

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

OSCAR NUNEZ
(CRD No. 6014411),

Respondent.

Disciplinary Proceeding
No. 2017055553002

Hearing Officer—MJD

DEFAULT DECISION

September 27, 2019

Respondent Oscar Nunez misused and converted a customer's funds, borrowed money from another customer without his firm's knowledge and approval, and provided false and misleading information to FINRA staff during an investigation. For this misconduct, Nunez is barred from associating with any FINRA member firm in any capacity and ordered to pay \$7,800 in restitution, plus interest, to the two customers.

Appearances

For the Complainant: Jessica Zetwick-Skryzhynskyy, Esq., and Emma Jones, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: No appearance.

DECISION

I. Introduction

The Department of Enforcement filed a three-cause Complaint against Respondent Oscar Nunez ("Nunez"). Cause one charges that Nunez misused and converted \$7,000 belonging to an elderly customer, in violation of FINRA Rules 2150 and 2010. Cause two charges that Nunez borrowed \$4,000 from another customer without first notifying and obtaining approval from his employer, FINRA member firm J.H. Darbie & Co., Inc. ("J.H. Darbie" or the "Firm"), in violation of FINRA Rules 3240 and 2010. Cause three charges that Nunez provided FINRA staff with false and misleading information in response to a request about his obtaining money from customers, in violation of FINRA Rules 8210 and 2010.

Enforcement properly served Nunez with two Notices of the Complaint and the Complaint. Nunez did not file an Answer to the Complaint. On August 26, 2019, Enforcement filed a motion for entry of default decision (“Default Motion”) supported by the Declaration of Enforcement counsel Emma Jones (“Jones Decl.”).¹ Nunez did not respond to the Default Motion.

For the reasons set forth below, I grant Enforcement’s Default Motion and deem the facts alleged in the Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a)(2).

II. Findings of Fact and Conclusions of Law

A. Nunez’s Background

Nunez entered the securities industry when he first associated with a FINRA member firm in 2012. In the years that followed, he was registered as a general securities representative with other FINRA member firms before associating with J.H. Darbie in November 2015.² On September 11, 2017, J.H. Darbie filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) terminating Nunez’s registration with the Firm.³

After leaving J.H. Darbie, Nunez briefly associated with another FINRA member firm from July to September 2018. That firm filed a Form U5 on September 27, 2018, terminating Nunez’s registration. He is no longer associated with a FINRA member firm.⁴

B. FINRA’s Jurisdiction

Although Nunez is no longer in the securities industry, FINRA retains jurisdiction over him pursuant to Article V, Section 4(a) of FINRA’s By-Laws. Enforcement filed the Complaint within two years after the effective date of termination of Nunez’s registration with a FINRA member firm on September 27, 2018, and the Complaint alleges misconduct that occurred while he was registered with J.H. Darbie and with providing FINRA staff with allegedly false and misleading information during the two-year period after the date he ceased to be associated with a member firm.

¹ On August 30, 2019, I ordered Enforcement to supplement the Default Motion to provide additional information about Respondent which could be found in the Central Registration Depository (“CRD”). On September 3, 2019, Enforcement filed its Supplement to the Default Motion, together with a Supplemental Declaration (“Jones Supp. Decl.”). Enforcement submitted 17 exhibits (CX-1 through CX-17) in support of its Default Motion.

² Complaint (“Compl.”) ¶ 4; CX-4.

³ Compl. ¶ 5. *See* CX-1.

⁴ Compl. ¶¶ 6-7; Jones Decl. ¶¶ 11-12; CX-4, at 1-2; CX-17, at 3-4, 10.

C. Origin of the Investigation

This proceeding resulted from an investigation FINRA initiated when J.H. Darbie filed a Form U5 in September 2017 reporting that it had allowed Nunez to resign after discovering he had accepted money from a client in violation of Firm policy.⁵

D. Nunez's Default

Enforcement served Nunez with the First and Second Notices of Complaint and the Complaint in accordance with FINRA Rules 9131 and 9134. Enforcement served the First Notice of Complaint on May 21, 2019, and the Second Notice of Complaint on June 19, 2019.⁶ Enforcement served the Second Notice of Complaint and Complaint a second time, on July 19, 2019, after reviewing tracking information on the U.S. Postal Service's website indicating that the Postal Service had not attempted delivery of the Second Notice of Complaint that Enforcement mailed on June 19, 2019.⁷

Pursuant to FINRA Rule 9215, Nunez was required to file an Answer or otherwise respond to the Complaint by August 5, 2019. Nunez did not respond to the Complaint. Thus, Nunez defaulted.

On July 11, 2019, I ordered Enforcement to file a Default Motion. On July 19, 2019, Enforcement moved to extend the deadline for filing a Default Motion to allow time for Nunez to file an Answer to the reissued Second Notice of Complaint. On July 22, 2019, I granted Enforcement's motion to extend the deadline for filing a Default Motion.

On August 26, 2019, Enforcement filed the Default Motion. Nunez did not respond to the Default Motion. Pursuant to FINRA Rules 9215(f) and 9269(a)(2), I grant the Default Motion and deem the allegations in the Complaint admitted.⁸

E. Nunez Misused an Elderly Customer's Funds (Cause One)

Nunez met customer HZ in January 2016 while he was working at a retail store. HZ was 88 years old and suffering from memory problems. Nunez talked with HZ about her investments.

⁵ Jones Decl. ¶¶ 6-7; CX-1; CX-4, at 2.

⁶ Jones Decl. ¶¶ 15, 21; CX-5; CX-8. Enforcement served the Notices of Complaint and Complaint on Nunez at the residential address recorded in the Central Registration Depository ("CRD"). Enforcement is not aware of any other address for Nunez. Jones Decl. ¶¶ 15-16, 21; Jones Supp. Decl. ¶¶ 5, 8. Enforcement also sent copies of the Notices and Complaint to Respondent's email address. Jones Decl. ¶¶ 17, 22; CX-6; CX-9; CX-14.

⁷ Jones Decl. ¶¶ 26-30; CX-10; CX-12; CX-13.

⁸ Nunez may move to set aside the default under FINRA Rule 9269(c) upon a showing of good cause.

He persuaded HZ to transfer two brokerage accounts to J.H. Darbie, where he worked at the time. To help with the transfers, Nunez twice visited HZ at her home.⁹

In January 2016, HZ opened two accounts at J.H. Darbie—a personal brokerage account valued at \$10,000 and an Individual Retirement Account (“IRA”) valued at about \$22,000. While visiting HZ at her home to help her with the paperwork needed to open the IRA, Nunez told HZ she had to make an upfront payment of \$5,000 to cover anticipated commissions for her accounts for 2016. HZ gave Nunez a check for that amount, made out to him personally.¹⁰

Nunez deposited HZ’s \$5,000 check into his personal checking account, which at the time was overdrawn. Within a few days, Nunez withdrew \$2,800 in cash from the checking account and transferred \$1,000 to his personal savings account, which had just \$10 in it.¹¹

No trading took place in HZ’s accounts at J.H. Darbie during 2016. In December 2016, Nunez asked HZ for another payment—this time for \$2,000. Nunez told HZ that the payment was supposed to cover commissions on her two accounts during 2017.¹² HZ gave Nunez a personal check for \$2,000, which he deposited into his savings account. Nunez’s savings account was overdrawn and the checking account held less than \$20. Within a few days, Nunez transferred \$500 to his checking account, wrote a check to himself for \$500, and withdrew \$1,000 in cash. HZ incurred no commissions in 2017 because no trading occurred in her two J.H. Darbie accounts.¹³

J.H. Darbie was unaware that Nunez had asked HZ to pay for commissions in advance; therefore, it never approved such payments. The Firm’s written supervisory procedures (“WSPs”) prohibited its registered representatives from charging customers fees unless the Firm consented. Had HZ incurred commissions, they would have been payable to J.H. Darbie, not Nunez.¹⁴

When the Firm later learned of HZ’s \$2,000 payment to Nunez, it ordered him to reimburse her. He did so in August 2017. J.H. Darbie did not know about HZ’s first payment, for \$5,000; therefore, it did not instruct Nunez to return the money. To date, Nunez has not repaid HZ the \$5,000.¹⁵

FINRA Rule 2150(a) prohibits a member firm or a person associated with a member from making “improper use of a customer’s securities or funds.” An associated person makes

⁹ Compl. ¶¶ 10-12.

¹⁰ Compl. ¶¶ 14-15.

¹¹ Compl. ¶¶ 16-17.

¹² Compl. ¶¶ 18-19.

¹³ Compl. ¶¶ 19-22. *See also* Jones Decl. ¶¶ 38-39.

¹⁴ Compl. ¶¶ 23-25.

¹⁵ Compl. ¶¶ 26-27; Jones Decl. ¶ 41.

improper use of a customer's funds and violates this Rule whenever he or she fails to apply the customer's money as the customer instructed.¹⁶ Use of customer funds for personal expenses or for any purpose not directed by the customer also violates the Rule.¹⁷ A violation of FINRA Rule 2150 constitutes a violation of FINRA Rule 2010.¹⁸

Misuse of customer funds rises to the level of conversion, which constitutes a violation of FINRA Rule 2010, when there "is an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it."¹⁹ The Securities and Exchange Commission has repeatedly stated that conversion violates FINRA Rule 2010 because it is a fundamentally dishonest act that reflects negatively on a person's ability to comply with regulatory requirements. Conversion raises concerns that the person is a risk to investors, firms, and the integrity of the securities markets.²⁰ Conversion further demonstrates that an associated person is unable "to observe the high standards of commercial honor required of registered persons."²¹ The record here establishes conversion. Nunez took HZ's funds and used them for his own benefit. He did not apply her funds to her accounts to defray commissions, as he told her he would, but instead intentionally took money that he knew he was not entitled to possess.

Accordingly, I find that by misusing customer HZ's funds, Nunez violated FINRA Rules 2150 and 2010, and by converting her funds, he violated FINRA Rule 2010, as alleged in cause one.

G. Nunez Borrowed \$4,000 from a Customer Without His Firm's Consent (Cause Two)

In January 2017, Nunez asked his customer NM for a \$4,000 loan. Soon thereafter, NM gave Nunez \$4,000. Nunez did not sign a loan agreement and no written terms exist regarding the loan. At the time of the filing of the Complaint, Nunez had repaid NM just \$1,200.²²

Nunez never told J.H. Darbie that he had borrowed money from NM. In fact, on September 11, 2017, Nunez told the Firm's chief compliance officer that he had not received money from any other customer besides the \$2,000 from HZ which the Firm already knew about. That same day, Nunez signed a Firm attestation stating that he had not taken any other money, or

¹⁶ *Dep't of Enforcement v. Patel*, No. C02990052, 2001 NASD Discip. LEXIS 43, at *24-25 (NAC May 23, 2001).

¹⁷ *Prime Investors, Inc.*, 53 S.E.C. 1, 11-12 (1997); *Dist. Bus. Conduct Comm. v. Jones*, No. C02970023, 1998 NASD Discip. LEXIS 60, at *7-8 (NAC Aug. 7, 1998).

¹⁸ *Jones*, 1998 NASD Discip. LEXIS 60, at *8-9.

¹⁹ FINRA Sanctions Guidelines at 36 n.2. (2019), <http://www.finra.org/industry/sanction-guidelines>.

²⁰ *Dep't of Enforcement v. Grivas*, No. 2012032997201, 2015 FINRA Discip. LEXIS 16, at *13-16 (NAC July 16, 2015), *aff'd*, Exchange Act Release No. 77470, 2016 SEC LEXIS 1173 (Mar. 29, 2016).

²¹ *Grivas*, 2016 SEC LEXIS 1173, at *2-3.

²² Compl. ¶¶ 32-34. *See also* Jones Decl. ¶¶ 44, 46.

accepted any gifts exceeding \$100, from any other customers while at J.H. Darbie. Nunez knew his statement was false because he had borrowed money from NM in January 2017.²³

J.H. Darbie's WSPs prohibited employees from borrowing from or lending to customers except in limited circumstances, none of which existed when Nunez borrowed money from NM. The Firm's procedures also required that any loan with a customer first had to be approved by the chief compliance officer. Nunez did not ask for approval.²⁴

FINRA Rule 3240 imposes conditions on the circumstances under which a person associated with a member firm in any registered capacity may borrow money from a customer. The Rule provides that a registered representative may not borrow money from a customer unless: (i) the member has written procedures allowing the borrowing; (ii) the borrowing meets one of the five conditions set forth in Rule 3240(a)(2); and (iii) the associated or registered person notifies the member before entering into the borrowing arrangement.²⁵

Nunez's loan did not meet any of the conditions set forth in Rule 3240(a)(2). NM was not a member of Nunez's immediate family nor was he registered with Nunez's firm. NM was not a financial institution engaged in the business of loaning money. Nor was the loan based on a personal relationship or a business relationship outside of Nunez's and NM's broker-customer relationship.²⁶

Based on the record established in this case, I find that Nunez violated FINRA Rules 3240 and 2010.

D. Nunez Gave FINRA Staff False Information About Receiving Money from Customers (Cause Three)

On September 22, 2017, FINRA staff sent Nunez a written request for documents and information, citing FINRA Rule 8210. In the request, the staff asked Nunez if he had "receive[d] any other funds from Firm customers" (besides the \$2,000 from HZ he had previously disclosed to J.H. Darbie). If Nunez had obtained money from other customers, the request instructed him to provide the staff with the customer's name, a description of the funds, the purpose of the

²³ Compl. ¶¶ 33, 35-37.

²⁴ Compl. ¶ 38.

²⁵ See *John Edward Mullins*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464, at *43 (Feb. 10, 2012) (finding that NASD Rule 2370, the predecessor to FINRA Rule 3240, "prohibited associated persons from borrowing funds from a customer unless that person's firm has a written procedure allowing such borrowing and the arrangement meets certain conditions").

²⁶ See FINRA Rule 3240(a)(2)(A) through (E).

transaction, the dollar amount obtained, and other details.²⁷ Nunez provided a written response, stating that he had received no other funds from customers.²⁸

FINRA Rule 8210 empowers FINRA, in the conduct of an investigation, to require a member or an associated person to provide information orally or in writing and requires members and registered persons to respond fully and truthfully. Because FINRA lacks subpoena power, it must rely on FINRA Rule 8210 “to police the activities of its members and associated persons.”²⁹ The Rule is considered to be among FINRA’s most important tools for investigating potential wrongdoing.³⁰ “The rule is at the heart of the self-regulatory system for the securities industry.”³¹ An associated person’s obligation to comply with a Rule 8210 request for information is unequivocal.³² The Rule grants FINRA broad authority to obtain information from an associated person about matters that are involved in FINRA’s investigations.³³ Associated persons therefore must cooperate fully in providing FINRA with information.

Providing false and misleading information to FINRA staff during an investigation “mislead[s] [FINRA] and can conceal wrongdoing” and therefore “subvert[s] [FINRA’s] ability to perform its regulatory function and protect the public interest.”³⁴ Providing false or misleading information in response to requests issued under the Rule therefore violates FINRA Rules 8210 and 2010.³⁵

The record establishes that Nunez’s statements to FINRA were false. He falsely told the staff that he did not take additional funds from customers HZ and NM. As a result, Enforcement could not adequately investigate Nunez’s activities. I therefore find that Nunez violated FINRA Rules 8210 and 2010.

²⁷ Compl. ¶ 42.

²⁸ Compl. ¶ 43.

²⁹ *Joseph Patrick Hannan*, 53 S.E.C. 854, 858-59 (1998).

³⁰ See *Dep’t of Mkt. Regulation v. Sciascia*, No. CMS040069, 2006 NASD Discip. LEXIS 22, at *11 (NAC Aug. 7, 2006) (analyzing NASD Rule 8210, the predecessor to FINRA Rule 8210).

³¹ *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008), *petition for review denied*, 347 F. App’x 692 (2d Cir. 2009).

³² *Id.*

³³ See *Dep’t of Enforcement v. Fawcett*, No. C9A040024, 2007 NASD Discip. LEXIS 2, at *11-12 (NAC Jan. 8, 2007), *aff’d*, Exchange Act Release No. 56770, 2007 SEC LEXIS 2598 (Nov. 8, 2007).

³⁴ *Geoffrey Ortiz*, Exchange Act Release No. 58416, 2008 SEC LEXIS 2401, at *32 (Aug. 22, 2008) (quoting *Michael A. Rooms*, 58 S.E.C. 220, 229 (2005), *aff’d*, 444 F.3d 1208 (10th Cir. 2006)).

³⁵ See *Dep’t of Enforcement v. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at *36-37 (NAC Dec. 18, 2006) (finding that respondent gave false information in a written response to staff’s request for information). A violation of FINRA Rule 8210 also constitutes a violation of FINRA Rule 2010. See *CMG Institutional Trading, LLC*, Exchange Act Release No. 59325, 2009 SEC LEXIS 215, at *29-30 (Jan. 30, 2009).

III. Sanctions

In determining the appropriate sanctions for Nunez's misconduct, I considered FINRA's Sanction Guidelines ("Guidelines"), including the General Principles Applicable to All Sanction Determinations ("General Principles") and the Principal Considerations in Determining Sanctions ("Principal Considerations").³⁶ I also considered all relevant facts and circumstances, including the seriousness of the misconduct, any aggravating and mitigating factors, and the significant risk of future harm that Nunez poses to the investing public.

A. Misuse and Conversion of \$7,000 Belonging to Customer HZ (Cause One)

For Nunez's misuse and conversion of \$7,000 he obtained from customer HZ, I bar him from associating with any member firm in any capacity. I also find that restitution is an appropriate remedy in this case. "Adjudicators may order restitution when an identifiable person ... has suffered a quantifiable loss proximately caused by a respondent's misconduct."³⁷

The Guidelines state that a bar is the appropriate sanction for conversion, regardless of the amount converted.³⁸ The Guidelines for improper use of a customer's funds or securities in violation of FINRA Rule 2150 suggest that adjudicators consider a fine of \$2,500 to \$77,000. Where misuse resulted from the respondent's misunderstanding of the customer's intended use of funds or securities, or other mitigation exists, an adjudicator should consider suspending a respondent in any or all capacities for a period of six months to two years and thereafter until respondent pays restitution. In the absence of mitigating factors, an adjudicator should consider a bar for misuse of customer funds.³⁹

Consistent with the Guidelines, I find that a bar is the only appropriate and remedial sanction. I also order that Nunez pay restitution to HZ in the amount of \$5,000 (which represents the amount that he has not repaid), plus interest calculated from January 27, 2016, which is the date Nunez obtained the money from HZ.⁴⁰

B. Borrowing \$4,000 from Customer NM Without Disclosure to Firm (Cause Two)

For borrowing money from customers in violation of FINRA Rule 3240, the Guidelines instruct adjudicators to consider assessing a fine of \$2,500 to \$77,000 and suspending a respondent for a period of 10 business days to three months. Where aggravating factors

³⁶ See Guidelines at 2-8.

³⁷ Guidelines at 4 (General Principle No. 5).

³⁸ Guidelines at 36. Because a bar is the recommended sanction for conversion, the Guidelines recommend that adjudicators should not also impose a fine.

³⁹ Guidelines at 36.

⁴⁰ Compl. ¶ 16; Jones Decl. ¶ 43.

predominate, adjudicators should consider a suspension of up to two years or a bar.⁴¹ In this case, the most relevant considerations in determining sanctions are: (i) whether the loan was documented through a loan agreement or other written instrument; (ii) the dollar amount, duration, interest rate, repayment schedule, and other terms of the loan and whether they were reasonable; (iii) whether respondent made payments in conformance with the loan agreement and has repaid, or attempted to repay, the loan; and (iv) whether the respondent misled his employer about the existence of loans or otherwise concealed the activity from the firm.⁴²

I find that Nunez's misconduct is serious and involves aggravating factors. No mitigating circumstances exist that would warrant any sanction less than a bar. At most, he repaid \$1,200 out of the \$4,000 he borrowed. Nunez engaged in the misconduct for his own personal gain. Nunez also concealed the loan from his employer, which prevented it from exercising reasonable supervision over his dealings with the customer.⁴³

I therefore find that an appropriate and remedial sanction is a bar from associating with any member firm in any capacity. I also find that restitution in the amount of \$2,800, plus interest calculated from January 31, 2017, is appropriate.⁴⁴

C. Giving False Information to FINRA (Cause Three)

For failing to respond or to respond truthfully to requests for documents and information under FINRA Rule 8210, the Guidelines recommend a fine of \$25,000 to \$77,000 and state that a bar is the standard sanction for a failure to respond in any manner. The Guidelines do not specify the appropriate sanctions for providing false information, but case law establishes that a bar is appropriate for such violations in the absence of mitigating circumstances.⁴⁵ “The failure

⁴¹ Guidelines at 77.

⁴² Guidelines at 77. Another consideration is the age and financial condition of the customer who loaned the money but Enforcement provided no information about the customer.

⁴³ See Guidelines at 7 (Principal Consideration No. 10) (whether the respondent attempted to conceal his or her misconduct or to lull into inactivity, mislead, deceive or intimidate a customer, regulatory authorities, or a member firm).

⁴⁴ Enforcement does not seek interest on top of the \$2,800 restitution amount, it says, because it does not have evidence that interest was an agreed term of the loan from NM. See Default Motion at 12 n.65. The Guidelines state that adjudicators have the discretion to impose post-judgment interest on restitution orders. Guidelines at 10 n.3. I find that assessing interest is appropriate under the circumstances because Nunez borrowed the money from NM more than two years ago, depriving NM from use of the funds for a considerable period. Furthermore, Nunez should not be rewarded for the failure to reduce the terms of the loan to writing. The Complaint states that Nunez borrowed money from NM in January 2017, without specifying the exact day. See Compl. ¶¶ 32-33. I therefore assess interest commencing on the last day of the month.

⁴⁵ Guidelines at 33. See, e.g., *Ortiz*, 2008 SEC LEXIS 2401, at *32-33 (citing *Rooms*, 58 S.E.C. at 229 (“[T]he failure to provide truthful responses to requests for information renders the violator presumptively unfit for employment in the securities industry . . . [A] bar is an appropriate remedy.”)).

to respond truthfully to a FINRA Rule 8210 request is as serious and harmful as a complete failure to respond, and comparable sanctions are appropriate.”⁴⁶

In determining the appropriate sanction for a failure to respond or a failure to respond truthfully, the Guidelines identify as a principal consideration the importance of the information requested viewed from FINRA’s perspective.⁴⁷ In this case, Nunez knowingly provided a false written response to FINRA to conceal that he took money from customers HZ and NM. The existence of the loan and his obtaining customers’ funds was important because FINRA was investigating Nunez’s misuse of his customers’ money. His false statement impeded FINRA’s investigation.

Nunez’s lack of veracity warrants nothing less than a bar. I therefore impose a bar from associating with any member firm in any capacity for Nunez’s violations of FINRA Rules 8210 and 2010, as alleged in cause three.

IV. Order

Respondent Oscar Nunez misused and converted \$7,000 he obtained from one customer, borrowed \$4,000 from another customer without first notifying and obtaining approval from his Firm, and gave FINRA staff false and misleading information about obtaining money from the two customers. This misconduct constitutes violations of FINRA Rules 2010, 2150, 3240, and 8210.

I bar Nunez from associating with any FINRA member in any capacity for the conversion and misuse of customer HZ’s funds, in violation of FINRA Rules 2150 and 2010, as alleged in cause one. I also order him to pay restitution of \$5,000 to HZ, plus interest on the unpaid balance calculated from January 27, 2016, until paid in full. Interest shall accrue at the rate set in 26 U.S.C. Section 6621(a)(2).⁴⁸

I also bar Nunez from associating with any FINRA member in any capacity for borrowing \$4,000 from customer NM, in violation of FINRA Rules 3240 and 2010, as alleged in cause two. I order him to pay restitution of \$2,800 to NM,⁴⁹ plus interest calculated from January 31, 2017, until paid in full. Interest shall accrue at the rate set in 26 U.S.C. Section 6621(a)(2).⁵⁰

⁴⁶ *Dep’t of Enforcement v. Harari*, No. 2011025899601, 2015 FINRA Discip. LEXIS 2, at *31 (NAC Mar. 9, 2015).

⁴⁷ Guidelines at 33.

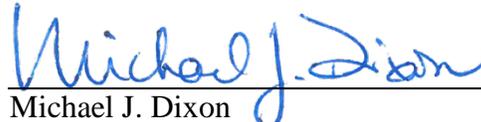
⁴⁸ See Guidelines at 11 (concerning payment of interest on orders of restitution). The interest rate set in Section 6612(a)(2) of the Internal Revenue Code is used by the Internal Revenue Service to determine interest due on underpaid taxes and is adjusted each quarter.

⁴⁹ Customers HZ and NM are identified in the Appendix to this Decision, which is served only on the parties.

⁵⁰ In the event that customers HZ and NM cannot be located, unpaid restitution plus accrued interest should be paid to the appropriate escheat, unclaimed property, or abandoned-property fund for the state(s) of customer HZ’s and NM’s last known address. Satisfactory proof of payment of the restitution, or of reasonable and documented efforts

I bar Nunez from associating with any FINRA member in any capacity for providing false and misleading information to FINRA staff, in violation of FINRA Rules 8210 and 2010, as alleged in cause three.

If this Decision becomes FINRA's final disciplinary action, the bars shall become effective immediately. The restitution orders of \$5,000 and \$2,800 (including interest) imposed on Nunez shall be due on a date set by FINRA, but not sooner than 30 days after this Decision becomes FINRA's final action.


Michael J. Dixon
Hearing Officer

Copies to:

Oscar Nunez (via email, overnight courier and first-class mail)
Jessica Zetwick-Skryzhynskyy, Esq. (via email and first-class mail)
Emma Jones, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)

undertaken to effect restitution, shall be provided to staff of FINRA's Department of Enforcement, Rockville, Maryland, no later than 90 days after the date when this decision becomes final. *See* Guidelines at 11.