

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SAMUEL DELSHAUL SHOEMAKER
(CRD No. 4932603),

Respondent.

Disciplinary Proceeding
No. 2011030666301

Hearing Officer - MC

DEFAULT DECISION

October 1, 2013

For fraudulently misappropriating customer funds, in violation of FINRA Rule 2010, and completely failing to provide information and testimony, in violation of FINRA Rules 8210 and 2010, Respondent Samuel Delshaul Shoemaker is barred from associating with any FINRA member firm in any capacity.

Appearances

Radhika Bhargava, Esq., New York, New York, for the Department of Enforcement.

No appearance by or for Respondent Samuel Delshaul Shoemaker.

DECISION

I. Background

While employed as a personal banker by a FINRA member firm, Respondent Samuel Delshaul Shoemaker abused his position by siphoning personal confidential information of three bank customers to an accomplice who used the information to fraudulently create debit cards for the customers' accounts. Shoemaker then used the cards to shop and obtain cash for his accomplice. When confronted by a bank investigator, Shoemaker confessed. When FINRA requested him to provide information and testimony, however, he chose not to respond at all.

The Department of Enforcement filed and served the attached two-cause Complaint upon Shoemaker. The first cause of action charges him with misappropriating customer funds in

violation of FINRA Rule 2010. The second cause of action charges him with failure to comply with requests for information and testimony, in violation of Rules 8210 and 2010.

When Shoemaker failed to file an Answer or otherwise respond to the Complaint, Enforcement filed and served a Second Notice of Complaint. Shoemaker has not filed an Answer or other response. Consequently, Enforcement filed a Motion for Entry of Default Decision (“Motion”) supported by the Declaration of Radhika Bhargava, Esq. and nine exhibits. Shoemaker did not respond to the Motion.

Shoemaker’s failure to file an Answer to the Complaint constitutes a default.¹ Accordingly, for the reasons set forth below, Enforcement’s Motion is granted.²

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Shoemaker began his career in the securities industry in 2005. In 2010, member firm Chase Investment Services Corp (“Chase” or the “Firm”) hired him, and he registered with FINRA through the Firm as an Investment Company Products/Variable Contracts Representative. He worked as a personal banker at JPMorgan Chase Bank, which is an affiliate of the Firm, in its New York City office.³

On November 15, 2011, after Shoemaker confessed to his misconduct, the Firm terminated his employment, and he has not since been associated with any FINRA member firm.⁴ Pursuant to Article V, Section 4 of FINRA’s By-Laws, Shoemaker remains subject to

¹ *Department of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42 at *5 (N.A.C. Dec. 9, 2003).

² The factual determinations in this Decision are based on the allegations in the attached Complaint, which are deemed admitted pursuant to FINRA Rule 9269(a)(2), Enforcement’s Motion (“Motion”), the Declaration of Radhika Bhargava, Esq. (“Bhargava Decl.”) and Enforcement’s exhibits CX-1 through CX-9.

³ Compl. ¶¶ 1, 3.

⁴ Compl. ¶¶ 4-5.

FINRA's jurisdiction for the purposes of this disciplinary proceeding because Enforcement filed the Complaint less than two years after Chase terminated his association with the Firm, and because the Complaint charges him with misconduct committed during his association with Chase and within two years of the termination of his registration with FINRA.⁵

B. Shoemaker Defaulted

On April 18, 2013, Enforcement served the Complaint and Notice of Complaint upon Shoemaker by certified and first-class mail at his residential address listed in the Central Registration Depository ("CRD Address") and at a second address which it found by a computer search.⁶ A return receipt, signed "Jackie S.," showed delivery on April 20, 2013, at the second address.⁷ The certified mailing to Shoemaker's CRD Address, however, was returned to Enforcement marked "Return to Sender-Unable to Forward."⁸ The first-class mailings were not returned.⁹ Shoemaker did not file an Answer or respond to the Complaint.¹⁰

On May 20, 2013, Enforcement served the Complaint and Second Notice of Complaint on both addresses by certified and first-class mail.¹¹ Return receipts for the certified mailings to both addresses, signed Leona Shoemaker, Shoemaker's mother, showed that they were delivered.¹² Shoemaker has not filed an Answer or responded in any fashion to the Second Notice of Complaint.¹³

⁵ Compl. ¶ 5.

⁶ In July 2012, Enforcement found the second address, which is the same as the CRD address, but contains a specific apartment number. Bhargava Decl. ¶¶ 13(d), 14.

⁷ Bhargava Decl. ¶ 16; CX-5.

⁸ Bhargava Decl. ¶ 17; CX-6.

⁹ Bhargava Decl. ¶ 18.

¹⁰ Bhargava Decl. ¶ 19.

¹¹ Bhargava Decl. ¶ 20.

¹² Bhargava Decl. ¶¶ 13(a), 22; CX-9.

¹³ Bhargava Decl. ¶ 24.

Enforcement complied with Rule 9134 by mailing the Complaint and Notices of Complaint to Shoemaker's last-known residential CRD address, thereby giving him constructive notice of this proceeding. By failing to file an Answer, Shoemaker defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

C. Shoemaker Misappropriated Customer Funds

FINRA Rule 2010, the industry's "just and equitable" ethical rule, imposes on all registered persons the obligation to conform their conduct to the "high standards of commercial honor and just and equitable principles of trade."

Shoemaker, as a personal banker at JPMorgan Chase Bank, had access to personal confidential information of bank customers. Between April and November 2011, he disclosed the personal confidential information of three bank customers to a third person, who was not authorized to receive it, and who used the information to fraudulently create debit cards for the accounts of those customers. This accomplice then gave the cards to Shoemaker, who used the cards to make purchases and obtain cash for his accomplice from the bank accounts of the unknowing and unconsenting customers.¹⁴ In this way, Shoemaker fraudulently misappropriated a total of \$5,375.72 from the customers' accounts. Shoemaker's conduct violated FINRA Rule 2010.

D. Shoemaker Failed to Provide Information and Testimony

FINRA Rule 8210 imposes upon all persons associated with member firms the obligation to provide information and testimony when requested to do so by FINRA staff in the course of an investigation or examination.

¹⁴ Compl. ¶¶ 7-9.

On January 5, 2012, FINRA staff made such a request for information by certified and first-class mail to Shoemaker's CRD address. The return receipt for the certified mailing, bearing the signature of Leona Shoemaker, documented delivery. The first-class mailing was not returned. The letter set a deadline for Shoemaker to provide information and documents concerning the circumstances of his termination from the Firm. Shoemaker did not respond.¹⁵

On January 19, 2012, FINRA staff sent a second request for the information and documents by certified and first-class mail to the CRD Address. Once again, the return receipt, signed Leona Shoemaker, showed delivery of the certified mailing, and the first-class mailing was not returned. As before, the letter set a deadline for Shoemaker to provide the information and documents, and he did not respond in any manner.¹⁶

On May 31, 2012, FINRA staff sent a third letter by certified and first-class mail to the CRD Address. This one required Shoemaker to appear and testify on June 27, 2012, at FINRA's New York City offices. The Postal Service returned the certified mailing marked, "Return to Sender – Unclaimed – Unable to Forward," and returned the first-class mailing marked, "Return to Sender – Not Deliverable as Addressed – Unable to Forward." Shoemaker did not appear to provide testimony.¹⁷

On July 13, 2012, FINRA staff sent a fourth letter, this time by FedEx and first-class mail to Shoemaker's last known address, requiring Shoemaker to provide testimony on August 10, 2012, at FINRA's New York City offices. The FedEx mailing was delivered and the first-class mailing was not returned. Nevertheless, Shoemaker did not appear to testify as directed.¹⁸

¹⁵ Compl. ¶¶ 13-14.

¹⁶ Compl. ¶¶ 15-16.

¹⁷ Compl. ¶ 17.

¹⁸ Compl. ¶¶ 18-19.

On January 14, 2013, FINRA staff sent a fifth letter to Shoemaker at both addresses, by certified and first-class mail, requiring him to appear and testify on February 13, 2013, at FINRA's New York City offices. Return receipts for both certified mailings, signed Leona Shoemaker, showed that they were delivered. The Postal Service did not return the first-class mailings. Once more, however, Shoemaker failed to appear and testify and he has not provided any response to the Rule 8210 requests FINRA staff has repeatedly made.¹⁹ By failing to do so, Shoemaker has violated FINRA Rules 8210 and 2010.

III. Sanctions

FINRA's Sanction Guidelines state that a bar is standard for conversion, or misappropriation, regardless of the amount of money taken.²⁰ In this case, Shoemaker accomplished his misappropriation by means of a furtive, fraudulent "intentional and unauthorized taking of and/or exercise of ownership over property" to which he was not entitled.²¹ By its nature, misappropriation of customer funds is "among the most grave violations" that can be committed by a registered representative and "is extremely serious and patently antithetical to the 'high standards of commercial honor and just and equitable principles of trade' that underpin the self-regulation of the securities markets."²² It "poses so substantial a risk to investors ... as to render the violator unfit for employment in the securities industry."²³

¹⁹ Compl. ¶¶ 20-22.

²⁰ *FINRA Sanction Guidelines* 36 (2011).

²¹ *Id.* at 36 n.2 (2011).

²² *John Edward Mullins*, Exchange Act Rel. No. 66373, 2012 SEC LEXIS 464, at *42, 73 (Feb. 10, 2012) (quoting *Wheaton D. Blanchard*, 46 S.E.C. 365, 366 (1976)).

²³ *Mullins*, 2012 SEC LEXIS 464, at *73 (quoting *Charles C. Fawcett IV*, Exchange Act Rel. No. 56770 (Nov. 8, 2007), 91 SEC Docket 3147, 3157 n.27).

Here, Shoemaker's scheme is all the more reprehensible because it involved betrayal of a fundamental duty owed by bankers to their customers.²⁴

Like misappropriation, a complete failure to respond to a Rule 8210 request is also a most serious violation. FINRA's Sanction Guidelines state that when an individual completely fails to respond to a Rule 8210 request, "a bar should be standard."²⁵ The first Principal Consideration in Determining Sanctions in the Guidelines for Rule 8210 violations is the importance to FINRA of the information requested.²⁶ Here, FINRA sought, repeatedly, information essential to investigate the circumstances of Shoemaker's termination by the Firm. FINRA must rely on Rule 8210 to fulfill its regulatory responsibility to police the activities of members and associated persons. "The rule is at the heart of the self-regulatory system for the securities industry" and imposes an unequivocal responsibility to comply with information requests.²⁷ Shoemaker's complete failure to respond, an abdication of his obligation to cooperate with FINRA's requests for information, was "so fundamentally incompatible" with FINRA's self-regulatory function that, in the absence of mitigating factors, the appropriate sanction is a bar.²⁸

Enforcement represents that it is unaware of any mitigating factors present in this case,²⁹ and requests the imposition of a bar for each of the violations.³⁰ Under these circumstances, no sanction less than a bar would be fitting.

²⁴ See *Charles C. Fawcett IV*, Exchange Act Rel. No. 56770, 2007 SEC LEXIS 2598, at *22 n.27 (Nov. 8, 2007).

²⁵ *Guidelines* at 33.

²⁶ *Id.*

²⁷ *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008).

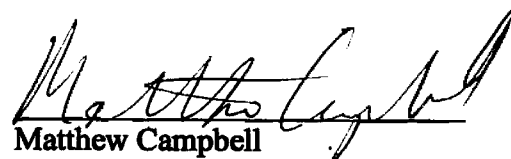
²⁸ *Joseph Ricupero*, Exchange Act Rel. No. 62891, 2010 SEC LEXIS 2988, at *21 (Sept. 10, 2010), *aff'd*, 436 F. App'x 31(2d Cir. 2011) (citing *Paz Securities, Inc.*, Exchange Act Rel. No. 57656, 2008 SEC LEXIS 820, at *9 (April 11, 2008) (quoting *Charles C. Fawcett, IV*, Exchange Act Rel. 56770, 2007 SEC LEXIS 2598, at *21-22 (Nov. 8, 2007))).

²⁹ Motion 8.

³⁰ Enforcement does not seek an order of restitution because JPMorgan Chase Bank repaid the three customers for their losses. *Id.*

IV. Order

For fraudulently misappropriating customer funds, in violation of FINRA Rule 2010, and for failing to respond in any manner to requests that he provide information and testimony in the course of a FINRA investigation, Respondent Samuel Delshaul Shoemaker is barred from associating with any FINRA member firm in any capacity. The bars will be effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.


Matthew Campbell
Hearing Officer

Copies to:

Samuel D. Shoemaker (*via overnight courier and first-class mail*)
Radhika Bhargava, Esq. (*via electronic and first-class mail*)
Gina Petrocelli, Esq. (*via electronic mail*)
Susan Light, Esq. (*via electronic mail*)
Jeffrey D. Pariser, Esq. (*via electronic mail*)

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

Department of Enforcement,

Complainant,

v.

Samuel Delshaul Shoemaker
(CRD No. 4932603),

Respondent.

DISCIPLINARY PROCEEDING
No. 2011030666301

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between April 2011 and November 2011, Samuel Delshaul Shoemaker ("Shoemaker") while employed as a Personal Banker with JPMorgan Chase Bank (the "Bank"), an affiliate of Chase Investment Services Corp ("Chase" or the "Firm"), misappropriated \$5,375.72 from three Bank customers' accounts by providing confidential information to an unauthorized third party who used that information to create false debit cards. The third party provided the false debit cards to Shoemaker, who used them to make purchases and to obtain funds without the Bank customers' knowledge or authorization. By virtue of this conduct, Shoemaker violated FINRA Rule 2010.

2. Additionally, Shoemaker failed to comply with requests for information, documents and on-the-record testimony made pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Shoemaker first entered the securities industry in March 2005. He obtained Series 6 and 63 licenses in 2010. Shoemaker was registered as an Investment Company Products/Variable Contracts Representative with Chase, a FINRA regulated broker-dealer, from May 2010 until his termination on November 15, 2011. While registered with the Firm, he worked as a Personal Banker in the Bank's New York, New York branch office.

4. In a Uniform Termination Notice for Securities Industry Registration ("Form U5") dated December 14, 2011, the Firm reported to FINRA that on November 15, 2011, Shoemaker's employment had been terminated after he admitted to "providing Bank customer information to an unauthorized third party and using that information for Bank debit card purchases."

5. Although Shoemaker has not been associated with a FINRA regulated broker-dealer since November 15, 2011, 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 Shoemaker's registration with the Firm, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to respond to FINRA Rule 8210 requests for information, documents, and 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 Bank Customers' Funds
(FINRA Rule 2010)

6. The Department realleges and incorporates by reference paragraphs 1 to 5 above.
7. FINRA Rule 2010 requires that registered representatives observe "high standards of commercial honor and just and equitable principles of trade."
8. Between April 2011 and November 2011, Shoemaker provided confidential information regarding Bank customers to a third party who was not authorized to receive it. This unauthorized third party used the Bank customers' confidential information to fraudulently create debit cards for the customers' accounts and gave the debit cards to Shoemaker.
9. Shoemaker used the debit cards to make purchases and to obtain funds for the third party. The customers did not have knowledge of or authorize these transactions at the time that they were effected. Shoemaker misappropriated a total of \$5,375.72 from three Bank customers' accounts.
10. By virtue of the foregoing, Shoemaker misappropriated Bank customers' funds in violation of FINRA Rule 2010.

SECOND CAUSE OF ACTION
Failure to Comply with Requests for Information and Testimony
(FINRA Rules 8210 and 2010)

11. The Department realleges and incorporates by reference paragraphs 1 to 10 above.

12. FINRA Rule 8210(a) states that "For the purpose of an investigation, complaint, examination or proceeding authorized by the FINRA By-Laws or rules, an Adjudicator or FINRA staff shall have the right to: (1) require a member, person associated with a member, or person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically... and to testify at a location specified by FINRA staff, under oath or affirmation administered by a court reporter or a notary public if requested, with respect to any matter involved in the investigation, complaint, examination, or proceeding..."

13. On January 5, 2012, FINRA staff sent a letter to Shoemaker, pursuant to FINRA Rule 8210, requesting information and documents concerning the circumstances of his termination (the "January 5 Letter"). The January 5 Letter was sent to Shoemaker's last known address, as reflected in the Central Registration Depository ("CRD address") via certified mail, return receipt requested and via first-class mail.

14. The copy of the January 5 Letter sent by first class mail was not returned. The return receipt for the January 5 Letter sent by certified mail states that the January 5 Letter was delivered. The return receipt was signed by Leona Shoemaker. The January 5 Letter required Shoemaker to provide the requested information by January 12, 2012. Shoemaker did not respond to the January 5 Letter.

15. On January 19, 2012, FINRA staff sent a second letter to Shoemaker, pursuant to FINRA Rule 8210, requesting information and documents concerning the circumstances of his termination (the "January 19 Letter"). The January 19 Letter was sent to Shoemaker at his CRD address via certified mail, return receipt requested and via first-class mail. The January 19 Letter stated that a failure to provide the requested information could result in a disciplinary action against Shoemaker.

16. The copy of the January 19 Letter sent by first class mail was not returned. The return receipt for the January 19 Letter sent by certified mail states that the January 19 Letter was delivered. The return receipt was signed by Leona Shoemaker. The January 19 Letter required Shoemaker to provide the requested information by January 30, 2012. Shoemaker did not respond to the January 19 Letter.

17. On May 31, 2012, FINRA staff sent a third letter to Shoemaker, pursuant to Rule 8210, requesting him to appear and testify on June 27, 2012 at FINRA's New York, NY offices (the "May 31 Letter"). The May 31 Letter was sent via certified mail, return receipt requested and via first-class mail to Shoemaker's CRD address, which does not contain an apartment number. The May 31 Letter stated that a failure to appear as requested could expose him to sanctions, including a permanent bar from the securities industry. The May 31 Letter sent by certified mail was returned to FINRA marked "Return to Sender- Unclaimed- Unable to Forward." The copy of the May 31 Letter sent via first class mail was returned to FINRA marked "Return to Sender- Not Deliverable As Addressed- Unable to Forward." Shoemaker failed to appear for testimony on June 27, 2012.

18. On July 13, 2012, FINRA staff sent a fourth letter to Shoemaker pursuant to Rule 8210, requesting him to appear and testify on August 10, 2012 at FINRA's New York, NY offices (the "July 13 Letter"). The July 13 Letter was sent via Federal Express and via first class mail to Shoemaker at his last known address, which is identical to Shoemaker's CRD address except that it contains an apartment number (the "last known address"). The July 13 Letter stated that a failure to appear as requested could expose Shoemaker to sanctions, including a permanent bar from the securities industry.

19. The July 13 Letter sent by Federal Express was delivered on July 17, 2012. The copy of the July 13 Letter sent by first class mail was not returned. Shoemaker failed to appear for testimony on August 10, 2012.

20. On January 14, 2013, FINRA Staff sent a fifth letter to Shoemaker requesting Shoemaker to appear and testify on February 13, 2013 at FINRA's New York, New York offices, pursuant to FINRA Rule 8210 (the "January 14 Letter"). The January 14 Letter was sent to Shoemaker via certified mail, return receipt requested and via first class mail to Shoemaker at his CRD address. A copy of the January 14 Letter was also sent to Shoemaker's last known address. The January 14 Letter stated that a failure to appear as requested could expose Shoemaker to sanctions, including a permanent bar from the securities industry.

21. FINRA staff received return receipts for the copies of the January 14 Letter that were sent certified mail, return receipt requested, which stated that the letters were delivered. The return receipts were signed by Leona Shoemaker. The copies of the January 14 Letter that were sent via first class mail were not returned to FINRA. Shoemaker failed to appear for testimony on February 13, 2013.

22. As of the date of this Complaint, Shoemaker has not provided testimony or documents to FINRA staff in response to any of the Rule 8210 requests described herein.

23. By virtue of the foregoing, Shoemaker violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- C. 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: April 18, 2013

Susan Light \ RB

Susan Light, Chief Counsel & Senior Vice President
Gina Petrocelli, Director, Enforcement Center
Radhika Bhargava, Senior Counsel
FINRA Department of Enforcement
One World Financial Center, 11th Floor
200 Liberty Street
New York, New York 10281
Phone: (646) 315-7309
Fax: (202) 689-3425
E-mail: radhika.bhargava@finra.org