

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFFREY ALAN STEWART
(CRD No. 4178470),

Respondent.

Disciplinary Proceeding
No. 2012035316101

Hearing Officer—KBW

DEFAULT DECISION

July 1, 2015

Respondent is barred from associating with any FINRA member firm in any capacity for converting customer funds in violation of FINRA Rules 2150(a) and 2010, impersonating a customer in violation of FINRA Rule 2010, and failing to respond fully to requests for information and testimony, in violation of FINRA Rules 8210 and 2010.

Appearances

Akinyemi T. Akiwowo, Esq., Clarence E. Sanders, Jr., Esq., David Monachino, Esq., Gauhar Naseem, Esq., Michael S. Choi, Esq., and Richard R. Best, Esq., for the Department of Enforcement, Complainant.

Jeffrey Alan Stewart, Respondent, appeared pro se.

DECISION

I. Introduction

FINRA's Department of Enforcement filed the attached Complaint with the Office of Hearing Officers on November 19, 2014. The Complaint charges that Respondent Jeffrey Alan Stewart violated (1) FINRA Rules 2150(a) and 2010¹ by converting \$54,000 from customers of his employer, (2) FINRA Rule 2010 by impersonating a customer and withdrawing funds from the customer's account, and (3) FINRA Rules 8210 and 2010 by failing to comply fully with requests for information and testimony in connection with a related investigation.

¹ FINRA's Rules are available at <http://finra.complinet.com>.

Stewart answered the Complaint on January 5, 2015, but he thereafter failed to participate in this disciplinary proceeding. On March 19, 2015, after Stewart failed to appear at two initial pre-hearing conferences and a hearing to show cause why he should not be held in default, an order was entered directing Enforcement to serve and file a motion for entry of a default decision with supporting materials. On April 20, 2015, Enforcement filed a Motion for Entry of Default Decision and a supporting Memorandum of Law (collectively, “Default Motion”), together with the Declaration in Support of Motion for Entry of Default Decision (“Akiwowo Decl.”) and exhibits marked CX-1 through CX-22. Stewart did not oppose the Default Motion.

II. Stewart’s Background

Stewart entered the securities industry in 2000. Between July 2009 and May 2011, Stewart was registered through Valic Financial Advisors, Inc., a FINRA member firm. In August 2011, Stewart became registered through MML Investors Services L.L.C., a FINRA member firm, where he remained until November 29, 2012. In December 2012, MML filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) stating that Stewart’s registration was terminated “in connection with allegations concerning an unauthorized product replacement.” Stewart is not currently registered or associated with any FINRA member firm.²

III. Origin Of Investigation

In January 2013, MML filed a Form U5 Amendment disclosing a customer complaint alleging that Stewart had converted customer funds. In February 2013, MML filed another Form U5 Amendment disclosing a customer complaint alleging that Stewart had misrepresented facts regarding variable annuity investments and that some signatures on the annuity applications were not authentic. FINRA then commenced the investigation that led to this disciplinary proceeding.³

IV. Jurisdiction

FINRA has jurisdiction over this disciplinary 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 Stewart’s registration with a member firm, and (2) the first two causes of action charge him with misconduct that commenced while he was associated with a member firm, and the third and causes of action charge him with failing to respond to FINRA Rule 8210 requests during the two-year period after the termination of his registration.

² Compl. ¶¶ 2-3; CX-1, at 10; CX-2, at 1.

³ Akiwowo Decl. ¶¶ 8-9, 11; Compl. ¶¶ 3-4.

V. Stewart's Default

Stewart filed an Answer to the Complaint on January 5, 2015. He did not request a hearing.

On January 14, 2015, an order was issued setting the initial pre-hearing conference for February 10, 2015. The Office of Hearing Officers ("OHO") served the order on Stewart by both first-class mail and electronic mail.⁴ Stewart failed to appear, in person or through counsel, at that conference.⁵

On February 18, 2015, an order was issued rescheduling the initial pre-hearing conference for February 26, 2015. OHO served the order on Stewart by both first-class mail and electronic mail.⁶ Stewart failed to appear, in person or through counsel, at the rescheduled conference.

In light of Stewart's failure to appear at the two pre-hearing conferences, an order was issued on March 4, 2015, directing Stewart to show cause why he should not be held in default and scheduling the show-cause hearing for March 18, 2015. OHO served this order on Stewart by both first-class mail and electronic mail.⁷ Stewart failed to appear, in person or through counsel, at the show-cause hearing.

Accordingly, because Stewart failed to appear at the two pre-hearing conferences and at the show-cause hearing, an order was issued on March 19, 2015, directing Enforcement to serve and file a motion for entry of a default decision with supporting materials.

FIRNA Rule 9241(f) provides that a hearing officer may issue a default decision pursuant to FINRA Rule 9269 against a party who fails to appear, in person or through counsel or a representative, at a pre-hearing conference of which the party had due notice. The Hearing Officer concludes that Stewart defaulted by failing to appear at the two pre-hearing conferences and the show-cause hearing. Accordingly, the allegations in the attached Complaint are deemed admitted pursuant to FINRA Rule 9269(a).

VI. Causes One And Two - Conversion Of Customer Funds And Impersonation Of A Customer

When Stewart became associated with Valic in July 2009, his customers BR and CR (who were husband and wife) transferred their accounts to Valic. After Stewart had left Valic and joined MML, Stewart impersonated BR in telephone conversations with Valic and

⁴ See January 14, 2015 order.

⁵ See January 14, 2015 order.

⁶ See February 18, 2015 order.

⁷ See March 4, 2015 order.

converted funds from the joint securities account that BR and CR had at Valic.⁸ Stewart engaged in this misconduct in February 2012 and again in May 2012.

A. February Impersonation And Conversion

On or about February 15, 2012, CR called Stewart and requested that a \$30,000 check be issued from the joint securities account she and BR maintained at Valic (the “joint account”) and be sent to her home address, the address in Valic’s records for the joint account (“home address”). On February 15, 2012, Stewart called a Valic representative, identified himself as BR, requested that a \$30,000 check be issued from the joint account and sent to the home address, and instructed Valic to sell a specific security (“FIF”). BR and CR did not know of or authorize the sell instruction that Stewart gave to the Valic representative. Later that day, Valic sold the FIF investment for \$83,917.49. A week later, on February 22, 2012, Valic mailed the \$30,000 check to the home address. CR received and cashed the check.⁹

On February 22, 2012, without the knowledge or authorization of BR or CR, Stewart called Valic to request a second \$30,000 check be issued from the joint account. Stewart again identified himself as BR.¹⁰

On February 22, 2012, Valic mailed a \$30,000 check payable to BR and CR to the home address. On or about the same day, Stewart called CR and told her that Valic had issued another \$30,000 check as a result of an error. Stewart asked CR to call him when she received the check, explaining that he would pick up the check and redeposit it into the joint account.¹¹

When Stewart met with CR to retrieve the check, Stewart asked CR to endorse the check with both her name and BR’s name. CR endorsed the check and gave it to Stewart to deposit back in the joint account.¹²

Stewart then added, or caused to be added, “Pay to the order of [LS]” above CR’s endorsement. LS, Stewart’s wife, cashed the check. Stewart did not deposit any of the funds in the joint account.¹³

⁸ Compl. ¶¶ 7-27.

⁹ Compl. ¶¶ 7-13.

¹⁰ Compl. ¶¶ 14-15.

¹¹ Compl. ¶¶ 16-17.

¹² Compl. ¶ 18.

¹³ Comp. ¶¶ 19-20, 53.

B. May Impersonation And Conversion

On May 18, 2012, without the knowledge or authorization of BR or CR, Stewart called Valic to request that a \$24,000 check be issued from the joint account. Stewart again identified himself as BR. On or about May 18, 2012, Stewart called CR and stated that he had initiated a \$24,000 withdrawal transaction in order to invest BR's and CR's funds in an investment away from Valic. Stewart asked CR to notify him when she received the check so he could meet her and retrieve it.¹⁴

On May 21, 2012, Valic mailed a \$24,000 check payable to BR and CR to the home address. Stewart met with CR and asked her to endorse the check with her name and BR's name. CR endorsed the check and asked Stewart to redeposit the check in the joint account.¹⁵

Stewart then added above the endorsement, "Pay to the order of [LS]." LS cashed the check. The funds were never invested for BR or CR or deposited into the joint account.¹⁶

C. First Cause Of Action – Conversion Of Customer Funds, In Violation Of FINRA Rules 2150(a) And 2010

FINRA Rule 2150(a) prohibits any person associated with a member from making improper use of a customer's securities or funds. FINRA's Sanction Guidelines define conversion as "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."¹⁷ Conversion of a customer's property can constitute the "improper use of a customer's securities or funds" prohibited by FINRA Rule 2150, and its predecessor rule, NASD Rule 2330(a).¹⁸ Conversion also is conduct inconsistent with high standards of commercial honor and just and equitable principles of trade.¹⁹ Based on the foregoing, the Hearing Officer concludes that Stewart violated FINRA Rules 2150(a) and 2010 by converting the funds of BR and CR.

D. Second Cause Of Action – Impersonation Of A Customer, In Violation Of FINRA Rule 2010

FINRA Rule 2010 provides that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." As the Securities and Exchange Commission has explained, just and equitable principles of trade

¹⁴ Compl. ¶¶ 21-22, 24.

¹⁵ Compl. ¶¶ 23, 25.

¹⁶ Compl. ¶¶ 26-27, 53.

¹⁷ FINRA Sanction Guidelines at 36, n.2 (2015), www.finra.org/Industry/Sanction-Guidelines

¹⁸ See *Dep't of Enforcement v. Mullins*, Nos. 20070094345, 20070111775, 2011 FINRA Discip. LEXIS 61, at *21-23 (NAC Feb. 24, 2011), *aff'd in part*, *John Edward Mullins*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464 (Feb. 10, 2012).

¹⁹ See *Mullins*, 2012 SEC LEXIS 464, at *33.

rules “state ‘broad ethical principles’ and ‘center on the ‘ethical implications’ of ... conduct.”²⁰ Stewart’s impersonation of BR violated FINRA Rule 2010.²¹

VII. Causes Three And Four - Failure To Fully Respond To Requests For Information And Failure To Comply With Requests For Testimony, In Violation OF FINRA Rules 8210 And 2010

A. Rule 8210 Requests And Stewart’s Responses

In 2013, as part of its investigation of Stewart’s conduct, Enforcement sent Stewart three letters requesting that he provide information and documents pursuant to FINRA Rule 8210. Enforcement also sent three letters to Stewart requesting that he appear and testify at an on-the-record interview pursuant to FINRA Rule 8210. Stewart did not fully comply with any of these six letters.

On March 14, 2013, Enforcement sent a letter (the “First Request”) to Stewart requesting, pursuant to FINRA Rule 8210, that he provide written statements, information, and certain financial records to Enforcement by March 28, 2013. Enforcement sent the First Request to Stewart’s CRD address by both first-class mail and certified mail (return receipt requested) and to an email address known to Enforcement (“Stewart’s email address”). Stewart failed to provide the requested written statements, information, and financial records to Enforcement by March 28, 2013.²²

On April 2, 2013, Enforcement sent a letter (the “Second Request”) to Stewart requesting, pursuant to FINRA Rule 8210, that he provide written statements, information, and certain financial records to Enforcement by April 12, 2013. On April 11, 2013, Enforcement received a partial response.²³

On April 3, 2013, Enforcement sent a letter (the “Third Request”) to Stewart’s CRD address by both first-class mail and certified mail (return receipt requested) requesting that Stewart appear and provide testimony on May 8, 2013, at FINRA’s office in New York City. Enforcement also sent a copy of the letter to Stewart’s email address. Stewart failed to appear and testify on May 8, 2013.²⁴

²⁰ *Dante J. DiFrancesco*, Exchange Act Release. No. 66113, 2012 SEC LEXIS 54, at *17 (Jan. 6, 2012) (quoting *Thomas W. Heath, III*, Exchange Act Release No. 59223, 2009 SEC Lexis 14, at *4 (Jan. 9, 2009).

²¹ *Dep’t of Enforcement v. Golonka*, No. 2009017439601, 2013 FINRA Discip. LEXIS 5 at *24, (NAC Mar. 4, 2014)(respondent violated just and equitable principles of trade by participating in scheme to impersonate customers).

²² Compl. ¶¶ 28, 30.

²³ Compl. ¶¶ 31-33.

²⁴ Akiwowo Decl. ¶¶ 25-27.

On May 9, 2013, Enforcement sent a letter (the “Fourth Request”) to Stewart requesting, pursuant to FINRA Rule 8210, that he provide the outstanding information and financial records by May 17, 2013. Enforcement sent the letter by first-class mail, certified mail (return receipt requested), and Federal Express to Stewart’s CRD address. Enforcement also sent a copy of the letter to Stewart’s email address. Stewart failed to provide the requested outstanding information and records to Enforcement by May 17, 2013.²⁵

Also on May 9, 2013, Enforcement sent a letter (the “Fifth Request”) to Stewart’s CRD address by both first-class mail and certified mail (return receipt requested) requesting that Stewart appear and provide testimony on May 22, 2013, at FINRA’s office in New York City. Enforcement also sent a copy of the letter to Stewart’s email address. Stewart failed to appear and testify on May 22, 2013.²⁶

On June 14, 2013, Enforcement sent a letter (the “Sixth Request”) to Stewart’s CRD address by first-class mail, certified mail (return receipt requested), and Federal Express requesting that Stewart appear and provide testimony on July 3, 2013, at FINRA’s office in New York City. Enforcement also sent a copy of the letter to Stewart’s email address. Stewart failed to appear and testify on July 3, 2013.²⁷

B. Violations Of FINRA Rule 8210

The Securities and Exchange Commission has stressed that FINRA Rule 8210 is vitally important in connection with “FINRA’s ‘obligation to police the activities of its members and associated persons.’”²⁸ FINRA Rule 8210 requires FINRA members and their associated persons to cooperate with FINRA investigations by providing information when requested by FINRA staff. FINRA Rule 8210(c) provides that no person shall fail to provide information or testimony. Rule 8210(a) provides that for the purpose of an investigation, FINRA staff shall have the right to require a person subject to FINRA’s jurisdiction to testify at a location specified by FINRA staff with respect to any matter involved in the investigation.

FINRA Rule 8210(d) specifies that “notice under this Rule shall be deemed received by the member or currently or formerly registered person to whom it is directed by mailing or otherwise transmitting the notice to the last known business address of the member or the last known residential address of the person as reflected in the Central Registration Depository.” Accordingly, the Hearing Officer deems that Stewart received all six FINRA Rule 8210 requests and violated FINRA Rule 8210 by failing to respond fully to FINRA’s three requests for

²⁵ Compl. ¶¶ 35-37.

²⁶ Akiwowo Decl. ¶¶ 28-32.

²⁷ Akiwowo Decl. ¶¶ 33-37.

²⁸ See *John Joseph Plunkett*, Exchange Act Release No. 73124, 2014 SEC LEXIS 3396, at *17 (Sept. 16, 2014), (quoting *Gregory Evan Goldstein*, Exchange Act Release No. 71970, 2014 SEC LEXIS 1350, at *43 (Apr. 17, 2014)).

information and completely failing to respond to FINRA's three requests for testimony. Stewart's violation of Rule 8210 is also a violation of Rule 2010.²⁹

VIII. Sanctions

A. First And Second Causes Of Action – Conversion Of Customer Funds, In Violation Of FINRA Rules 2150(a) And 2010, And Impersonation Of A Customer, In Violation Of FINRA Rule 2010

In the first and second causes of action, the Complaint alleges that Stewart impersonated BR in connection with his conversion of funds. Stewart's conversion of customer funds and impersonation of a customer are therefore related, and the sanctions imposed should be designed and tailored to deter the same underlying misconduct. Accordingly, a unitary sanction is appropriate for the first and second causes of action.³⁰

The FINRA Sanction Guidelines ("Guidelines") for conversion applies to the first cause of action. The Securities and Exchange Commission has stated that conversion "is extremely serious and patently antithetical to the 'high standards of commercial honor and just and equitable principles of trade.'"³¹ For cases involving conversion, the Guidelines instruct adjudicators to impose a "[b]ar . . . regardless of amount converted."³²

For the reasons set forth above, Stewart is barred from associating with any FINRA member firm in any capacity for violating FINRA Rules 2150(a) and 2010 by impersonating a customer in order to convert funds from a securities account.

B. Second And Third Causes of Action – Failure To Respond Fully To Requests Pursuant To FINRA Rule 8210

The Hearing Officer concludes that it is also appropriate to aggregate Stewart's failure to respond fully to the First, Second, and Fourth Requests with his failure to provide testimony in response to the Third, Fifth, and Sixth Requests. Both causes of action relate to failures by Stewart to cooperate fully in responding to requests that FINRA staff issued pursuant to FINRA Rule 8210.

²⁹ See *Plunkett*, 2014 SEC LEXIS 3396, at *3 n.3 (stating in the context of a violation of FINRA Rule 8210 that "[a] violation of FINRA rules constitutes conduct inconsistent with just and equitable principles of trade and therefore also establishes a violation of FINRA Rule 2010.").

³⁰ *Dep't of Enforcement v. Mielke*, 2014 FINRA Discip. LEXIS 24, at *55 (citing *Dep't of Enforcement v. Fox & Co. Invs., Inc.*, No. C3A030017, 2005 NASD Discip. LEXIS 5, at *37 (NAC Feb. 24, 2005) (finding that "where multiple, related violations arise as a result of a single underlying problem, a single set of sanctions may be more appropriate to achieve [FINRA's] remedial goals . . ."), *aff'd*, Exchange Act Release No. 52697, 2005 SEC LEXIS 2822, at *36 (Oct. 28, 2005)).

³¹ See *Mullins*, 2012 SEC LEXIS 464, at *73 (quoting *Wheaton D. Blanchard*, 46 S.E.C. 365, 366 (1976)).

³² Guidelines at 36.

FINRA's Guidelines recommend that, if an individual did not respond in any manner to a FINRA request, a bar should be standard.³³ For an associated person who provides a partial but incomplete response to a FINRA request for information, the Guidelines provide that "a bar is standard unless the person can demonstrate that the information provided substantially complied with all aspects of the request."³⁴ For a partial but incomplete response, the Guidelines direct adjudicators to consider the importance from FINRA's perspective of the information requested that was not provided, whether the information that was provided was relevant and responsive to the request; the number of requests made, the time respondent took to respond, the degree of regulatory pressure required to obtain a response; and whether respondent thoroughly explained valid reasons for the deficiencies in the response.³⁵

Stewart did not respond in any manner to five of FINRA's requests, but did respond partially to one request. Accordingly, it is appropriate to apply the Guidelines for a partial failure to respond.³⁶ Applying these Guidelines, a bar is the appropriate sanction for Stewart's violations of FINRA Rules 8210 and 2010.³⁷ Stewart has not demonstrated that he substantially complied with the FINRA Rule 8210 requests. Stewart substantially hindered Enforcement's investigation by failing to provide the requested information, documents, and testimony. The allegations being investigated, conversion of customer funds and impersonating a customer, were serious. The information requested but not provided was material. Stewart did not provide any documents or information in response to the First and Fourth Requests and responded only partially to the Second Request. In addition, Stewart failed to comply with three requests that he testify pursuant to FINRA 8210. There are no mitigating factors in the record.

IX. Order

Jeffrey Alan Stewart is barred from associating with any FINRA member firm in any capacity for converting customer funds in violation of FINRA Rules 2150(a) and 2010, for impersonating a customer, in violation of FINRA Rule 2010, and for failing to respond fully to FINRA Rule 8210 requests, in violation of FINRA Rules 8210 and 2010. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Kenneth Winer
Hearing Officer

³³ Guidelines at 33.

³⁴ Guidelines at 33.

³⁵ Guidelines at 33.

³⁶ See *Plunkett*, Exchange Act Release No. 69766, 2013 SEC LEXIS 1699, at *55-56 (June 14, 2013) (citing *Kent M. Houston*, Exchange Act Release No. 66014, 2011 SEC LEXIS 4491, at *25 & 27 (Dec. 20, 2011)).

³⁷ Enforcement did not request that Stewart be ordered to pay restitution.

Copies to:

Jeffrey Alan Stewart (*via overnight courier, first-class mail, and electronic mail*)

Clarence E. Sanders, Jr., Esq. (*via first-class mail and electronic mail*)

Akinyemi Akiwowo, Esq. (*via electronic mail*)

David Monachino, Esq. (*via electronic mail*)

Gauhar Naseem, Esq. (*via electronic mail*)

Michael S. Choi, Esq. (*via electronic mail*)

Jeffrey D. Pariser, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

**RECEIVED
FINRA**

NOV 20 2014

Office of Hearing Officers

Department of Enforcement,

Complainant,

v.

Jeffrey Alan Stewart
CRD No. 4178470,

Respondent.

DISCIPLINARY PROCEEDING
No. 2012035316101

COMPLAINT

The Department of Enforcement ("Enforcement") alleges:

SUMMARY

1. Between February 2012 and May 2012 (the "Relevant Period"), while associated with a FINRA-regulated entity, Jeffrey Alan Stewart ("Respondent") converted \$54,000 from customers of his FINRA-regulated employer in violation of FINRA Rules 2150(a) and 2010. During three telephone calls with another FINRA-regulated entity, Respondent also impersonated a customer and withdrew funds from the customers' account in violation of FINRA Rule 2010. In addition, Respondent failed to comply with requests for information and testimony in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Respondent entered the securities industry in April 2000 with a FINRA-regulated entity and became registered in August 2000. Respondent remained employed with that entity until September 2000. Between September 2000 and July 2009, Respondent was registered with two different FINRA-regulated entities. In July 2009, Respondent became registered with Valic

Financial Advisors, Inc. (“Valic”), a FINRA-regulated entity, where he remained until May 2011. In August 2011, Respondent became registered with MML Investors Services L.L.C. (“MML”), a FINRA-regulated entity, where he remained until November 29, 2012. Respondent is not currently associated with any FINRA-regulated entity.

3. On January 28, 2013, MML filed a Form U5 Amendment reporting, for the first time, a customer complaint filed on December 19, 2012, alleging that Respondent converted customer funds.

4. On February 11, 2013, MML filed a Form U5 Amendment reporting for the first time, a customer complaint filed on January 18, 2013, alleging that Respondent misrepresented facts regarding variable annuity investments and that signatures on the annuity applications were not authentic.

5. Although Respondent 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 the Complaint was filed within two years of the filing of Form U5 Amendments which reported that Respondent may have engaged in conduct actionable under applicable statutes, rules, or regulations, and the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member,

6. In addition, the Complaint charges Respondent with failing to respond to FINRA requests for information and testimony, during the two-year period after the date upon which Respondent ceased to be registered or associated with a FINRA-regulated entity and within two years of the filing of Form U5 Amendments which reported that Respondent may have engaged in conduct actionable under applicable statutes, rules, or regulations.

STATEMENT OF FACTS

Respondent Impersonates a Customer

7. Customer BR and his wife, CR, opened securities accounts with Respondent at a FINRA-regulated entity. In or about July 2009, BR and CR transferred their securities accounts to Valic when Respondent became associated with Valic.

8. On or about February 15, 2012, CR called Respondent and requested a \$30,000 withdrawal from the joint securities account she maintained with BR at Valic. CR instructed Respondent to have a check mailed to her home address, which was the address in the Firm's records for the joint account.

9. On February 15, 2012, at approximately 11:21 a.m., Respondent called Valic and requested a \$30,000 check withdrawal from BR and CR's joint account at Valic.

10. During the call, Respondent identified himself as BR and used BR's personal information (including BR's birthdate and the last four digits of BR's social security number) to impersonate BR.

11. While impersonating BR, Respondent instructed the Valic representative to sell a specific security ("FIF"), without BR or CR's knowledge or authorization. Respondent requested that a \$30,000 check be issued and sent to the address in the Firm's records for the joint account.

12. Later that day, Valic sold the FIF investment for \$83,917.49.

13. On February 22, 2012, Valic mailed a \$30,000 check payable to BR and CR to the address listed on the account. CR received and cashed the check.

Respondent Converts Customer Funds and Impersonates a Customer

14. On February 22, 2012, at approximately 11:40 a.m., without BR or CR's knowledge or authorization, Respondent called Valic to request a second \$30,000 withdrawal from BR and CR's account.

15. During the call, Respondent identified himself as BR and used BR's personal information (including BR's birthdate and the last four digits of BR's social security number) to impersonate BR.

16. On February 22, 2012, Valic mailed a \$30,000 check payable to BR and CR to the address listed on the account.

17. On or about the same day, Respondent called CR and told her that Valic had erroneously issued another \$30,000 check as a result of an error. Respondent asked CR to call him when she received the check and that he would pick the check up and redeposit it into her securities account.

18. When Respondent met with CR to retrieve the check, Respondent asked CR to endorse the check with both her name and BR's name. CR endorsed the check and gave Respondent the check to deposit back into her joint securities account.

19. Respondent then altered or caused CR's endorsement on the check to be altered, without CR's knowledge or authorization. Specifically, above CR's endorsement, Respondent added or caused to be added, "Pay to order of [LS]."

20. The cancelled check reflects that on or about March 2, 2012, the check was endorsed and cashed by LS, Respondent's wife. Respondent did not deposit any of the funds into BR and CR's securities account.

Respondent's May 2012 Conversion and Impersonation of a Customer

21. On May 18, 2012, at approximately 2:17 p.m., without BR or CR's knowledge or authorization, Respondent called Valic to request a third check withdrawal of \$24,000 from BR and CR's account.

22. During the call, Respondent identified himself as BR and used BR's personal information (including birthdate and the last four digits of BR's his social security number) to impersonate BR.

23. On May 21, 2012, Valic processed the withdrawal request and mailed a \$24,000 check payable to BR and CR to the address of record for the account.

24. On or about May 18, 2012, Respondent called CR and stated that he initiated a \$24,000 withdrawal transaction in order to invest BR and CR's funds in an investment away from Valic. Respondent asked CR to let him know when she received the check so that he could meet her and retrieve the check.

25. When Respondent met with CR, he asked her to endorse the check with her name and BR's name. CR endorsed the check and requested that Respondent redeposit the check in her securities account.

26. Thereafter, Respondent altered or caused the endorsement on the check to be altered, without CR's knowledge or authorization. Specifically, above the endorsement, Respondent added "Pay to order of [LS]."

27. The cancelled check reflects that on or about May 31, 2012, the check was cashed by LS. The funds were never invested for BR and CR or deposited into their securities account.

Respondent's Failure to Fully Respond to Requests for Information

28. On March 14, 2013, as part of the investigation of Respondent's conduct, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent provide written statements, information, and certain financial records to Enforcement by March 28, 2013. The letter was sent by certified mail with return receipt requested and first class mail to Respondent at his last known residential address as reflected in the Central Registration Depository (the "CRD Address"). Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

29. The letter sent by certified mail and return receipt requested and the copy of the letter sent by first class mail to the CRD address were not returned to Enforcement.

30. Respondent failed to provide the requested written statements, information, and financial records to Enforcement by March 28, 2013.

31. On April 2, 2013, Enforcement sent another letter requesting, pursuant to FINRA Rule 8210, that Respondent provide written statements, information, and certain financial records by April 12, 2013. The letter was sent by Federal Express, certified mail and return receipt requested, and first class mail to Respondent at the CRD address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

32. Enforcement obtained a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on April 3, 2013. Enforcement received a signed Domestic Return Receipt from the United States Postal Service ("USPS") indicating that the copy of the letter sent by certified mail and return receipt requested was delivered to the CRD Address on April 8, 2013. The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

33. On April 11, 2013, Enforcement received an undated 2-page letter from Respondent responding to certain, but not all, requests in a written statement. Respondent failed to provide information and documents relating to an alleged outside investment; information regarding LS; failed to identify all bank, brokerage and financial accounts that Respondent and his wife maintained during the Relevant Period; and failed to provide account statements for all bank, brokerage and financial accounts that he and his wife maintained during the Relevant Period. The information and records were material to Enforcement's investigation.

34. Respondent substantially hindered Enforcement's investigation by failing to provide the requested information and documents.

35. On May 9, 2013, Enforcement sent another letter requesting, pursuant to FINRA Rule 8210, that Respondent provide the outstanding information and financial records by May 17, 2013. The letter was sent by Federal Express, certified mail with return receipt requested and first class mail to Respondent at the CRD address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

36. Enforcement received a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on May 10, 2013. Enforcement received a USPS Domestic Return Receipt signed, "JS," indicating that the copy of the letter sent by certified mail with return receipt requested was delivered to the CRD Address on May 13, 2013. The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

37. Respondent failed to provide the requested and outstanding information, and financial records to Enforcement by May 17, 2013.

Respondent Failed to Respond to Requests for Testimony

38. On April 3, 2013, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent appear and provide testimony on May 8, 2013 at Enforcement's office in New York, New York. The letter and a copy of the letter were sent by certified mail with return receipt requested and first class mail to Respondent at the CRD Address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

39. The letter sent by certified mail with return receipt requested to the CRD Address was returned to Enforcement marked "Unclaimed." The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

40. Respondent failed to appear and testify on May 8, 2013.

41. On May 9, 2013, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent appear and provide testimony on May 22, 2013 at Enforcement's office in New York, New York. The letter and a copy of the letter were sent by Federal Express, certified mail with return receipt requested and first class mail to Respondent at the CRD Address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

42. Enforcement obtained a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on May 10, 2013. Enforcement received a USPS Domestic Return Receipt signed, "Jared Stewart," indicating that the copy of the letter sent by certified mail and return receipt requested was delivered to the CRD Address on May 13, 2013. The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

43. Respondent failed to appear and testify on May 22, 2013.

44. On June 14, 2013, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent appear and provide testimony on July 3, 2013 at Enforcement's office located in Chicago, Illinois. The letter and a copy of the letter were sent by Federal Express, certified mail with return receipt requested and first class mail to Respondent at the CRD Address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

45. Enforcement obtained a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on June 17, 2013. The copy of the letter sent by certified mail with return receipt requested was returned to Enforcement marked "Unclaimed." The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

46. Respondent failed to appear and testify on July 3, 2013.

FIRST CAUSE OF ACTION
Conversion
(FINRA Rules 2150 and 2101)

47. The Department realleges and incorporates by reference paragraphs 1 through 46, above.

48. FINRA Rule 2150(a) states that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds."

49. FINRA Rule 2101 states that, "A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade."

50. Between February 2012 and May 2012, Respondent caused two checks to be issued from BR and CR's account for \$30,000 and \$24,000, without the customers' knowledge or authorization.

51. Respondent caused CR to endorse each check, which CR provided to Respondent to redeposit into BR and CR's securities account.

52. Respondent altered or caused the checks to be altered and payable to LS, Respondent's wife. LS cashed the checks and Respondent did not return the funds to BR or CR.

53. Respondent did not have permission or authority from BR or CR to use the funds for Respondent's personal benefit

54. Based on the foregoing, Respondent violated FINRA Rules 2150(a) and 2010 by converting funds from customers of his FINRA member firm employer.

SECOND CAUSE OF ACTION
Impersonation of a Customer
(FINRA RULE 2010)

55. The Department realleges and incorporates by reference paragraphs 1 through 54, above.

56. On February 15, 2012, February 22, 2012, and May 18, 2012, Respondent falsely represented that he was customer BR during telephone conversations with representatives of Valic.

57. During each call, Respondent identified himself as BR and used BR's personal information (including BR's birthdate and the last four digits of BR's social security number) to impersonate BR.

58. Respondent's conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade and constitutes violations of FINRA Rule 2010.

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

59. The Department realleges and incorporates by reference paragraphs 1 through 58, above.

60. FINRA Rule 8210 provides that FINRA staff 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.

61. FINRA Rule 8210 required Respondent to respond to requests for documents and information and required Respondent to provide testimony. Respondent failed to provide the requested information and documents in connection with a FINRA investigation.

62. By letters dated March 24, 2013, April 2, 2013, and May 9, 2013, Enforcement requested, pursuant to FINRA Rule 8210, that Respondent provide written statements, information, and financial records by specified dates.

63. On April 11, 2013 Respondent provided a written statement responding to some but not all requests. Respondent failed to provide all requested written statements, information and financial records in connection with FINRA's investigation. Respondent failed to respond to requests for the following: (1) information and documents relating to an alleged outside investment he claims that he assisted BR and CR with; information regarding LS; (2) failed to identify all bank, brokerage and financial accounts that respondent and LS maintained during the Relevant Period; and (3) failed to provide account statements for all bank, brokerage and financial accounts that he and LS maintained during the Relevant Period.

64. By failing to provide all requested written statements, information and financial records, Respondent violated FINRA Rules 8210 and 2010.

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

65. The Department realleges and incorporates by reference paragraphs 1 through 64, above.

66. By letters dated April 3, 2013, May 9, 2013 and June 14, 2013, Enforcement requested, pursuant to FINRA Rule 8210 that Respondent appear and testify on specified dates.

67. Respondent failed to appear and testify as requested.

68. By failing to appear and provide testify, Respondent violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

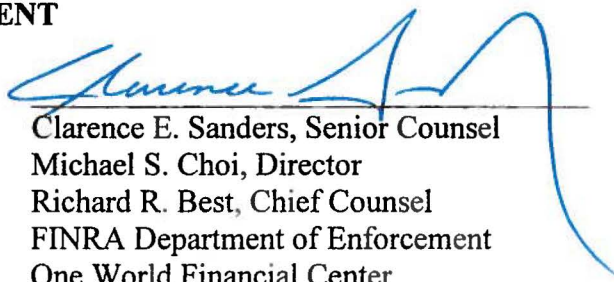
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) committed the violations charged and 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 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 19, 2014


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