

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JONATHAN A. FRANCIS
(CRD No. 5204602),

Respondent.

Disciplinary Proceeding
No. 2013038988301

Hearing Officer — KBW

DEFAULT DECISION

January 28, 2015

Respondent is barred from associating with any FINRA member firm in any capacity for issuing unauthorized ATM cards as part of a scheme to convert funds from bank customers' accounts, in violation of FINRA Rule 2010, and failing to respond to requests for information, in violation of FINRA Rules 8210 and 2010.

Appearances

David Camuzo, Esq., and Susan M. Schroeder, Esq., for the Department of Enforcement.

No appearance by or on behalf of Jonathan A. Francis.

DECISION

I. Introduction

On September 2, 2014, the FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers. The Complaint charges that Respondent Jonathan A. Francis (“Francis”) violated: (1) FINRA Rule 2010 by issuing eight ATM cards for the accounts of seven bank customers without the customers’ knowledge and for the purpose of assisting in the conversion of approximately \$210,000 in cash from those customers’ accounts, and (2) FINRA Rules 8210 and 2010 by (a) failing to respond fully to requests by FINRA staff for information and documents and (b) failing to appear and provide testimony in response to requests by FINRA staff.

Francis failed to file an answer or other response to the Complaint. On December 1, 2014, Enforcement filed a Motion for Entry of Default Decision and Imposition of Sanctions (“Default Motion”). The Default Motion was supported by a Declaration of David Camuzo in Support of the Department of Enforcement’s Motion for Entry of Default Decision and

Imposition of Sanctions (“Camuzo Decl.”) and 23 exhibits. Francis did not respond to the Default Motion.

II. Francis’s Background

Francis first became registered with FINRA in April 2010 as an Investment Company Products and Variable Contracts Limited Representative (“IR”) through Chase Investment Services Corp. (“Chase”), a FINRA member firm.¹ His IR license was transferred to J. P. Morgan Securities, LLC (“J. P. Morgan”) on or about October 1, 2012.² Francis became licensed with J. P. Morgan as a General Securities Representative in December 2012.³ In October 2013, Francis terminated his employment with J. P. Morgan. On October 11, 2013, J. P. Morgan filed a Form U5 Uniform Termination Notice of Securities Registration (“Form U5”) reporting Francis’s termination.⁴

From October 15, 2013, until November 2013, Francis was registered with another FINRA member firm.⁵ Francis has not been registered with a FINRA member since November 2013.⁶

III. Findings of Fact and Conclusions of Law

A. 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 termination of Francis’s registration with a member firm, and (2) the first cause of action charges Francis with misconduct that commenced while he was associated with a FINRA member firm and the other two causes of action charge him with failing to respond fully to FINRA Rule 8210 requests during the two-year period following the termination of his FINRA registration.⁷

B. Origin of the Investigation

In November 2013, J. P. Morgan filed a Uniform Termination Notice for Securities Industry Registration Amendment (“Form U5 Amendment”) disclosing, among other things, that Francis (1) resigned after Francis was accused of violating investment-related statutes, regulations, rules, or industry standards of conduct and of fraud or the wrongful taking of

¹ Camuzo Decl. ¶ 4.

² Camuzo Decl. ¶ 4.

³ Camuzo Decl. ¶ 4.

⁴ Camuzo Decl. ¶ 5; CX-2, at 1.

⁵ Camuzo Decl. ¶ 6; CX-1, at 4.

⁶ Camuzo Decl. ¶ 8.

⁷ See Article V, Section 4, FINRA By-Laws, available at finra.org/Rules (then follow the “FINRA Manual” hyperlink to “Corporate Organization: By-Laws”).

property, and (2) was “under internal review for issuing ATM cards on bank customers accounts and withdrawing funds without their knowledge or consent.”⁸ FINRA thereafter commenced the investigation that led to this disciplinary proceeding.⁹

C. Service of the Complaint and Francis’s Default

1. First Notice

On September 2, 2014, FINRA staff mailed the Complaint and Notice of Complaint (collectively, “First Notice”) by first-class mail and certified mail, return receipt requested, to Francis’s most recent residential address as recorded in the Central Registration Depository (“CRD address”). In addition, FINRA staff mailed the First Notice by first-class mail and certified mail, return receipt requested, to an update of Respondent’s CRD address that Francis supplied to FINRA staff (“updated CRD address”).¹⁰ The U.S. Postal Service (“Postal Service”) did not return to FINRA staff the first-class mailings, the certified mailings, or the return receipts.¹¹

The Notice of Complaint required Francis to file an Answer with the Office of Hearing Officers no later than September 30, 2014.¹² Francis did not file an Answer or other response by that date.¹³

2. Second Notice

On October 1, 2014, FINRA staff mailed the Complaint and Second Notice of Complaint (collectively, “Second Notice”) by first-class mail and certified mail, return receipt requested, to Francis’s CRD address and updated CRD address.¹⁴ The Postal Service did not return to FINRA staff the first-class mailings, the certified mailings, or the return receipts.¹⁵

The Second Notice of Complaint required Francis to file an Answer with the Office of Hearing Officers no later than October 20, 2014.¹⁶ Francis did not file an Answer or other response by that date.¹⁷

⁸ Camuzo Decl. ¶ 7; CX-4, at 2, 4, 5.

⁹ Camuzo Decl. ¶ 10.

¹⁰ Camuzo Decl. ¶¶ 17, 29.

¹¹ Camuzo Decl. ¶ 30.

¹² Camuzo Decl. ¶ 32; CX-20, at 1.

¹³ Camuzo Decl. ¶ 32.

¹⁴ Camuzo Decl. ¶ 33; CX-22.

¹⁵ Camuzo Decl. ¶ 34.

¹⁶ Camuzo Decl. ¶ 36; CX-22, at 1.

¹⁷ Camuzo Decl. ¶ 36.

3. Francis's Default

FINRA staff properly served Francis with a copy of the Complaint, and Francis received valid constructive notice of this proceeding. Francis defaulted by failing to file an Answer or other response by the deadline set forth in the Second Notice of Complaint. Accordingly, the allegations in the attached Complaint are deemed admitted pursuant to FINRA Rules 9215(f) and 9269(a).

D. First Cause of Action – Unethical Business-Related Conduct

FINRA Rule 2010 extends to any unethical, business-related misconduct by a registered person, even if the misconduct does not involve securities.¹⁸ While Francis was registered first with Chase and then with J. P. Morgan, he was also employed as a relationship banker first by Chase's affiliated bank and then by J. P. Morgan's affiliated bank (collectively referred to as "affiliated banks").¹⁹ Francis (in his capacity as a relationship banker) issued between August 2012, and August 2013, seven ATM cards in the accounts of six dead customers and a card for the account of customer B by abusing his position at Chase, J. P. Morgan, and the affiliated banks.²⁰

Francis knew that: (1) the issuance of the ATM cards was part of an overall scheme to convert funds from Bank customers, and (2) this conduct was improper and illegal.²¹ The ATM cards issued by Francis were used to withdraw approximately \$210,000 from the accounts of the seven customers (the six dead customers and customer B) without customer authorization.²² FINRA staff does not know the identity of the individuals who used the cards.²³

By issuing ATM cards without authorization as part of a scheme to convert bank customer funds, Francis engaged in business related, unethical conduct and therefore violated FINRA Rule 2010.²⁴

¹⁸ *Dep't of Enforcement v Olson*, Complaint No. 2010023349601, 2014 FINRA Discip. LEXIS 7, at *7 (FINRA Board of Governors May 9, 2014), *appeal docketed*, No. 3-15916 (SEC June 9, 2014) ("FINRA's authority to pursue discipline for violations of FINRA Rule 2010 is sufficiently broad to encompass any unethical, business-related misconduct, regardless of whether it involves a security.").

¹⁹ Compl. ¶ 6.

²⁰ Compl. ¶¶ 8, 9, 13.

²¹ Compl. ¶ 11.

²² Compl. ¶ 10.

²³ Compl. ¶ 10.

²⁴ See *Olson*, 2014 FINRA Discip. LEXIS 7, at *6-7 (respondent engaged in unethical conduct in violation of Rule 8210 when she converted her firm's funds by knowingly falsifying expense reports to obtain firm reimbursement for personal expenses).

E. Second and Third Causes of Action – Failure to Respond Fully to Requests Pursuant to FINRA Rule 8210

The remaining two causes of action set forth in the Complaint relate to violations of FINRA Rule 8210. The second cause of action relates to Francis's failure to respond fully to requests for information and documents. The third cause of action relates to Francis's failure to respond to two requests for testimony.

1. Second Cause of Action – Failure to Respond Fully to Requests for Information and Documents

In January, February, and March 2014, FINRA staff issued, and Francis responded to, three FINRA Rule 8210 requests regarding the issuance of unauthorized ATM cards and the subsequent conversion of funds (“the first three requests”).²⁵ Francis's responses to the first three requests are not a basis for this proceeding.

This proceeding is based, in part, on Francis's failure to respond fully to two subsequent requests for documents and information.

a. April Request

In April 2014, FINRA staff mailed a letter (“April request”) to Francis's attorney requesting documents and information pursuant to FINRA Rule 8210.²⁶ FINRA staff requested documents and information to enable it to investigate whether Francis had converted any of the funds withdrawn from the bank accounts of the seven customers.²⁷ The requested documents and information related to explanations that Francis had provided in earlier testimony regarding funds deposited into his bank account, explanations Francis had provided regarding his sources of income, and alibis Francis had provided for times when unauthorized withdrawals occurred.²⁸

On April 21, 2014, Francis's attorney acknowledged receipt of the April request and sought an extension.²⁹ FINRA staff granted the extension, but Francis did not provide information or documents in response to the request by the extended deadline.³⁰

On May 9, 2014, Francis's attorney notified FINRA staff that the attorney no longer represented Francis in connection with the FINRA investigation and asked that FINRA staff

²⁵ Camuzo Decl. ¶ 13.

²⁶ Camuzo Decl. ¶ 13; CX-6.

²⁷ Compl. ¶ 16.

²⁸ Compl. ¶ 22.

²⁹ Camuzo Decl. ¶ 14; CX-7.

³⁰ Camuzo Decl. ¶ 14.

direct all further communications to Francis.³¹ As of May 9, 2014, Francis still had not provided any documents or information in response to the April request.³²

b. May Request

In May 2014, FINRA staff sent to Francis's updated CRD address another letter, captioned, "Second Request Notice" ("May request"). The May request: (1) attached a copy of the April request; (2) stated that the May request was also being made pursuant to FINRA Rule 8210; (3) noted that Francis had failed to produce the documents and information requested in the April request; and (4) stated that if Francis failed to produce the requested information to FINRA staff by May 19, 2014, Francis may be subject to the institution of an expedited or formal disciplinary proceeding leading to sanctions, including a bar from the securities industry.³³ On May 19, 2014, Francis acknowledged receipt of the May request and requested an extension until May 23, 2014, to respond.³⁴ FINRA staff granted Francis's request.³⁵

By emails dated May 28, 2014 and May 29, 2014, Francis produced some of the documents requested in the April request and the May request.³⁶ Francis did not produce the documents FINRA staff requested to test his alibis and documents relating to an \$11,000 payment that Francis claimed to have received.³⁷ Due to Francis's failure to produce some of the requested documents and information, FINRA staff was not able to complete its investigation into the sources of certain deposits into Francis's bank account and the validity of alibis that Francis had provided.³⁸

On May 29, 2014 and June 3, 2014, FINRA staff sent emails to Francis inquiring as to the status of the documents and information that he had not produced as requested. Francis did not provide the remaining documentation.³⁹

2. Third Cause of Action – Failure to Provide Testimony

Francis testified once in March 2014 in response to a FINRA Rule 8210 request ("March testimony request") but failed to appear and testify in response to two subsequent FINRA Rule

³¹ Camuzo Decl. ¶ 15; CX-8.

³² Camuzo Decl. ¶ 16.

³³ Camuzo Decl. ¶ 17; CX-10.

³⁴ Camuzo Decl. ¶ 18; CX-11.

³⁵ Compl. ¶ 19.

³⁶ Camuzo Decl. ¶ 19; CX-12, 13.

³⁷ Compl. ¶¶ 21, 22.

³⁸ Compl. ¶ 22.

³⁹ Compl. ¶ 23.

8210 requests.⁴⁰ This proceeding is based, in part, on Francis's failure to appear and testify in response to the two subsequent FINRA Rule 8210 requests for testimony.

a. June Request

After Francis testified in March 2014, FINRA staff determined it needed to further question Francis, primarily concerning numerous cash deposits into his bank account, in order to investigate further whether he had taken funds withdrawn from the accounts of the seven customers.⁴¹ Accordingly, on June 27, 2013, FINRA staff sent a letter ("June request") requesting that Francis appear and provide testimony pursuant to FINRA Rule 8210. FINRA staff sent the June request to Francis's updated CRD address by first-class mail, certified mail (return receipt requested) and Federal Express overnight mail.⁴²

The June request directed Francis to appear for testimony on July 17, 2014, at FINRA's District office in New York City.⁴³ The date "July 17, 2014," was in bold. However, later in the June request, FINRA staff said, "[o]n July 8, we request that you report to the above referenced address on the 12th Floor, where you will be escorted to the room in which your OTR will be conducted." This language was not in bold. Francis did not call FINRA seeking clarification of the date on which he was scheduled to appear.⁴⁴

The Federal Express website indicated that the June request was delivered to Francis's updated CRD address. The Postal Service returned the certified mailing marked as "unclaimed" and "unable to forward." The Postal Service did not return the first-class mailing.⁴⁵

Francis did not appear for testimony on July 17, 2014. Francis did not contact FINRA staff concerning the June request.⁴⁶

b. July Request

On July 18, 2014, FINRA staff sent Francis another letter requesting testimony pursuant to FINRA Rule 8210 ("July request"). FINRA staff sent the letter to Francis's updated CRD address by first-class mail, certified mail (return receipt requested) and Federal Express overnight mail. The July request asked that Francis appear and provide testimony on July 23, 2014, at FINRA's New York City District office.⁴⁷

⁴⁰ Camuzo Decl. ¶ 21; Compl. ¶ 26.

⁴¹ Compl. ¶ 26.

⁴² Cazumo Decl. ¶ 22; CX-16.

⁴³ Compl. ¶ 27.

⁴⁴ Cazumo Decl. ¶ 23; CX-16.

⁴⁵ Camuzo Decl. ¶ 24.

⁴⁶ Compl. ¶ 30.

⁴⁷ Cazumo Decl. ¶ 26.

The Federal Express website indicated that the July request was delivered to Francis's updated CRD address. The Postal Service did not return the certified mailing or the first-class mailing.⁴⁸

Francis did not appear for testimony on July 23, 2014. Francis did not contact FINRA staff concerning the July request.⁴⁹

3. Discussion

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.'"⁵⁰ FINRA Rule 8210 requires persons subject to FINRA's jurisdiction to provide information requested by FINRA and to testify with respect to any matter involved in a FINRA investigation.⁵¹ Accordingly, members and associated persons must cooperate fully in providing requested information and testimony.⁵² Because FINRA lacks subpoena power, it "must rely on Rule 8210 to obtain information from its members necessary to carry out its investigations and fulfill its regulatory mandate."⁵³

Francis received the April request and May request. In addition, 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."⁵⁴ The Hearing Officer concludes that: (1) Francis's updated CRD address is substantially the same as his CRD address; (2) mailing or otherwise transmitting the notice to Francis's updated CRD address therefore complies with this provision; and (3) Francis therefore received valid constructive notice of the June request and the July request.

Francis failed to provide certain information and documents that FINRA staff requested pursuant to FINRA Rule 8210 in its April request and May request. In addition, Francis failed to provide testimony that FINRA staff requested in its June Request and July request. Accordingly,

⁴⁸ Camuzo Decl. ¶ 27.

⁴⁹ Cazumo Decl. ¶ 28.

⁵⁰ See *John Joseph Plunkett*, Exchange Act Release No. 73124, 2014 SEC LEXIS 3396, at *17 (Sept. 16, 2014), (quoting *Gregory Evans Goldstein*, Exchange Act Release No. 71970, 2014 SEC LEXIS 1350, at *43 (Apr. 17, 2014)).

⁵¹ *Dep't of Enforcement v. Reichman*, Complaint No. 200801201960, 2011 FINRA Discip. LEXIS 18, at *28-29 (FINRA NAC July 21, 2011).

⁵² See *Michael David Borth*, 51 S.E.C. 178, 180 (1992).

⁵³ *Plunkett*, 2014 SEC LEXIS 3396, at *17 (quoting *Goldstein*, 2014 SEC LEXIS 1350, at *43).

⁵⁴ FINRA Rule 8210(d).

Francis violated FINRA Rule 8210. In violating FINRA Rule 8210, Francis also violated FINRA Rule 2010.⁵⁵

IV. Sanctions

A. First Cause of Action – Unethical Business-Related Conduct

The FINRA Sanctions Guidelines (“Guidelines”) guideline for conversion applies to the first cause of action. In the first cause of action, the Complaint alleges that Francis issued the unauthorized ATM cards as “part of a scheme to convert customer funds.”⁵⁶ The Guidelines provide that “[c]onversion generally 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.”⁵⁷ The unauthorized withdrawal of customer funds using unauthorized ATM cards therefore constitutes conversion.

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.’”⁵⁸ For cases involving conversion, the Guidelines instruct adjudicators to impose a “[b]ar . . . regardless of the amount converted.”⁵⁹ Here, the amount (approximately \$210,000) is substantial.

Accordingly, Francis is barred from associating with any FINRA member in any capacity for violating FINRA Rule 2010 by issuing unauthorized ATM cards as part of a scheme to convert customer funds by making unauthorized withdrawals from customer accounts.

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

The Guidelines provide that “[a]ggregation or ‘batching’ of violations may be appropriate for purposes of determining sanctions in disciplinary proceedings.”⁶⁰ The Hearing Officer concludes that it is appropriate to aggregate Francis’s failure to respond fully to the April and May requests with his failure to provide testimony in response to the June request and July request. Both causes of action relate to failures by Francis to cooperate fully in providing information that FINRA staff seeks under FINRA Rule 8210.

⁵⁵ *Plunkett*, 2014 SEC LEXIS 3396, at *3 n.3 (stating in the context of a Rule 8210 violation 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.”).

⁵⁶ Camuzo Decl. ¶ 13.

⁵⁷ FINRA Sanction Guidelines at 36 (2013), www.finra.org/sanctionguidelines.

⁵⁸ *John Edward Mullins*, Exchange Act Release. No. 66373, 2012 SEC LEXIS 464, at *73 (Feb. 10, 2012) (quoting *Wheaton D. Blanchard*, 46 S.E.C. 365, 366 (1976)).

⁵⁹ Guidelines at 36.

⁶⁰ Guidelines at 4.

For failing to respond in any manner to a FINRA Rule 8210 request for information, the Guidelines provide that a bar should be the standard sanction.⁶¹ 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.”⁶² The Sanction Guidelines also recommend a fine of \$10,000 to \$50,000.⁶³

Because Francis responded to the first three requests and the March testimony request, responded in part to the April and May requests, and failed to appear for the testimony in response to the June request and the July request, the Hearing Officer applies the Sanction Guidelines for a partial, but incomplete, response.⁶⁴ For providing a partial but incomplete response to a FINRA Rule 8210 request, the Sanction Guidelines direct adjudicators to consider, in addition to the principal considerations and general principles applicable to all violations, 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.⁶⁵

In light of these factors, a bar is the appropriate sanction for Francis’s violations of FINRA Rules 8210 and 2010. First, the information requested but not provided was important; it related directly to whether Francis took the money that was converted from the accounts of the seven customers. Second, Francis initially did not provide any documents or information in response to the April request, providing documents and information in partial response to the April and May requests only after the expiration of the extended deadline for the May request. Third, although Francis did appear for his initial testimony, Francis twice refused to provide testimony once the FINRA staff had determined to test the accuracy of his initial testimony. Fourth, Francis offered no reason for not providing testimony in response to the June request and the July request.

Francis’s failure to respond fully to the FINRA Rule 8210 requests is not mitigated by his initial testimony, his responses to the first three requests, and his partial response to the April and May requests. Francis’s initial testimony, responses to the first three requests, and partial response to the April and May requests left unresolved a number of important factual issues that

⁶¹ Guidelines at 33.

⁶² Guidelines at 33.

⁶³ Guidelines at 33.

⁶⁴ FINRA staff did not allege that Francis’s responses to the first three requests and the March testimony requests were inadequate or untimely. Accordingly, for the purpose of this Decision, it is assumed that Francis responded fully and timely to these requests.

⁶⁵ Guidelines at 33.

related directly to whether he took the money that was converted from the seven customer accounts as a result of his unauthorized issuance of the ATM cards.

V. Order

Jonathan A. Francis is barred from associating with any FINRA member firm in any capacity for issuing ATM cards without authorization as part of a scheme to convert bank customer funds, in violation of FINRA Rule 2010, and for failing to respond fully to FINRA Rule 8210 requests, in violation of FINRA Rule 8210 and FINRA Rule 2010. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.⁶⁶



Kenneth Winer
Hearing Officer

Copies to:

Jonathan A. Francis (*via overnight courier and first-class mail*)
David Camuzo, Esq. (*via email*)
Susan M. Schroeder, Esq. (*via email*)
Jeffrey D. Pariser, Esq. (*via email*)

⁶⁶ Enforcement is not seeking restitution because J. P. Morgan did not identify the customers due to privacy concerns. Default Motion, at 18 n. 23.

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Jonathan A. Francis
(CRD No. 5204602),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013038988301

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Jonathan A. Francis ("Francis") aided and abetted third parties who converted approximately \$210,000 from bank customers' accounts. During the course of his employment with a bank affiliate of a FINRA member, Francis issued eight ATM cards for seven bank customers' accounts without the customers' knowledge, authorization or consent – indeed, six of the customers were dead. Those ATM cards were used to withdraw and convert approximately \$210,000 in cash from those customers' accounts. By issuing and distributing the unauthorized ATM cards and by knowingly and substantially assisting in the conversion, Francis violated FINRA Rule 2010.
2. Francis also failed to respond fully to FINRA's requests for documents and information and failed to appear for his continued on-the-record ("OTR") testimony.

This prevented FINRA from determining whether he personally converted any of the funds. As a result of the foregoing, Francis violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

- 3. Francis first became registered with FINRA on April 26, 2010 as an Investment Company Products/Variable Contracts Representative (“IR”) through Chase Investment Services Corp. (“Chase”), a FINRA member firm. Francis’s IR license was subsequently transferred to J.P. Morgan Securities, LLC (“JPM” or “the Firm”) on or about October 1, 2012. Francis also became licensed with JPM as a General Securities Representative (“GS”) on December 3, 2012. Francis left JPM on October 11, 2013 and was thereafter briefly registered with another FINRA member firm as an IR and a GS from October 15, 2013 through November 11, 2013. Francis has not re-associated with another FINRA member since November 11, 2013.**
- 4. Although Francis is no longer registered or associated with a FINRA member, he remains subject to FINRA’s jurisdiction for the purposes of this proceeding, pursuant to Article V, Section 4 of the FINRA By-Laws, because: (1) the Complaint was filed within two years after the effective date of termination of Francis’s registration with a FINRA member firm, namely, November 11, 2013; and (2) the Complaint charges him with misconduct committed while he was registered with a FINRA member and with failing to respond to FINRA requests for information and to appear for an on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.**

**FIRST CAUSE OF ACTION
(UNETHICAL BUSINESS-RELATED CONDUCT)
FINRA Rule 2010**

5. The Department realleges and incorporates by reference paragraphs 1 through 4 above.
6. While Francis was registered with Chase and JPM, he was also employed by Chase and JPM's affiliated bank ("the Bank") as a Relationship Banker.
7. Francis had authority from the Bank to issue ATM and debit cards to retail bank customers.
8. In his capacity as a Relationship Banker and while registered with Chase or JPM, Francis issued seven ATM cards in six dead customers' accounts, as set forth below.

Customer	Date of Card Issuance	Date of Customer's Death
A	August 23, 2012	January 21, 2000
C	September 27, 2012	February 17, 1998
F	June 26, 2013	August 8, 2007
G	July 19, 2013 August 19, 2013	May 27, 2004
K	August 29, 2013	May 26, 2007
M	September 6, 2012	March 14, 1994

9. Francis also issued an ATM card on September 6, 2012 for the account of customer B, who subsequently complained of an unauthorized withdrawal of funds from his account.
10. After Francis issued the ATM cards, between approximately August 2012 and September 2013, the cards were used to withdraw approximately \$210,000 from the accounts without the customers' authorization. The cards were used by individuals whose identities are unknown.

11. Francis knew that the issuance and distribution of the unauthorized ATM cards was part of an overall scheme to convert funds from Bank customers, and he also knew that this conduct was improper and illegal.
12. Francis resigned from the Bank and JPM shortly after the Bank began an investigation into this conduct, but before the Bank could interview him about it.
13. By abusing his position at the Bank, JPM and Chase to issue and distribute the eight unauthorized ATM cards as part of a scheme to convert customer funds, Francis engaged in unethical business-related conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade. As a result of the foregoing, Francis violated FINRA Rule 2010.

**SECOND CAUSE OF ACTION
(FAILURE TO FULLY RESPOND TO REQUESTS FOR INFORMATION AND DOCUMENTS)
FINRA Rules 8210 and 2010**

14. The Department realleges and incorporates by reference paragraphs 1 through 13 above.
15. In January, February and March 2014, Francis responded to three FINRA Rule 8210 requests regarding the issuance of unauthorized ATM cards and the subsequent conversion of funds.
16. By letter dated April 17, 2014, FINRA staff issued an additional request for information to Francis, requesting documents and information pursuant to FINRA Rule 8210. FINRA requested the documents and information to enable it to investigate whether Francis had converted any of the funds withdrawn from the seven customers' bank accounts as set forth in paragraph 10 above.

17. The request was sent by first class mail and email to Francis's attorney with a due date of April 24, 2014.
18. On April 21, 2014, counsel for Francis, who acknowledged receipt of the Rule 8210 request, requested an extension of time for Francis's response until May 1, 2014, which FINRA granted. Counsel subsequently withdrew representation of Francis on May 9, 2014. As of May 9, 2014, Francis had not provided any of the documents or information requested in the April 17, 2014 letter.
19. On May 13, 2014, FINRA staff re-sent the April 17, 2014 Rule 8210 request directly to Francis, who was not represented by counsel at that time. FINRA sent the request by e-mail, first class and certified mail to Francis' residential address as listed in the Central Registration Depository ("CRD Residential Address"). The May 13, 2014 letter stated that FINRA required a response by May 19, 2014. On May 19, 2014, Francis acknowledged receipt of the May 13, 2014 letter by sending an e-mail to FINRA staff asking for an extension of time until May 23, 2014, which FINRA granted.
20. On May 28, 2014 and May 29, 2014, Francis produced some, but not all, of the documents and information requested in the April 17, 2014 letter.
21. The relevant requests which Francis failed to respond to were:
 - Item 4. In connection with the loan you provided to ED, provide the following:
 - a. Copy of the loan agreement;
 - b. Documents in support of the \$3,000 you loaned to ED;
 - c. Copy of the check that ED paid to you that bounced; and
 - d. Documents evidencing the \$11,000 that ED paid to you.

Item 6. State whether you filed a police report in connection with the car accident.

a. If yes, identify the police department where you filed the police report of [sic] the accident report.

Item 7. State whether you received medical attention in connection with your car accident.

If yes provide the dates you received medical attention;

a. State whether you visited a hospital in connection with your car accident; and

b. If yes, state the name of the hospital and the dates you visited the hospital in connection with your car accident.

Item 9. In connection with your outside business "DV" provide the following:

a. For the tax years 2012 and 2013 provide records of your expenses; and

b. The amount of income earned by DV during 2012 and 2013.

22. Due to his failure to fully comply and provide documents and information relating to explanations he provided in his earlier testimony concerning funds deposited into his bank account, FINRA staff was not able to complete its investigation into whether Francis had converted funds into his bank account. Specifically, FINRA staff was unable to determine whether certain deposits into Francis's bank accounts were derived, as he testified, from funds ED paid to him or from income earned by his company DV. Moreover, Francis did not provide his 2013 tax return (or a request for an extension) as requested by FINRA staff in the April 17, 2014 letter, so FINRA could not verify his income in 2012 or his testimony regarding income sources. In addition, Francis did not provide documents relating to time he may have spent in the hospital, so FINRA could not test his alibi for times when unauthorized withdrawals

occurred. Francis did not explain why he did not provide the missing documents and information.

23. On May 29, 2014 and June 3, 2014, FINRA staff sent e-mails to Francis inquiring as to the status of the documents and information he had not produced as requested.

Francis did not provide the remaining documents and information.

24. By failing to provide all requested documents and information, Francis violated FINRA Rules 8210 and 2010.

**THIRD CAUSE OF ACTION
(FAILURE TO PROVIDE TESTIMONY)
FINRA Rules 8210 and 2010**

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

26. On March 11, 2014, Francis provided initial sworn testimony to FINRA pursuant to a FINRA Rule 8210 request. Subsequently, FINRA staff determined it needed to further question Francis, primarily concerning numerous cash deposits into his bank account, in order to further investigate whether he converted funds taken from the accounts of the seven bank customers referenced in paragraph 10 of the Complaint.

27. Accordingly, on June 27, 2014, FINRA staff sent a letter requesting that Francis appear and provide testimony pursuant to FINRA Rule 8210. The letter was sent to Francis's CRD Residential Address, which FINRA understood to be current. The letter was sent to the CRD Residential Address via U.S. Postal Service certified mail, return receipt requested, first class mail and Federal Express overnight mail. The letter requested Francis to appear for testimony on July 17, 2014 in FINRA's office in New York City.

28. The scheduling letter requested Francis to appear on “Thursday, July 17, 2014.”

This language was highlighted in bold. However, later in the same letter, FINRA staff said “[o]n July 8, we request that you report to the above referenced address on the 12th Floor, where you will be escorted to the room in which your OTR will be conducted.” This language was not in bold. Francis did not call FINRA seeking clarification on the date he was required to appear

29. The return receipt attached to the letter FINRA sent to Francis’s CRD address was not returned to FINRA staff. The USPS website indicated a notice was left on June 30, 2014 and that “no authorized recipient” was available. The Federal Express letter was left at the front door on June 30, 2014. The first class mailing was not returned to FINRA.

30. Francis did not appear for testimony on July 17, 2014. Moreover, Francis did not contact the staff concerning the request that he appear.

31. FINRA staff gave Francis another opportunity to appear to testify. On July 17, 2014, FINRA staff sent Francis another letter requesting testimony pursuant to FINRA Rule 8210. The letter was sent to Francis’s CRD Residential Address via U.S. Postal Service certified mail, return receipt requested, first class mail and Federal Express overnight mail. The letter instructed Francis to appear for testimony on July 23, 2014 in FINRA’s office in New York City.

32. The Federal Express letter was delivered on July 18, 2014. The return receipt attached to the certified letter FINRA sent to Francis’s CRD address was not returned to FINRA staff. The USPS website indicated that as of August 22, 2014 the certified

mailing was out for delivery, but had not yet been delivered. The first class mailing was not returned to FINRA.

33. Francis did not appear for testimony on July 23, 2014. Moreover, Francis did not contact the staff concerning the request that he appear. By failing to appear for and provide testimony, Francis prevented FINRA from completing its investigation into whether Francis had converted bank customer funds.

34. By failing to appear and provide testimony, Francis 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 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 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: 9-2-14


Helen G. Barnhill, Senior Regional Counsel
Susan M. Schroeder, Senior Vice President & Counsel
FINRA Department of Enforcement
4600 S. Syracuse St., Suite 1700
Denver, CO 80127
Phone: 303-446-3111; Fax: 303-446-3150
helen.barnhill@finra.org