

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DEAN KAPLANIDIS
(CRD No. 2832379),

Respondent.

Disciplinary Proceeding
No. 2011025975301

Hearing Officer – LBB

DEFAULT DECISION

Date: September 27, 2012

Respondent is barred for conversion of customer funds, in violation of NASD Rules 2330(a) and 2110, and FINRA Rules 2150 and 2010. Respondent is further barred for failure to respond to requests for information, in violation of FINRA Rules 8210 and 2010.

Appearances

Jeffrey Pariser, Esq., Director, Rockville Maryland, for the Department of Enforcement.
No appearance by or for Respondent.

DECISION

The Department of Enforcement (“Enforcement”) filed the two-cause Complaint in this disciplinary proceeding on May 24, 2012, charging Respondent Dean Kaplanidis (“Respondent”) with conversion of customer funds in violation of NASD Rules 2330(a) and 2110, and FINRA Rules 2150 and 2010, and failure to respond to FINRA’s requests for information, in violation of FINRA Rules 8210 and 2010. Despite being served with the Notice of Complaint, Complaint, and Second Notice of Complaint, Respondent did

not answer or otherwise respond to the Complaint. By failing to respond, Respondent defaulted.¹

Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions on August 17, 2012. Respondent has not filed a response to Enforcement's motion. Accordingly, pursuant to FINRA Procedural Rules 9215(f) and 9269, Enforcement's motion is granted, and the allegations of the Complaint are deemed admitted.²

I. Respondent's Default

On May 23, 2012, Enforcement served Respondent with a Notice of Complaint and Complaint by certified mail at his address of record as listed in the Central Registration Depository ("CRD"). Enforcement also served Respondent by certified mail at an alternative address identified by Enforcement. Both mailings were returned unclaimed. The Notice informed Respondent that he was required to answer the Complaint by June 20, 2012. Respondent did not file an answer by that date.

Decl. ¶¶ 11-12; CX-1, CX-2.

Enforcement served a Second Notice of Complaint and Complaint on Respondent at both his CRD address and the alternative address by certified mail on June 28, 2012.

Both mailings were returned unclaimed. The Second Notice informed Respondent that

¹ As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD. Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008, including certain conduct rules and procedural rules. See Regulatory Notice 08-57 (Oct. 2008). This decision refers to and relies on the Rules that were in effect at the time of each alleged violation. The applicable rules are available at www.finra.org/rules.

² The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion ("Motion"), which included the Declaration of Jeffrey Pariser in Support of the Department of Enforcement's Motion for the Entry of Default Decision, 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-____."

he was required to answer the Complaint by July 16, 2012. Respondent did not file an answer by that date. Decl. ¶¶ 13-14; CX-3.

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. Respondent has failed to respond. By failing to respond, he defaulted.

II. Jurisdiction

Respondent first registered with a FINRA member firm in 1996. He was registered with member firm Chase Investment Services Corp. (the “Firm”), from October 14, 2003. The Firm terminated his employment on October 19, 2009, and his registration was terminated on October 30, 2009. The Firm is a broker-dealer affiliate of JP Morgan Chase Bank (“Chase Bank”). After a period of unemployment, he was employed by a different member firm from April 13, 2010, until February 4, 2011, when his employment was terminated. He has not been associated with a member firm since February 4, 2011. CX-1; Decl. ¶¶ 4-9.

Pursuant to Article V, Section 4 of FINRA’s By-Laws, Respondent is 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 while he was registered with a member firm, and within two years after the termination of his registration with a member firm.

III. Violations

A. First Cause of Action: Respondent Converted Customer Funds, in Violation of NASD Rules 2330(a) and 2110, and FINRA Rules 2150(a) and 2010

On August 22, 2006, A.M. purchased an AXA Equitable Life Insurance Company variable annuity through the Firm in the amount of approximately \$215,000. Respondent was the broker of record for A.M. Complaint ¶ 10. After A.M. invested in the variable annuity, he moved to Greece. A.M.'s variable annuity was structured to provide him with a monthly income of approximately \$1,025. Complaint ¶ 11.

In or around December 2006, without A.M.'s knowledge or consent, Respondent opened a personal checking account in A.M.'s name at a Chase Bank branch, using information that A.M. had provided on his variable annuity application, and requested the issuance of an ATM card for access to the funds in the checking account. Complaint ¶ 12. Beginning about December 8, 2006, and continuing through June 15, 2010, Respondent forged annuity withdrawal forms in order to move funds from A.M.'s variable annuity to the checking account that Respondent had opened in his client's name. During this time, Respondent transferred approximately \$145,184 of A.M.'s funds to the checking account. Complaint ¶ 13. Using the unauthorized ATM card, Respondent withdrew the improperly transferred funds from the checking account. Complaint ¶ 14.

A.M. contacted the Firm on December 3, 2010, because his monthly distributions from his variable annuity had suddenly ceased. The Firm promptly contacted AXA Equitable Life Insurance Company and learned that 47 withdrawals, totaling \$145,184, had been executed between December 8, 2006, and January 15, 2010. Thirty-seven of the transfers occurred while Respondent was registered with the Firm. Some of the

remaining ten transfers occurred while Respondent was registered with another FINRA member firm. CX-15.

The Firm entered into a settlement with the customer on April 11, 2011, providing a payment of \$20,107.37 directly to the customer, and restoring \$145,183.18 to the customer's annuity. Decl. ¶ 20(f); CX-1 at 22. On July 28, 2011, in connection with his unauthorized withdrawals from A.M.'s account and withdrawals of funds, Respondent pled guilty in the New York Supreme Court to Grand Larceny in the Third Degree, a felony. He was ordered to pay full restitution to J.P. Morgan Chase & Co. Decl. ¶ 20(e); Complaint ¶ 17.

NASD Rule 2330(a) and FINRA Rule 2150(a) provide that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds." "An associated person makes improper use of customer funds where he or she fails to apply the funds (or uses them for some purpose other than) as directed by the customer."³ "Improper use rises to the level of conversion 'when the associated person intends permanently to deprive' the customer of the use of his funds or securities."⁴ Misuse of customer funds in violation of NASD Rule 2330 and FINRA Rule 2150 also violates NASD Rule 2110 and FINRA Rule 2010.⁵

³ *Dep't of Enforcement v. Patel*, No. C02990052, 2001 NASD Discip. LEXIS 42, at *24-25 (N.A.C. May 23, 2001).

⁴ *Dep't of Enforcement v. Mullins*, Nos. 20070094345 and 20070111775, 2011 FINRA LEXIS 61, at *21 (N.A.C. Feb. 24, 2011), *aff'd*, 2012 SEC LEXIS 464 (Feb. 10, 2012).

⁵ *Dep't of Enforcement v. Thomas*, No. C10030082, 2004 NASD Discip. LEXIS 49, at *6 n.10 (O.H.O. June 30 2004); *Patel*, 2001 NASD Discip. LEXIS 42, at *24-25 (affirming the Hearing Panel decision barring a representative for misuse of customer funds by depositing customer funds into his own account rather than investing them as directed by the customers).

The allegations of the Complaint, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated NASD Rules 2330(a) and 2110, and FINRA Rules 2150(a) and 2010, by converting customer funds.

B. Second Cause of Action: Respondent Failed to Respond to Requests for Information, in Violation of FINRA Rules 8210 and 2010

By letter dated January 18, 2011, FINRA requested, pursuant to FINRA Rule 8210, that Respondent provide, among other things, a signed written statement addressing the alleged mishandling of A.M.'s account. Respondent was directed to provide the statement by February 1, 2011. The letter was sent to Respondent's CRD address by certified and first-class mail. Complaint ¶ 20. Respondent signed the certified mail receipt on January 31, 2011. Complaint ¶ 21. Respondent did not respond to the January 18, 2011, request. Complaint ¶ 22.

By letter dated February 1, 2011, pursuant to FINRA Rule 8210, FINRA sent a second request for information to Respondent, notifying him that FINRA had not received a response to its first request for information, and repeating the request. The request directed Respondent to produce the information requested by March 2, 2011. The request was sent to Respondent's CRD address by certified and first-class mail. The certified mailing was returned to FINRA unclaimed. Respondent did not respond to the February 2011 request. Complaint ¶¶ 23-25.

By letter dated March 30, 2011, pursuant to FINRA Rule 8210, FINRA again requested the information sought in the two previous requests. The request was sent by certified mail and first-class mail to Respondent's CRD address. The request was also sent by FedEx to Respondent's CRD address, and by FedEx and first-class mail to an additional residential address identified in a LEXIS search. Respondent was directed to

respond by April 13, 2011. The certified letter sent to Respondent's CRD address was returned unclaimed. Complaint ¶¶ 26-27; Decl. ¶ 22. The letter sent by FedEx was delivered to Respondent's CRD address on March 31, 2012. Respondent did not respond to the March 2012 request for information. Complaint ¶¶ 28-29.

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 Rules 8210 and 2010.⁶

IV. Sanctions

The FINRA Sanction Guidelines ("Guidelines") recommend a bar as the standard sanction for conversion.⁷ There are no mitigating factors. Accordingly, a bar is the appropriate sanction for Respondent's conversion of customer funds, in violation of NASD Rules 2330(a) and 2110, and FINRA Rules 2150(a) and 2010. Enforcement is not seeking restitution because the customer settled with the Firm, and the New York Supreme Court ordered Respondent to pay full restitution to J.P. Morgan Chase & Co.

The Guidelines recommend a bar where a respondent fails to respond in any manner to a request for information issued pursuant to FINRA Rule 8210.⁸ Where mitigation exists, the Guidelines recommend consideration of a suspension in all capacities of up to two years. Respondent failed to respond to three requests for information. There are no mitigating factors. A bar is the appropriate sanction.

⁶ A violation of FINRA Rule 8210 is also a violation of FINRA 2010. *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001) (violation of NASD Rule 8210 was a violation of NASD Conduct Rule 2110).

⁷ *FINRA Sanction Guidelines* 36 (2011).

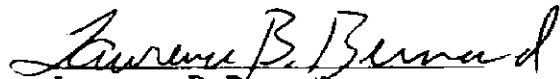
⁸ *Guidelines* 33.

V. Conclusion

Respondent Dean Kaplanidis is barred for conversion of customer funds, in violation of NASD Rules 2330(a) and 2110, and FINRA Rules 2150(a) and 2010.

Respondent is further barred for failure to respond to requests for information, in violation of FINRA Rules 8210 and 2010.

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


Lawrence B. Bernard
Hearing Officer

Copies to: Dean Kaplanidis (*via overnight courier and first-class mail*)
Jeffrey Pariser, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)