

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOHN SOON LEE
(CRD No. 2689460),

Respondent.

Disciplinary Proceeding
No. 2014041372002

Hearing Officer-KBW

DEFAULT DECISION

December 23, 2015

Respondent converted funds, in violation of FINRA Rule 2010, and failed to provide requested information and testimony, in violation of FINRA Rules 8210 and 2010. For each violation, Respondent is barred. For the conversion violation, Respondent is ordered to pay restitution.

For Complainant: Sarah B. Belter, Esq., and David B. Klafter, Esq., FINRA Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No Appearance by John Soon Lee

DECISION

I. Introduction

Respondent John Soon Lee was formerly associated with FINRA member firm Wunderlich Securities, Inc. On August 5, 2015, FINRA's Department of Enforcement filed a three-cause complaint against Respondent alleging that he violated: (1) FINRA Rule 2010 by converting \$10,810.59 from ND, his supervisor at Wunderlich¹; (2) FINRA Rules 8210 and 2010 by failing to respond fully to requests for information; and (3) FINRA Rules 8210 and 2010 by failing to appear and testify in response to requests for on-the-record interviews. Respondent failed to answer.

Accordingly, Enforcement filed a motion for entry of default decision ("Default Motion"), together with a memorandum supporting Enforcement's Default Motion ("Supporting

¹ In an addendum to this decision, which is served only on the parties, ND is identified by name.

Memorandum”), counsel’s declaration in support of Enforcement’s Default Motion (“Decl.”), and supporting exhibits.² Respondent did not respond to the Default Motion.

For the reasons set forth below, I find Respondent in default and grant Enforcement’s Default Motion.

II. Findings of Fact and Conclusions of Law

A. Respondent’s Background

Respondent joined Wunderlich on or about August 30, 2013, as a vice president in Wunderlich’s investment banking department. He worked there as a real estate analyst, performing property due diligence visits, participating in transaction diligence updates, and taking notes at prospectus drafting sessions.³

In September 2013, Wunderlich filed a NRF (Non-Registered Fingerprint Form) on behalf of Respondent. Wunderlich filed a Uniform Application for Securities Industry Registration (Form U4) on February 20, 2014, reflecting that Wunderlich was sponsoring Respondent for the Series 79 (Investment Banking Representative) security licensing exam. However, before Respondent took the exam, Wunderlich filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on May 27, 2014, disclosing that Respondent was permitted to resign on April 28, 2014, due to wrongful taking of property. Respondent is not currently associated with a FINRA member.⁴

B. FINRA’s Jurisdiction

FINRA retains jurisdiction over Respondent pursuant to Article V, Section 4(a) of FINRA’s By-Laws. The Complaint was filed within the two-year period after the termination of Respondent’s registration, and the Complaint charges him with misconduct committed while he was associated with Wunderlich and with failure to respond to requests for information and for testimony during the two-year period after the termination of his registration.

C. Origin of the Investigation

This proceeding arose from the investigation FINRA initiated in response to the Form U5 that Wunderlich filed disclosing Respondent’s resignation.

D. Respondent’s Default

Enforcement served Respondent with the Complaint and Notice of Complaint and the Complaint and Second Notice of Complaint in accordance with FINRA Rules 9131 and 9134.

² The supporting exhibits are labeled CX-1 through CX-7.

³ CX-3 ¶¶ 3-7; CX-2, at 5; CX-3 ¶ 7; Complaint (“Compl.”) ¶ 3.

⁴ CX-1, at 12-13; CX-3 ¶ 14; CX-4, at 1-2; Compl. ¶¶ 4-6.

Enforcement served the Complaint and Notice of Complaint on August 5, 2015, and the Complaint and Second Notice of Complaint on September 3, 2015. In each instance, Enforcement served Respondent by certified mail to his last known residential address as reflected in the Central Registration Depository (“Respondent’s CRD address”).⁵ Thus, Respondent received valid constructive notice of this proceeding.

Respondent did not answer or otherwise respond to the Complaint. Accordingly, I find that Respondent defaulted.⁶

E. First Cause - Respondent Converted Funds

After Respondent joined Wunderlich, he informed ND that he did not possess a credit card due to personal financial issues. ND and Respondent agreed that Respondent would:

- use ND’s credit card for Respondent’s business travel expenses;
- request reimbursement of these expenses from Wunderlich directly; and
- reimburse ND for expenses charged to ND’s credit card as Wunderlich reimbursed Respondent for those expenses.⁷

Thus, Respondent was required to collect the reimbursements from Wunderlich and promptly remit those reimbursements to ND.

Between November 8, 2013, and April 2, 2014, Respondent charged a total of \$13,310.59 in business travel expenses to ND’s credit card. Respondent submitted reimbursement requests to Wunderlich, and Wunderlich reimbursed Respondent, for at least \$12,903.89 in expenses that he had charged to ND’s credit card and for approximately \$3,700 in other expenses. However, Respondent remitted to ND only \$2,500 of the expenses charged to ND’s credit card.⁸ Thus, Respondent retained at least \$10,403.89 that he had received from Wunderlich as reimbursements for business expenses charged to ND’s credit card.⁹ Respondent therefore converted at least \$10,403.89 in reimbursement funds.¹⁰

⁵ Decl. ¶¶ 10-15.

⁶ Respondent is notified that he may move to set aside the default pursuant to FINRA Rule 9269(c) upon a showing of good cause.

⁷ Compl. ¶¶ 11-13; CX-7 ¶¶ 6- 7; CX-3 ¶¶ 10-12.

⁸ Compl. ¶¶ 14-21; CX-7 ¶¶ 8-9; CX-3 ¶¶ 13-14.

⁹ Respondent has not sought, or obtained, reimbursement for up to \$406.70 that he charged to ND’s card. Compl. ¶ 17 n.2.

¹⁰ See FINRA Sanction Guidelines at 36 n.2 (2015) (“Conversion 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.”); *Keilen Dimone Wiley*, Exchange Act Release No. 76558, 2015 SEC LEXIS 4952, at *18 (Dec. 4, 2015) (insurance

FINRA Rule 2010 requires that FINRA members and associated persons “observe high standards of commercial honor and just and equitable principles of trade.” Conversion is inconsistent with FINRA Rule 2010.¹¹ Accordingly, Respondent violated FINRA Rule 2010.

F. Second Cause - Respondent Failed to Respond to Requests for Information

FINRA staff sent a letter to Respondent’s CRD address on July 18, 2014, requesting that Respondent provide by August 1, 2014, information regarding his responsibilities at Wunderlich and his use of ND’s credit card. On July 29, 2014, Respondent confirmed that he had received the July 18 letter and asked the staff to extend the deadline to August 11, 2014. On August 11, Respondent requested a further extension until August 18, 2014. FINRA staff agreed to the extension, but Respondent failed to respond by August 18, 2014.¹²

FINRA staff sent to Respondent’s CRD address on September 8, 2014, a letter requesting pursuant to FINRA Rule 8210 that he provide information by September 22, 2014. During the week of September 26, 2014, Respondent acknowledged receipt of the September 8 letter and requested an extension of the time to respond until September 29, 2014. FINRA staff agreed to the extension, but Respondent failed to respond by September 29, 2014.¹³

On October 1, 2014, FINRA staff sent another letter to Respondent’s CRD address, requesting pursuant to FINRA Rule 8210 that he provide information by October 15, 2014. Respondent failed to provide FINRA staff with any of the requested information by October 15, 2014.¹⁴

After October 15, 2014, Respondent sent FINRA staff a number of emails stating that he would respond to FINRA staff’s October 1 letter. However, by November 7, 2014, FINRA staff still had not received any of the information requested in its October 1 letter.¹⁵

On November 7, 2014, FINRA staff sent yet another letter to Respondent’s CRD address, requesting pursuant to FINRA Rule 8210 that he provide information by November 14, 2014. Respondent did not respond by that date.¹⁶

agent converted premiums collected from insurance company customers by using the funds to pay personal and business expenses, which he was neither authorized nor entitled to do, rather than promptly remitting the funds to the insurance company).

¹¹ *Denise M. Olson*, Exchange Act Release No. 75838, 2015 SEC LEXIS 3629, at *6-7 (Sept. 3, 2015).

¹² Compl. ¶¶ 26-28.

¹³ Compl. ¶¶ 29-30.

¹⁴ Compl. ¶ 31.

¹⁵ Compl. ¶¶ 32-33.

¹⁶ Compl. ¶¶ 34-35.

As of the filing of the Complaint, Respondent has failed to provide any of the requested information.¹⁷ FINRA Rule 8210 required Respondent to provide information requested by FINRA with respect to any matter involved in a FINRA investigation for as long as he remained subject to FINRA's jurisdiction. Respondent remained subject to FINRA jurisdiction for two years after he ceased to be registered. By failing to comply with the Rule 8210 requests for information, Respondent violated FINRA Rules 8210 and 2010.

G. Third Cause - Respondent Failed to Respond to Requests for Testimony

FINRA staff has sent three letters to Respondent's CRD address requesting pursuant to FINRA Rule 8210 that Respondent appear and testify at FINRA's Rockville, Maryland office. On February 27, 2015, FINRA staff sent a letter asking Respondent to appear for an on-the-record interview on March 11, 2015. On March 4, 2015, FINRA staff sent a letter to Respondent's CRD address changing the start time of the interview. On March 10, 2015, the day before the scheduled interview, Respondent represented to the staff that he was in the process of hiring an attorney. Based on this representation, FINRA staff cancelled the interview.¹⁸

The next day, March 11, FINRA staff sent a letter requesting that Respondent appear for an on-the-record interview on March 26, 2015. FINRA staff asked Respondent on March 19, 2015, by voicemail and email, to provide the name of the attorney whom he had retained to represent him at the interview. On March 25, the day before the scheduled interview, Respondent left FINRA staff a voicemail in which he indicated that he had retained an attorney who would ask the staff to delay the interview but did not leave the name of the attorney. FINRA staff responded by voicemail and email that it would not postpone the interview unless Respondent's attorney contacted the staff directly about rescheduling. No attorney contacted FINRA staff on Respondent's behalf, and Respondent failed to appear for the interview on March 26, 2015.¹⁹

On March 30, 2015, FINRA staff sent a letter requesting that Respondent appear for an on-the-record interview on April 8, 2015. On the day Respondent was scheduled to appear for the interview, FINRA staff received a voicemail indicating that Respondent would not appear and that he had not been able to retain counsel. Respondent failed to appear for the interview on April 8, 2015.²⁰

Respondent has not contacted FINRA to explain his failures to appear for the on-the-record interviews.²¹ FINRA Rule 8210 requires Respondent to provide testimony requested by FINRA with respect to any matter involved in a FINRA investigation for as long as he remains

¹⁷ Compl. ¶ 35.

¹⁸ Compl. ¶¶ 38-43.

¹⁹ Compl. ¶¶ 44-49.

²⁰ Compl. ¶¶ 50-54.

²¹ Compl. ¶ 55.

subject to FINRA's jurisdiction. By failing to comply with the Rule 8210 requests that he appear and testify, Respondent violated FINRA Rules 8210 and 2010.

III. Sanctions

A. Conversion

For the following reasons, I conclude that for Respondent's conversion of funds, he should be barred and ordered to pay \$10,403.89 in restitution to ND.

FINRA's Sanction Guidelines provide that "a bar is standard" for conversion "regardless of [the] amount converted."²² The record discloses no factors that warrant a lesser sanction. Thus, I conclude that Respondent should be barred from associating with any FINRA member in any capacity for converting funds in violation of FINRA Rule 2010.

The Guidelines further provide that when an identifiable person has suffered a quantifiable loss proximately caused by a respondent's misconduct, an adjudicator may order restitution based on the actual amount of the loss sustained by a person, as demonstrated by the evidence.²³ Here, ND suffered quantifiable losses of at least \$10,403.89. Accordingly, Respondent is ordered to pay to ND \$10,403.89, plus prejudgment interest.²⁴

B. Failure to Respond to Rule 8210 Requests for Information and Testimony

The Guidelines provide that "[a]ggregation or 'batching' of violations may be appropriate for purposes of determining sanctions in disciplinary proceedings."²⁵ The essence of the second and third causes is a failure to comply with FINRA Rule 8210 requests. Accordingly, it is appropriate to aggregate the violations for the purpose of determining sanctions.

The Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information or for testimony issued pursuant to FINRA Rule 8210.²⁶ Respondent failed to provide information and testimony in response to repeated FINRA Rule 8210 requests. The record discloses no factors that warrant a sanction less than a bar. Thus, I conclude that

²² Guidelines at 36.

²³ Guidelines at 4 (General Principle No. 5).

²⁴ Guidelines at 11. Enforcement recommended that Respondent be ordered to make restitution to ND in the amount of \$10,810.59, the difference between the amount that Respondent charged to ND's credit card and the \$2,500 in reimbursements that Respondent remitted to ND. Supporting Memorandum at 10. However, the evidence does not demonstrate that ND is unable to recoup from Wunderlich the amount, at most \$406.70, that Respondent charged to ND's credit card but for which Respondent has not sought, or obtained, reimbursement. Accordingly, the evidence does not demonstrate that ND's quantifiable losses include this amount. Therefore, the order of restitution does not include this amount.

²⁵ Guidelines at 4.

²⁶ Guidelines at 33.

Respondent should be barred from associating with any FINRA member in any capacity for violating FINRA Rules 8210 and 2010.

IV. Order

John Soon Lee is barred from associating with any FINRA member firm in any capacity for converting funds, in violation of FINRA Rule 2010, and for failing to provide information and testimony, in violation of FINRA Rules 8210 and 2010. For converting funds in violation of FINRA Rule 2010, Lee shall pay \$10,403.89 in restitution to ND, plus interest at the rate established for underpayment of income taxes in Section 6621(a) of the Internal Revenue Code, 26 U.S.C. § 6621(a), from April 28, 2014, until paid in full. In the event that ND cannot be located, unpaid restitution plus accrued interest should be paid to the appropriate escheat, unclaimed-property, or abandoned-property fund for the State of New York. Satisfactory proof of payment of the restitution (with accrued interest), or of reasonable and documented efforts undertaken to effect restitution (with accrued interest), shall be provided to the staff of FINRA's Department of Enforcement no later than 90 days after the date when this decision becomes final.

The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Kenneth Winer
Hearing Officer

Copies to: John Soon Lee (via overnight courier and first-class mail)
Sarah B. Belter, Esq. (via email and first-class mail)
David B. Klafter, Esq. (via email)
Jeffrey D. Pariser, Esq. (via email)

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ADDENDUM TO DEFAULT DECISION

ND: Norbert David Doyle