

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Sumner J. Starbird (CRD No. 2857200),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013038544601

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In September 2013 (the “relevant period”), Sumner J. Starbird (“Starbird”) incurred \$600 in overdraft fees in his personal account at Morgan Stanley Smith Barney (“Morgan Stanley” or the “Firm”).
2. On September 3 and 6, 2013, Starbird improperly reversed those fees. He did so without authorization, in a deceptive manner, to avoid paying the fees.
3. Starbird thereby violated FINRA Rule 2010.

RESPONDENT AND JURISDICTION

4. Starbird first became associated with a FINRA member in February 2001 as a General Securities Representative. Starbird worked at four different member firms

prior to joining Morgan Stanley as a registered representative on June 1, 2009.

Morgan Stanley terminated Starbird's registration on September 11, 2013.

5. Although Starbird 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) this Complaint is filed within two years of the effective date of Morgan Stanley's termination of Starbird's registration, namely, October 9, 2013; and (2) this Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

CAUSE OF ACTION

IMPROPER REVERSAL OF FEES IN PERSONAL ACCOUNT

(FINRA Rule 2010)

6. The Department realleges and incorporates by reference paragraphs 1–5 above.
7. During the relevant period, Starbird was a Customer Service Manager ("CSM") at Morgan Stanley.
8. During the relevant period, Starbird maintained a personal account at Morgan Stanley which had check writing privileges.
9. During the month of September 2013, Starbird's incurred 24 separate overdraft charges, at \$25 apiece, in his personal account. He incurred these fees by drawing checks against the account, which contained insufficient funds. Thus, Starbird owed Morgan Stanley \$600 in overdraft fees.
10. On September 3, 2013, Starbird incurred nine overdraft charges, totaling \$225, in his personal account.

11. On or about September 3, 2013, Starbird was alerted to the \$225 in overdraft fees through an automated alert generated by Morgan Stanley's computer system.
12. On or about that same date, Starbird used his work computer to reverse those fees in Morgan Stanley's computer system.
13. As a CSM, Starbird had the authority to reverse fees charged by the Firm in customer accounts.
14. Starbird did not have the authority to reverse fees for his personal account, and the Firm's computer system prevented CSMs from authorizing reversals of their own overdraft fees. As a result, Starbird's reversal request was sent to another CSM for approval.
15. The other CSM authorized the reversals without knowing that Starbird had made the reversals for his own account.
16. On or about September 6, 2013, Starbird incurred an additional \$375 in overdraft fees for fifteen bounced checks in his personal account.
17. Rather than reverse the fees from his own work computer, Starbird falsely told a colleague that he was having technical issues with his computer and asked to use her computer.
18. Starbird then reversed the fees from his colleague's computer using her Morgan Stanley login ID without her knowledge.
19. Those fee reversals were sent to Starbird for approval. Starbird then used his work computer to authorize the fee reversals.

20. Thus, Starbird improperly reversed \$600 in overdraft fees owed by him in his personal account through deceptive and dishonest means. Starbird thereby violated FINRA Rule 2010.

RELIEF REQUESTED

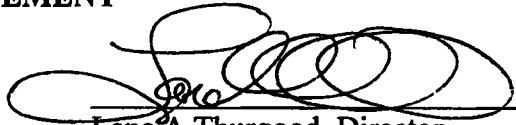
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) 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 Respondent(s) 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:

September 16, 2014



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