

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Take Charge Financial (CRD No. 16724),

and

Joan A. Perry (CRD No. 502847),

Respondents.

DISCIPLINARY PROCEEDING
No. 20110289509-01

HEARING OFFICER – AHP

ORDER ACCEPTING OFFER OF SETTLEMENT

DATE: AUGUST 23, 2012

INTRODUCTION

Disciplinary Proceeding No. 20110289509-01 was filed on June 19, 2012 by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Enforcement). Respondents Take Charge Financial (TCF) and Joan A. Perry submitted an Offer of Settlement (Offer) to Enforcement on August 20, 2012. Pursuant to FINRA Rule 9270(e), Enforcement and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by Enforcement and approved by the NAC.

Under the terms of the Offer, Respondents have consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of

the sanctions set forth below, and fully understand that this Order will become part of Respondents' permanent disciplinary records and may be considered in any future actions brought by FINRA.

BACKGROUND

Perry entered the securities industry in or about March 1979 by filing a Form U4 to become registered at a FINRA member. She first became registered as a Municipal Securities Representative at that time. In July 1982, she first became registered as a General Securities Representative and Municipal Securities Principal. Since on or about May 9, 1986, Perry has been registered at TCF as a General Securities Representative, General Securities Principal, Municipal Securities Representative and Municipal Securities Principal. Since on or about September 16, 1992, she has also been registered at TCF as a Financial and Operations Principal. And since on or about October 13, 1997, Perry has also been registered at TCF as a Registered Options Principal.

TCF has been a FINRA member firm since on or about May 9, 1986. The firm conducts a general securities business from one office and currently employs two registered persons. TCF is also dually registered as an investment adviser with the State of California.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

FACTS COMMON TO MULTIPLE CAUSES OF ACTION

From on or about February 5, 2009 through on or about November 30, 2011, Respondents transferred approximately \$90,781.06 from approximately 45 customer accounts to accounts owned or controlled by Respondents. Respondents accomplished the transfers electronically, using the computer system of TCF's clearing firm. Within the clearing firm's system, Respondents designated each transfer of funds as a type of fee or commission.

At the time of each transfer, Respondents had not obtained authorization from the relevant customer to take the funds out of the customer account or charge the type of fee or commission claimed by Respondents. Appendix A, attached and incorporated by reference, summarizes the above-described transfers.

From on or about August 18, 2011 through on or about August 19, 2011, FINRA staff was present at Respondents' office to conduct field work in connection with its investigation of a customer complaint. At that time, the staff inquired about fees charged to customers of TCF. Perry informed the staff that, in addition to the firm's standard 2% annual investment advisory fee, customers might have been charged fees in connection with reports pertaining to year-end analyses of customer portfolios.

While onsite, FINRA staff obtained copies of signed Advisory Services Agreements (ASAs) pertaining to approximately 24 customer accounts. Although these agreements included authorization for TCF to charge its standard investment advisory fee, none of the ASAs included an authorization for TCF to charge a fee in connection with portfolio analysis reports. Also while onsite, FINRA staff requested copies of the reports. Perry replied that any such reports were contained in the customer files maintained by TCF. FINRA staff reviewed those files and did not find any such reports.

From on or about August 18, 2011 through on or about December 23, 2011, Respondents provided a new version of TCF's ASA (ASAv2) to their customers and requested that the customers sign it. Appendix B, attached and incorporated by reference, summarizes the signed ASAv2s that Respondents obtained from their customers.

The ASAv2 included the following sentence, which was not present in earlier versions of the ASA: "The Advisor will provide a year-end report to the Client and will charge a fee

proportion[sic] to the assets for the production of this analysis report, which will be included in the monthly brokerage statement that is provided to the Client.”

As to customers JBa, JH, KH, GJ, KJ, DK, EL, GL, LN, JN, MR, RS, CV, JV, MV, LW and JY, Respondents omitted to inform them that the ASAv2 ostensibly authorized a year-end report fee that had not been authorized in the original ASA. Further, each of these customers was not actually aware when signing the ASAv2 that it contained the added fee provision. As to customers KB, LB, KH, GJ, LN, LP, RS, NS, JV, PV, CV, MV, DW, LW and LWF, Respondents falsely claimed to them that Respondents required a signature on the ASAv2 because the version of the ASA that had previously been signed was missing. The statement was false because Respondents still possessed the earlier versions and, in fact, they were subsequently produced to FINRA staff by Respondents. As to customers JBa, KB, DK, JN, LP, RS, NS, PV, IV, CV, MV, DW, LW, LWF and JY, Respondents made a material misrepresentation to them by falsely claiming that the ASAv2 was “the same” as an earlier version of the ASA that the customers had signed.

As to each ASAv2 in Appendix B, Perry caused the falsification of the document by either altering the date(s) appearing by the customer signature line(s) or by requesting that the customer backdate the document.

On or about September 20, 2011, FINRA staff sent Respondents a request, pursuant to FINRA Rule 8210, for information and documents in connection with its investigation. Among the items requested were “... the last two portfolio analysis reports that Joan Perry compiled for her customers and for which she charged a portfolio analysis fee outside of her customary 2% management fee...” Respondents failed to provide the requested documents by the due date of September 21, 2011. On or about September 23, 2011, FINRA staff sent Respondents a second

request pursuant to Rule 8210 for the above-described reports. Respondents failed to provide the requested documents by the due date of September 27, 2011. On or about October 17, 2011, FINRA staff sent Respondents a third request pursuant to Rule 8210 for the above-described reports, with a due date of October 24, 2011.

On or about October 25, 2011, in response to the above-described requests, FINRA staff received two reports from Respondents, one for customer TH and one for customer PV. In fact, the two reports had never been sent to TH and PV. Rather, Perry manufactured the two reports in response to the September 20, September 23, and October 17, 2011 requests from FINRA staff.

On or about December 7, 2011, Perry testified to FINRA staff that she provided the portfolio analysis reports for Year 2010 to her customers sometime during the first quarter of 2011. She further testified that she kept copies of all of these reports in the basement of TCF's office.

On or about December 13, 2011, FINRA staff appeared at the TCF office and requested that Respondents produce the portfolio analysis reports that Perry testified she had sent to her customers during the first quarter of 2011. At that time, Perry informed the staff that the reports were not in the basement, nor were they at her home. She then stated that they might be in a storage facility in Lake Tahoe.

On or about December 14, 2011, FINRA staff sent Respondents a letter, pursuant to FINRA Rule 8210, requesting that they produce, by December 16, 2011, all of the portfolio analysis reports that had been sent to customers for Year 2010. From on or about December 16, 2011 through December 20, 2011, Respondents provided FINRA staff with approximately 55 portfolio analysis reports for Year 2010 in response to the staff's December 14, 2011 request. Notwithstanding Perry's representations, the reports she produced had not been sent to customers

prior to FINRA's initial queries about them in August 2011. Rather, Perry prepared them in response to FINRA's investigation.

Conversion (NASD Rule 2330 and FINRA Rules 2150 and 2010)

As to Respondents TCF and Perry

As described above and in Appendix A, by taking customer funds without authorization, Respondents violated NASD Rule 2330 and FINRA Rule 2010 for the period from February 5, 2009 through December 13, 2009, and FINRA Rules 2150 and 2010 for the period from December 14, 2009 through November 30, 2011.

Misrepresentations and Omissions to Customers (FINRA Rule 2010)

As to Respondents TCF and Perry

As described above, by omitting and/or misrepresenting material facts to customers in connection with the procurement of their signatures on the ASAv2, Respondents failed to uphold high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

Falsification (FINRA Rule 2010)

As to Respondent Perry

By causing the falsification of the ASAv2s described above and in Appendix B, Perry violated FINRA Rule 2010.

Providing Falsified Documents to FINRA (FINRA Rules 8210 and 2010)

As to Respondents TCF and Perry

By presenting to FINRA staff the falsified portfolio analysis reports described above in response to a request made pursuant to FINRA Rule 8210, Respondents violated FINRA Rules 8210 and 2010.

Providing False Testimony to FINRA (FINRA Rules 8210 and 2010)

As to Respondent Perry

On or about December 8, 2011, Perry provided sworn testimony to FINRA staff in response to a request made pursuant to FINRA Rule 8210. Perry testified that she asked her customers to sign and backdate the ASAv2 in order to reflect a supposed unwritten understanding she had with those customers as of approximately January 2010. Specifically, she testified that she had informed all of those customers about the portfolio analysis report fee as of approximately January 2010, and that they had agreed to be charged the fee.

In fact, customers JBa, JH, KH, GJ, KJ, DK, EL, GL, LN, JN, MR, RS, CV, MV and LW had not agreed to be charged any such fee prior to Perry's request that they sign the ASAv2. Further, Perry had not previously disclosed the existence of the fee to any of those customers. Therefore, Perry's sworn testimony that she had previously notified and obtained authorization from each of her customers concerning the portfolio analysis report fee was false.

By providing false testimony to FINRA staff in connection with an investigation, Perry violated FINRA Rules 8210 and 2010.

Improper Use of Customer Funds (FINRA Rules 2150 and 2010)

As to Respondent Perry

In or about October 2010, customer DC opened an account with Respondents. Perry subsequently approached DC with an opportunity to earn a 10% rate of return by lending Perry approximately \$300,000.00, which would be used to repay the then-current holder of a second mortgage on a property owned by Perry. Perry further informed DC that the new loan would be secured by a deed of trust on the property in favor of DC.

On or about December 29, 2010, Perry caused \$300,000.00 to be wired out of DC's securities account at TCF. Perry used the funds to pay off the above-described second mortgage.

At the time that Perry caused DC's funds to be wired out of her account, DC had not agreed to loan that money to Perry.

By borrowing funds from her customer without authorization, Perry violated FINRA Rules 2150 and 2010.

Borrowing from a Customer (FINRA Rules 3240 and 2010)
As to Respondent Perry

As described above, on or about December 29, 2010, Perry borrowed approximately \$300,000.00 from DC.

At the time of the loan:

- a. DC was not a member of Perry's immediate family;
- b. DC was not a financial institution regularly engaged in the business of providing credit, financing or loans;
- c. DC was not an entity or person that regularly arranged or extended credit in the ordinary course of business;
- d. DC was not a registered person of the same FINRA member as Perry;
- e. The lending arrangement was not based on a personal relationship between Perry and DC; and
- f. The lending arrangement was not based on a business relationship outside of the broker-customer relationship.

By borrowing money from her customer under the above-described circumstances, Perry violated FINRA Rules 3240 and 2010.

Customer Complaint Reporting (NASD Rule 3070 and FINRA Rules 4530 and 2010)
As to Respondents TCF and Perry

Since at least March 31, 2009, Perry has been the registered principal at TCF solely responsible for ensuring that customer complaints are timely and accurately reported to FINRA.

From on or about March 30, 2009 through on or about August 20, 2011, Respondents received twelve customer complaints that they did not report to FINRA in a timely manner and four customer complaints that they did not report to FINRA at all. The table below summarizes these complaints:

Date	Customer	Due Date	Date Reported	Days Late
03/31/09	KW	04/15/09	03/15/12	1,065
07/19/09	MH	10/15/09	03/15/12	882
09/25/09	MH	10/15/09	03/15/12	882
10/30/09	MH	01/15/10	03/15/12	790
01/20/11	NS	04/15/11	*	*
03/25/11	DC	04/15/11	03/15/12	335
03/30/11	LP	04/15/11	03/15/12	335
04/14/11	MM	07/15/11	*	*
04/16/11	MM	07/15/11	03/15/12	244
04/26/11	EF	07/15/11	03/15/12	244
06/21/11	SV	07/15/11	01/11/12	180
07/14/11	CM	10/15/11	03/15/12	152
07/18/11	CW	10/15/11	*	*
07/21/11	SV	10/15/11	03/15/12	152
08/09/11	CW	10/15/11	*	*
08/20/11	EF	10/15/11	03/15/12	152

* Never reported.

Respondents thereby violated NASD Rule 3070 and FINRA Rule 2010 for the period from April 15, 2009 through June 30, 2011 and FINRA Rules 4530 and 2010 for the period from July 1, 2011 through the date hereof.

Failure to Properly Preserve Correspondence (Exchange Act Rule 17a-4,
NASD Rule 3110 and FINRA Rule 2010)
As to Respondents TCF and Perry

From on or about February 1, 2010 through at least September 20, 2011, Perry was the sole person at TCF responsible for ensuring that TCF's books and records were kept in accordance with all applicable rules and regulations of the Exchange Act of 1934.

From on or about February 1, 2010 through September 20, 2011, TCF, acting through Perry, preserved communications pertaining to its business using electronic storage media other than optical disk technology. Respondents did not notify FINRA of their intent to employ electronic storage media to preserve such communications until on or about September 20, 2011. Respondents have never provided FINRA with a representation that their selected storage media meets the conditions set forth in Exchange Act Rule 17a-4(f)(2). The electronic storage media employed by Respondents did not preserve the communications exclusively in a non-rewritable, non-erasable format.

As a result of the foregoing conduct, TCF willfully violated Exchange Act Rule 17a-4 and also violated NASD Rule 3110 and FINRA Rule 2010. By failing to ensure that TCF kept its books and records in accordance with Exchange Act Rule 17a-4, Perry violated NASD Rule 3110 and FINRA Rule 2010.

Failure to Maintain Minimum Required Net Capital (Exchange Act Rule 15c3-1
and FINRA Rule 2010)
As to Respondents TCF and Perry

At all times relevant to the Complaint, Perry was the only Financial and Operations Principal at TCF and was solely responsible for TCF's compliance with Exchange Act Rule 15c3-1.

On or about December 22, 2010, (a) TCF's net capital was approximately \$44,132.75; (b) TCF's minimum net capital requirement was \$250,000.00; and (c) TCF conducted a securities business, consisting of approximately two purchases of exchange traded funds for a customer account.

On or about March 30, 2011, (a) TCF's net capital was approximately \$14,617.01; (b) TCF's minimum net capital requirement was \$250,000.00; and (c) TCF conducted a securities business, consisting of approximately nine purchases of various securities for a customer account.

On or about June 28, 2011, (a) TCF's net capital was approximately \$37,611.15; (b) TCF's minimum net capital requirement was \$250,000.00; and (c) TCF conducted a securities business, consisting of a purchase of stock for a customer account.

On or about October 4, 2011, (a) TCF's net capital was approximately \$38,063.45; (b) TCF's minimum net capital requirement was \$250,000.00; and (c) TCF conducted a securities business, consisting of approximately 17 purchases of an exchange-traded fund for approximately 13 customer accounts.

On or about November 25, 2011, (a) TCF's net capital was approximately \$(19,579.77); (b) TCF's minimum net capital requirement was \$250,000.00; and (c) TCF conducted a securities business, consisting of a purchase of stock for a customer account.

As a result of the foregoing conduct, TCF willfully violated Exchange Act Rule 15c3-1 and also violated FINRA Rule 2010. By failing to ensure that TCF maintained minimum required net capital while conducting a securities business, Perry violated FINRA Rule 2010.

Untimely Notice of Net Capital Deficiency (Exchange Act Rule 17a-11 and FINRA Rule 2010)
As to Respondents TCF and Perry

At all times relevant to the Complaint, Perry was solely responsible for TCF's compliance with Exchange Act Rule 17a-11.

On or about December 20, 2011, FINRA staff hand-delivered to Perry written notification of the staff's determination that TCF had an ongoing net capital deficiency. Respondents did not file any notice of its net capital deficiency, as required by Exchange Act Rule 17a-11, until on or about January 6, 2012.

By failing to timely file notice of its net capital deficiency, TCF willfully violated Exchange Act Rule 17a-11 and also violated FINRA Rule 2010. By failing to timely file notice of TCF's net capital deficiency pursuant to Exchange Act Rule 17a-11, Perry violated FINRA Rule 2010.

Failure to Implement Anti-Money Laundering Compliance Program (NASD Rules 3011 and 2110 and FINRA Rules 3310 and 2010)
As to Respondents TCF and Perry

From on or about October 7, 2008 through on or about March 8, 2011, on an approximately bi-weekly basis, FinCEN sent Respondents a total of approximately 73 emails. Each email stated that new 314(a) case information had been posted to FinCEN's Secure Information Sharing System (SISS).

As detailed in TCF's written Anti-Money Laundering Compliance Program, Perry was solely responsible for logging into SISS in response to each such email, reviewing the posted information, and conducting a search of TCF's records to determine if TCF maintained an account for or engaged in a transaction with any individual, entity or organization listed in the SISS posting. As of March 15, 2011, Respondents had not reviewed the 314(a) case information pertaining to 67 of the 73 emails they received from FinCEN.

By failing to search TCF's records in response to 314(a) requests from FinCEN, Respondents violated NASD Rules 3011 and 2110 for the period from October 7, 2008 through December 14, 2008, NASD Rule 3011 and FINRA Rule 2010 for the period from December 15, 2008 through December 31, 2009, and FINRA Rules 3310 and 2010 for the period from January 1, 2010 through March 15, 2011.

Providing False Information and Documents to FINRA (FINRA Rule 2010)
As to Respondents TCF and Perry

From on or about November 29, 2010 through on or about December 14, 2010, FINRA staff conducted field work in connection with a routine cycle examination of TCF, consisting of an onsite review of information and documents at TCF's place of business. While onsite, Respondents provided FINRA staff with printouts of eight emails in response to the staff's request for documents evidencing TCF's compliance with its obligations pertaining to 314(a) requests from FinCEN. At the bottom of each printout, Perry had handwritten, "Checked per date and no positive matches."

As of December 14, 2010, Respondents had not logged into SISS to review 314(a) case information pertaining to five of the emails. Also as of December 14, 2010, Respondents had logged into SISS to review 314(a) case information related to two other emails, but on dates subsequent to receipt of the emails. The table below summarizes the email dates and SISS login dates:

Email Date	SISS Accessed
05/04/10	*
05/06/10	*
06/01/10	*
06/15/10	*
09/21/10	09/21/10
10/19/10	*
11/02/10	11/29/10

Email Date	SISS Accessed
11/16/10	11/29/10

* Not accessed as of December 14, 2010.

On or about December 14, 2010, FINRA staff provided Respondents with an Exit Meeting Report. The report notified Respondents that the staff had completed the field work portion of its routine cycle examination and listed various exceptions found as a result of that field work. One of the exceptions in the report was a finding that TCF had failed to review information in connection with 27 of 29 FinCEN requests sent to TCF between January 12, 2010 and November 16, 2010.

On or about February 17, 2011, FINRA staff received a letter from Respondents in response to the Exit Meeting Report. With respect to the FinCEN-related exception, Respondents wrote, "The Reports sent by FinCen [sic] and as contained on the enclosed list -- were downloaded and reviewed." Although there was no actual list included, enclosed with the letter were printouts of 16 emails received from FinCEN between February 23, 2010 and January 25, 2011. Some of these printouts were duplicates of the emails provided to the staff between November 29, 2010 and December 14, 2010. However, none of the emails enclosed with the letter bore any handwriting. As of February 17, 2011, Respondents had not logged into SISS to review 314(a) case information pertaining to 13 of those emails.

By making material misrepresentations to FINRA staff concerning TCF's review of FinCEN information requests, Respondents violated FINRA Rule 2010.

Failure to Update Form U4 (FINRA By-Laws, Article V, Section 2 and FINRA Rule 2010)
As to Respondent Perry

On or about December 19, 2011, Perry provided sworn testimony to FINRA staff. During her testimony, the staff asked Perry about a civil judgment against her in favor of her gardener in

the amount of approximately \$1,120.00, which was entered on or about June 2, 2010. Perry testified that she could not recall with specificity when she became aware of the judgment. She further testified that she could not recall whether or not the judgment had been satisfied. In fact, as of December 19, 2011, the judgment remained unsatisfied. When the staff questioned Perry as to why she had not updated her Form U4 to reflect the judgment, she testified that she was unaware of her obligation to do so.

Perry did not update her Form U4 to disclose the judgment until on or about March 20, 2012. However, she had previously satisfied the judgment on or about March 1, 2012.

By willfully failing to update her Form U4 to disclose an unsatisfied judgment within 30 days of becoming aware of it, Perry willfully violated Article V, Section 2 of the FINRA By-Laws and FINRA Rule 2010.

Failure to Accurately Update Form U4 (FINRA By-Laws, Article V, Section 2
and FINRA Rules 1122 and 2010)
As to Respondent Perry

On or about February 23, 2012, FINRA staff notified Perry in writing that she was the subject of an investigation (the Wells notice). The Wells notice stated that FINRA staff had made a preliminary determination to recommend disciplinary action against Perry for the following potential violations: conversion, falsification, providing false testimony to FINRA, failure to amend Form U4, borrowing from a customer, unauthorized taking/misuse of customer funds, providing false information and documents to FINRA, misrepresentations and omissions to customers, complaint reporting, anti-money laundering compliance program, untimely notice of net capital deficiency, failure to maintain minimum required net capital and failure to properly preserve electronic correspondence.

On or about April 2, 2012, Perry updated her Form U4 in response to the Wells notice. Despite the numerous violations listed in the Wells notice, however, Perry's update simply read, "FINRA is investigating fee charges to customer, borrowing from customer and testimony."

By willfully filing a materially incomplete and misleading update to her Form U4, Perry willfully violated Article V, Section 2 of the FINRA By-Laws and FINRA Rules 1122 and 2010.

Failure to Provide Information and Documents to FINRA (FINRA Rules 8210 and 2010)
As to Respondents TCF and Perry

On or about April 24, 2012, FINRA staff sent Respondents a request, pursuant to FINRA Rule 8210, pertaining to Perry's Form U4 amendment disclosing the Wells notice (First Request). Specifically, the staff requested a copy of the signed Form U4 amendment, along with a written explanation from Perry as to why she did not disclose all of the potential violations listed in the Wells notice. The First Request was sent via first class mail, certified mail and facsimile to Respondents' attorney at the time (Counsel). On or about April 24, 2012, Counsel informed FINRA staff in writing that Perry would be responding directly to the staff concerning the First Request. On or about April 25, 2012, Counsel informed FINRA staff in writing that she and her firm did not currently represent Respondents, and that subsequent information requests should be sent to Respondents directly. Although the due date for the First Request was April 27, 2012, Respondents failed to provide any of the requested information or documents.

On or about May 3, 2012, FINRA staff sent Respondents a second request, pursuant to FINRA Rule 8210, for the information and documents originally requested on April 24, 2012 (Second Request). The Second Request was sent via first class mail to Perry at her last known residential address, as listed in the Central Registration Depository (CRD), and to TCF at its last known business address, as listed in CRD. Although the due date for the Second Request was May 7, 2012, Respondents failed to provide any of the requested information or documents.

By failing to provide FINRA staff with information and documents requested in connection with an investigation, Respondents violated FINRA Rules 8210 and 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondents from any future misconduct, and represent a proper discharge by FINRA of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

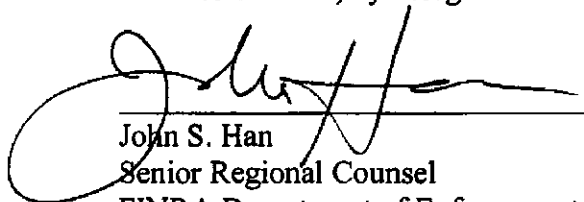
It is ordered that Respondent TCF be expelled from FINRA membership and Respondent Perry be barred from association with all FINRA members in all capacities.

Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

A handwritten signature in black ink, appearing to read "John S. Han", is written over a horizontal line.

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