

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Jason Michael Otto (CRD No. 5215431),

Respondent.

DISCIPLINARY PROCEEDING
No. 20140413194

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between July 2013 through April 2014 (the “relevant period”), Respondent, a licensed banker with Wells Fargo Bank (“the Bank”), converted funds from the Bank by improperly charging off a \$4,346.49 debit balance in his account. As a result, Respondent violated FINRA Rule 2010 by converting funds from the Bank.

2. Respondent also violated FINRA Rules 8210 and 2010 by failing to provide information and testimony to FINRA.

RESPONDENT AND JURISDICTION

3. Respondent was employed as a licensed banker by the Bank from August 2005 through April 2014. He was also dually employed and registered with Wells Fargo Advisors LLC (“Wells Fargo”) from January 2011 until May 23, 2014. On May 23, 2014, Wells Fargo filed a Uniform Termination Notice for Securities Industry Registration reporting Respondent’s voluntary termination of employment on May 23, 2014 after the Bank determined that he issued

cashier's checks from his account when there were insufficient funds in his account. Respondent has not been associated with any FINRA member firm since the termination of his employment from Wells Fargo.

4. Although Respondent is no longer registered or associated with a FINRA member firm, 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 a FINRA-member firm, namely May 23, 2014 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 requests for information and testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member firm.

STATEMENT OF FACTS

Conversion of Bank Funds

5. Between July 2013 and March 2014, Respondent had a personal checking account at the Bank.

6. The Bank's policies prohibited employees from approving overdrafts for their own accounts or abusing checking account privileges by writing non-sufficient checks.

7. Beginning in July 2013 and continuing until March 2014, Respondent purchased nine cashier's checks totaling \$15,655 from his checking account although he had insufficient funds in the account to pay for the checks.

8. Since Respondent did not have sufficient funds in his checking account to cover each check, the Bank would not have issued the cashier's checks. Respondent used computer log-in

credentials assigned to other employees, without permission from the Bank or any of its employees, to improperly approve payment of the checks using Bank funds.

9. By April 4, 2014, as a result of the cashier's check purchases and fees, Respondent's Bank account had a debit balance of \$4,346.49.

10. On April 4, 2014, without permission or authority from the Bank, Respondent charged off the \$4,346.49 debit balance, which cancelled the negative balance in his account.

11. Respondent never repaid these funds to the Bank.

12. As a result, Respondent converted \$4,346.49 from the Bank in violation of FINRA Rule 2010.

Failure to Provide Testimony to FINRA

13. On June 25, 2014, FINRA sent a letter by certified mail and return receipt requested to Respondent at his last known residential address as reflected in the Central Registration Depository (the "CRD Address"). FINRA also sent copies of the letter to the CRD Address by first class mail. The letters requested that Respondent provide a signed statement to FINRA no later than July 9, 2014 regarding allegations that cashier checks were issued to pay his mother's mortgage and that Respondent attempted to have the check amounts credited to his account when there was insufficient funds to pay the checks.

14. In a letter dated July 8, 2014, Respondent provided a signed statement to FINRA admitting that he overdrew his checking account using another employee's computer.

15. On October 29, 2014, FINRA sent a letter by certified mail and return receipt requested to Respondent at the CRD Address which was returned unclaimed to FINRA. FINRA also sent copies of the letter to his CRD address by first class mail which was not returned to FINRA. The

letter requested, pursuant to FINRA Rule 8210 that Respondent provide information to FINRA by November 7, 2014.

16. The letter sent by certified mail to Otto at the CRD address was returned to FINRA. The copy of the letter sent by first class mail was not returned to Enforcement.

17. Respondent failed to provide information to FINRA by November 7, 2014.

18. On November 11, 2014, FINRA sent a letter by certified mail and return receipt requested to Respondent at the CRD address. FINRA also sent copies of the letter to his CRD address by first class mail.. The letter requested, pursuant to FINRA Rule 8210 that Respondent provide information to FINRA by November 17, 2014 and appear and provide testimony before FINRA on November 17, 2014.

19. The letter sent by certified mail and return receipt requested to the CRD Address was delivered. The copy of the letter sent by first class mail to the CRD Address was not returned to FINRA.

20. Respondent failed to appear and provide testimony on November 17, 2014.

21. On November 21, 2014, FINRA sent a letter by certified mail and return receipt requested to Respondent at the CRD Address. FINRA also sent copies of the letter to the CRD Address by first class mail. The letter requested that Respondent appear and provide on-the-record testimony on December 4, 2014.

22. The letter sent by certified mail and return receipt requested to the CRD Address was delivered. The copy of the letter sent by first class mail to the CRD Address was not returned to FINRA.

23. Respondent failed to appear and provide testimony on December 4, 2014.

FIRST CAUSE OF ACTION

Conversion of Bank Funds

(FINRA RULE 2010)

24. The Department realleges and incorporates by reference paragraphs 1 through 19, above.

25. FINRA Rule 2010 states that, "A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade."

26. Between July 5, 2013 and March 3, 2014, Respondent charged off a \$4,346.49 debit balance in his account, which cancelled the negative balance.

27. Respondent did not have permission or authority from the Bank or any of its employees to charge off the debit balance in his account.

28. Based on the foregoing, Respondent violated FINRA Rules 2010 by converting funds from the Bank.

SECOND CAUSE OF ACTION

Failure to Comply with Requests for Testimony

(FINRA Rules 8210 and 2010)

29. The Department realleges and incorporates by reference paragraphs 1 through 24, above.

30. FINRA Rule 8210 provides that FINRA has the right to require a person subject to FINRA's jurisdiction to provide information with respect to any matter involved in a FINRA investigation, complaint, examination, or proceeding.

31. FINRA Rule 8210 required Respondent to provide testimony to FINRA. Respondent failed to provide the requested information and testimony in connection with FINRA's investigation.

32. By failing to provide information and testimony, Respondent violated FINRA Rules 8210 and 2010.

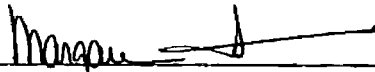
RELIEF REQUESTED

WHEREFORE, the department respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Respondent(s) committed the violations charged and alleges 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 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: March 4, 2015


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