearing Officer finds that the foregoing facts establish that Lollar intentionally misappropriated (or converted)¹⁷ firm funds and thereby violated FINRA Conduct Rule 2010, as alleged in the First Cause of the Complaint.

B. Information Requests

The Second Cause of Action in the Complaint alleges that Lollar failed to respond to written requests seeking information about the circumstances of his bank transfers to SunTrust customers. The requests were dated September 7, November 3, and November 22, 2010.¹⁸ Pursuant to Procedural Rule 8210, FINRA staff sent the September 7 request to Lollar at his CRD Address by certified mail and first-class mail.¹⁹ On September 21, 2010, the USPS returned the certified mailing as undeliverable.²⁰ The first-class mailing was not returned to FINRA.²¹

¹² *Id.* ¶¶ 5-7.

¹³ *Id.* ¶ 5.

¹⁴ *Id.* ¶ 6.

¹⁵ *Id.* ¶ 7.

¹⁶ Mazzarelli Decl. ¶ 23.

¹⁷ An intentional taking of funds can be alleged as either a "misappropriation" or a "conversion." Conversion is the wrongful exercise of dominion over the personal property of another. *Department of Enforcement v. Paratore*, No. 2005002570601, 2008 FINRA Discip. LEXIS 1, at *10 (N.A.C. Mar. 7, 2008) (citations omitted).

¹⁸ Compl. ¶¶ 10-12.

¹⁹ Compl. ¶ 10.

²⁰ *Id.*

²¹ *Id.*

FINRA staff sent the November 3 request to Lollar at his CRD address and to the Alternate address by certified mail and first-class mail.²² On November 10 and 11, 2010, the USPS returned both the certified and first-class mailings for the CRD address as undeliverable.²³ On November 23, the certified mailing to the Alternate address was returned to FINRA.²⁴ The first-class mailing was not returned.²⁵

FINRA staff sent the November 22 request to Lollar at both the CRD and Alternate addresses by certified mail and first-class mail.²⁶ On January 2, 2011, the USPS returned the certified letter that had been sent to Lollar's CRD address, marked "Return to Sender; Unable to Forward" and stamped "Unclaimed."²⁷ None of the other letters were returned.²⁸

On December 22, 2010, Lollar mailed FINRA a photocopy of a written statement, previously provided to Sun Trust Bank, admitting to certain aspects of his misconduct.²⁹ However, his statement failed to address a majority of the information previously requested by Enforcement in the Rule 8210 requests.³⁰ Other than Lollar's written statement, he did not respond to any of FINRA's information request letters.³¹

²² *Id.* ¶ 11.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* ¶ 12.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* ¶ 13.

³⁰ *Id.*

³¹ *Id.* ¶¶ 10, 11, 12.

On August 31, 2011, FINRA staff sent Lollar a letter, by certified and first-class mail, to his CRD and Alternate addresses, requesting that he appear for an OTR on September 28, 2011.³² Lollar failed to appear for the OTR.³³

The Hearing Officer finds that the allegations in the Second Cause of the Complaint are sufficient to establish, for purposes of this default decision, that Lollar violated Procedural Rule 8210 and Conduct Rule 2010.

VI. Sanctions

A. Conversion

The FINRA Sanction Guidelines (“Sanction Guidelines”) for conversion state that a bar is “standard,” regardless of the amount converted.³⁴ The Hearing Officer finds that Lollar’s intentional conversion of firm funds was egregious and there is no evidence of mitigating factors that would justify permitting Lollar to remain in the securities industry. Accordingly, the Hearing Officer will bar Lollar from associating with any member firm in any capacity for violating Conduct Rule 2010, as alleged in the First Cause of the Complaint.

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.³⁵ 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.³⁶

³² *Id.* ¶ 14.

³³ *Id.* ¶ 15.

³⁴ FINRA Sanction Guidelines 36 (2011), www.finra.org/sanctionguidelines.

³⁵ Sanction Guidelines 33.

³⁶ *Id.*

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 required to obtain a response; and (3) whether the respondent thoroughly explains valid reasons for the deficiencies in the response.³⁷

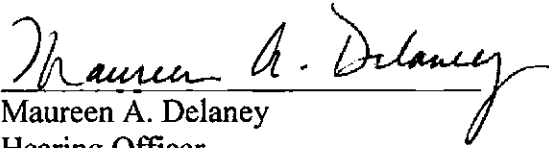
Applying the foregoing principles to this case, the Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction. The information Enforcement sought was important. Enforcement was investigating serious misconduct. While Lollar ultimately sent a partial response, he only did so after FINRA staff sent three request letters. In addition, Lollar failed to appear for an OTR. Accordingly, the Hearing Officer also will bar Lollar from associating with any FINRA member firm in all capacities for his violation of Conduct Rules 8210 and 2010, as alleged in the Second Cause of Action.

VII. Order

Brennan Lollar is barred from associating with any member firm in any capacity for misappropriating firm funds, in violation of Conduct Rule 2010, and for failing to provide information and testimony to FINRA, in violation of Procedural Rule 8210 and Conduct Rule

³⁷ Sanction Guidelines 33.

2010, as alleged in the Complaint. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Maureen A. Delaney
Hearing Officer

Copies to: Brennan Lollar (*via first-class mail*)
Frank Mazzaelli, Esq. (*via electronic and first-class mail*)
Lane Thurgood, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Brennan Lollar
(CRD No.5287737)

Respondent.

DISCIPLINARY PROCEEDING
No. 2010024098101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between June 2009 and July 2010 ("the relevant time period"), Respondent Brennan Lollar misappropriated bank funds by issuing false refunds totaling \$3,242.90 into 12 customers' accounts. By issuing these fraudulent refunds, Lollar unjustly enriched customers at the bank's expense, thereby violating FINRA Rule 2010.
2. Additionally, Lollar failed to comply with requests for information and to provide on-the-record testimony made pursuant to FINRA Rule 8210, thereby violating FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Lollar first entered the securities industry in 2006 and held Series 7 and 63 licenses. Lollar was associated with SunTrust Investment Services, Inc. ("SunTrust"), from March 2007 until his termination in July 2010. Although Respondent is no longer registered or associated with a FINRA member, 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 effective date of termination of Respondent's registration with SunTrust, namely, July 16, 2010; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member, and charges him with failing to respond to FINRA requests for information and failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

FIRST CAUSE OF ACTION

MISAPPROPRIATION OF FUNDS

FAILURE TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE (FINRA RULE 2010)

4. The Department realleges and incorporates by reference paragraphs 1-3 above.
5. During the relevant time period, Lollar was associated with registered firm SunTrust Investment Services, Inc., and was employed as a branch manager at SunTrust Bank. Acting in that capacity during the relevant time period, Lollar transferred funds into customer accounts and labeled the transfers as refunds of bank fees. However, no

such bank fees had ever been assessed to the customers and Lollar knew the customers were not entitled to any refunds.

6. During the relevant time period, through a series of several small transactions, Lollar misappropriated a total of \$3,242.90 into 12 customer accounts, including depositing approximately \$1,200 into customer KE's account.
7. Lollar admitted to SunTrust Bank that he issued the false refunds and claimed that he did so to assist, or to curry favor with, certain customers.
8. By virtue of the foregoing, Lollar violated FINRA Rule 2010 by acting unethically and failing to observe high standards of commercial honor and just and equitable principles of trade.

SECOND CAUSE OF ACTION

FAILURE TO COMPLY WITH REQUESTS FOR INFORMATION (FINRA RULES 8210 AND 2010)

9. The Department realleges and incorporates by reference paragraphs 1-8 above.
10. On September 7, 2010, an information request made pursuant to Rule 8210 was sent via first class mail and certified mail, return receipt requested, to Respondent's address listed in CRD. Respondent's answer was due October 7, 2010. No response was received from Respondent. On September 21, 2010, the certified letter was returned marked "Return to Sender; Unable to Forward." The letter that had been mailed via first class mail was not returned.
11. On November 3, 2010, a second information request made pursuant to Rule 8210 was sent via first class mail and certified mail, return receipt requested, to Respondent's address listed in CRD and to an additional address that had been obtained by staff

after no response was provided by Lollar to the September 7, 2010 request. This address was a P.O. Box obtained through a Lexis search. Respondent's answer was due November 17, 2010. No response was received from Respondent. On November 10, 2010 and November 11, 2010, the certified letter that had been sent to Lollar's CRD address and the first class letter sent to his CRD address, respectively, were returned marked "Return to Sender; Unable to Forward." On November 23, 2010, the certified letter that had been sent to the P.O. Box address was returned marked "1st notice Nov 8 2010, 2nd notice Nov 16 2010." The letter that had been mailed via first class mail to the P.O. Box address was not returned.

12. On November 22, 2010, a third information request made pursuant to Rule 8210 was sent via first class mail and certified mail, return receipt requested, to Respondent's address listed in CRD and to the P.O. Box address. Respondent's answer was due December 6, 2010. No response was received from Respondent. On January 2, 2011, the certified letter that had been sent to Lollar's CRD address was returned marked "Return to Sender; Unable to Forward" and stamped "Unclaimed." None of the other letters were returned.
13. On December 22, 2010, Respondent mailed to FINRA a photocopy of a written statement he had previously provided to the bank, admitting certain aspects of his misconduct, but failing to address a majority of the information requested of him in the 8210 notices that had been sent. For example, Lollar failed to address FINRA's request for copies of correspondence and memoranda relating to the matter and failed to respond to inquiries regarding the existence of other complaints relating to his employment.

14. On August 31, 2011, pursuant to Rule 8210, a request for Lollar to appear on September 28, 2011 and provide on-the-record testimony at FINRA's offices located in Washington, DC was sent via first class mail and certified mail, return receipt requested, to Respondent's CRD address and to the additional P.O. Box address that had been obtained by staff.

15. Lollar failed to appear on September 28, 2011 to provide on-the-record testimony.

16. By virtue of the foregoing, Respondent violated FINRA Rules 8210 and 2010.

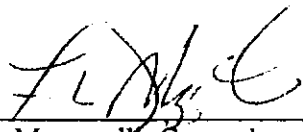
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including 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: Feb 10, 2012



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