

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

Department of Enforcement,

Complainant,

v.

Thomas Lee Johnson (CRD No. 1215434),

Respondent.

DISCIPLINARY PROCEEDING
No. 2018056848101

HEARING OFFICER:

COMPLAINT

The Department of Enforcement (“Enforcement”) alleges:

SUMMARY

1. In November 2017, while associated with RBC Capital Markets, LLC (“RBC” or the “Firm”), a FINRA-regulated broker-dealer, Thomas Lee Johnson (“Johnson”) converted approximately \$1 million in Firm funds. The funds were deposited into his Firm brokerage account (the “RBC Account”) following the Firm’s liquidation of Johnson’s shares and warrants of Doosan Heavy Industries & Construction Co. (“Doosan”), a South Korean company. Due to a system error, the Firm incorrectly priced Johnson’s Doosan holdings in South Korean won instead of in U.S. Dollars. As a result, on November 14, 2017, Johnson received \$1,059,544.98 from the sale of his Doosan securities, when he should have received only \$951.01.

2. Because Johnson monitored his RBC Account on a daily basis, he knew the actual value of his Doosan holdings and that he had received the \$1,059,544.98 in error. Rather than notify the Firm of the error, on November 22, 2017, Johnson transferred the funds from his RBC Account to his personal checking account held at a bank not affiliated with RBC (the “Bank

Account”) so as to distribute the proceeds between himself and his siblings at a later date. By converting funds belonging to his member Firm employer, Johnson violated FINRA Rule 2010.

3. In addition, in both a written response to a request for information sent by FINRA pursuant to FINRA Rule 8210 and an on-the-record interview (“OTR”), Johnson falsely stated that, at his request, two sales assistants at the Firm researched the transaction and value of his Doosan stock and confirmed that the \$1,059,544.98 he received from the sale of his Doosan stock and warrants was accurate. By providing false and misleading information to FINRA, Johnson violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

4. Johnson entered the securities industry in August 1983 and has been associated with four FINRA-regulated broker-dealers during his approximately 35 years in the securities industry. In March 2009, Johnson became associated with RBC as a General Securities Representative (Series 7) and Investment Advisor (Series 65).

5. In a Uniform Termination Notice for Securities Industry Registration (“Form U5”) dated December 26, 2017, RBC reported the termination of Johnson’s employment on December 14, 2017 for a “[v]iolation of company policy, not client related.”

6. Although Johnson 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 (i) the Complaint was filed within two years after the effective date of the termination of Johnson’s registration with RBC, namely, December 26, 2017; (ii) the Complaint charges Johnson with misconduct committed while he was registered or associated with a FINRA member firm; and (iii) with providing false and misleading information to FINRA in written responses and OTR testimony provided in connection with requests issued

pursuant to FINRA Rule 8210 during the two-year period after the date upon which Johnson ceased to be registered or associated with a FINRA member firm.

FIRST CAUSE OF ACTION

Conversion

Violation of FINRA Rule 2010

7. Enforcement realleges and incorporates by reference Paragraphs 1 through 6 above.
8. FINRA Rule 2010 requires FINRA members and their associated persons to “observe high standards of commercial honor and just and equitable principles of trade.”
9. Conversion is the intentional and unauthorized taking of, and/or exercise of ownership of, property by one who neither owns the property nor is entitled to possess it. A registered person who engages in conversion violates FINRA Rule 2010.
10. In November 2016, Johnson inherited 60 shares of stock in Doosan from his father’s estate.
11. On December 14, 2016, the 60 shares of Doosan stock were deposited into Johnson’s RBC Account. At the time of the deposit, the price of Doosan stock was \$22.673 per share and the total value of Johnson’s shares was \$1,360.36.
12. On September 18, 2017, 10 Doosan warrants were deposited into Johnson’s RBC Account as a spinoff of his 60 shares. At the time of the deposit, the total value of the warrants was \$27.21.
13. As of October 31, 2017, the price of Doosan stock was \$15.655 per share and the total value of Johnson’s shares was \$939.30. As of October 31, 2017, the total value of Johnson’s Doosan warrants was \$28.04. At all times, Johnson was aware of the value of his Doosan stock and warrants because he monitored his RBC Account balance daily online and received monthly account statements.

14. After advising Johnson that the Firm would no longer custody his Doosan securities, RBC liquidated Johnson's Doosan stock and warrants on November 14, 2017. Due to a pricing error, RBC's system recorded the prices of each Doosan stock share and warrant as \$17,184.58 and \$2,849.40 when the prices should have been recorded as \$15.8102 and \$2.6215, respectively. As a result, when liquidated, Johnson's Doosan stock and warrants were valued at the erroneous prices causing the Firm to deposit, after fees were deducted, a total amount of \$1,059,544.98 into Johnson's RBC Account as the proceeds from the sale of Johnson's Doosan stock and warrants.

15. Johnson was not entitled to the \$1,059,544.98 erroneously deposited by the Firm into his RBC Account. Instead, Johnson should have received only \$951.01 in proceeds from the liquidation of his Doosan securities.

16. Although Johnson knew that he had received the \$1,059,544.98 in error and had no right to possess the funds, he never notified the Firm of the error.

17. Instead, on November 22, 2017, Johnson wrote a check made payable to himself in the amount of \$1,059,544.98 and drawn on his RBC Account and deposited the check in his Bank Account that he held away from the Firm.

18. Johnson planned to distribute the after-tax proceeds to himself and his four siblings; however, on November 28, 2017, RBC cancelled the liquidation of Johnson's Doosan securities and rebilled the transaction at the correct selling price.

19. When Johnson saw that the Doosan transaction had been reversed, he obtained a cashier's check in the amount of \$1,060,000 from the Bank and deposited the check into his RBC Account on November 29, 2017.

20. By transferring the \$1,059,544.98 from his RBC Account to his personal Bank Account for his own use and benefit, when he knew he had received the funds in error and that he had no right to possess the funds, Johnson converted RBC's funds in violation of FINRA Rule 2010.

SECOND CAUSE OF ACTION

Providing False and Misleading Statements and Testimony to FINRA Violation of FINRA Rules 8210 and 2010

21. Enforcement realleges and incorporates by reference Paragraphs 1 through 20 above.

22. FINRA Rule 8210(a) requires a "person subject to FINRA's jurisdiction to provide information orally, in writing ... and to testify at a location specified by FINRA staff, under oath or affirmation ... with respect to any matter involved in ... [an] investigation." Rule 8210 prohibits a person subject to FINRA's jurisdiction from providing false or misleading information to FINRA in connection with an investigation.

23. A violation of FINRA Rule 8210 also constitutes a violation of FINRA Rule 2010.

24. On January 26, 2018, FINRA sent Johnson a written request for documents and information pursuant to FINRA Rule 8210. In his February 14, 2018 written response to that request (the "February 8210 Response"), Johnson stated, among other things, that "on November 14th 2017 ... when I pulled up my account that morning there was an extra million dollars plus in it. I asked my assistant [CM] what was going on. She and her coworker [LR] researched my account and told me that the 60 shares of Doosan sold for \$17,184.58 each for a total of \$1,031,074.80 and that the 10 Doosan warrants sold for \$2,849.40 each for a total of \$28,494.00."

25. On June 27, 2018, Johnson provided sworn, on-the-record testimony (the "June OTR"). At the outset of the June OTR, Enforcement advised Johnson concerning his obligation

under FINRA Rule 8210 to answer Enforcement's questions completely and truthfully. Johnson testified at his June OTR that when he saw that over \$1,000,000 had been deposited into his RBC Account on November 14, 2017: (i) he asked CM where the deposited funds came from; (ii) CM told him that the deposited funds were proceeds from the sale of his Doosan stock and warrants; (iii) both CM and LR checked the Bloomberg Terminal for him and confirmed the price of the Doosan stock and warrants.

26. Johnson's statements to FINRA in his February 8210 Response and his testimony at his June OTR were false in that he never asked CM to research his RBC Account to verify the accuracy of the proceeds from the sale of his Doosan stock and warrants and thus neither CM nor LR took any steps to confirm the price of the Doosan stock and warrants when liquidated from Johnson's account.

27. As a result of the foregoing conduct, Johnson violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

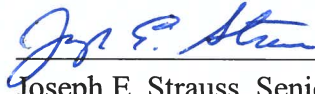
WHEREFORE, Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Johnson 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; and

- C. order that Johnson bear such costs of this proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: January 22, 2019



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