

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JAMES FRANCIS REID
(CRD No. 2197427),

Respondent.

Disciplinary Proceeding
No. 2013037842501

Hearing Officer—RLP

DEFAULT DECISION

December 1, 2014

Respondent is barred from associating with any FINRA member in any capacity for conversion, in violation of FINRA Rule 2010, and for failing to respond to requests for testimony, in violation of FINRA Rules 8210 and 2010.

Appearances

Lane A. Thurgood, Esq., Rockville, MD, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

I. Introduction

In 2013, Respondent James Francis Reid was employed by and registered with FINRA through FINRA member Farmers Financial Solutions LLC. He also was appointed with Farmers Financial's insurance affiliate, Farmers Insurance, to sell insurance products. On August 2, 2013, Farmers Financial filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") with FINRA reporting that Reid's association had been terminated the previous day because his appointment with Farmers Insurance had been terminated for "misappropriating

insurance premiums.”¹ Thereafter, FINRA began an investigation into the allegations in the Form U5 and, pursuant to Rule 8210, FINRA staff sent Reid requests for information and testimony.² After FINRA received only a partial response to these requests, the Department of Enforcement (“Enforcement”) filed a complaint on August 15, 2014, alleging that Reid converted insurance customer funds, in violation of FINRA Rule 2010, and failed to respond to requests for testimony, in violation of FINRA Rules 8210 and 2010.

Reid did not answer the complaint. Consequently, on November 10, 2014, Enforcement filed a motion for entry of a default decision, together with the declaration of Lane Thurgood and four exhibits. Reid did not respond to the motion.

II. Jurisdiction

Reid entered the securities industry in November 1991 when he became associated with Baraban Securities, Inc. In 2004, Reid became associated with and registered with FINRA through Farmers Financial. He remained with Farmers Financial until he was discharged on August 1, 2013.³ His registration with FINRA was terminated effective August 2, 2013.⁴ Since that date, Reid has not been registered with FINRA or associated with any FINRA member.⁵ He remains subject to FINRA’s jurisdiction, however, because the complaint: (1) was filed within two years after the effective date of termination of his registration; and (2) charges Reid with misconduct committed while he was associated with a FINRA member and with failing to

¹ Complaint ¶ 5; Declaration of Lane Thurgood in Support of Department of Enforcement’s Motion for Entry of Default Decision (“Thurgood Decl.”) ¶¶ 4-5; Complainant’s Exhibit (“CX”) 1; CX-2, at 2. Given that Reid is in default as detailed below, the factual determinations in this decision are based on allegations in the attached complaint, which are deemed admitted, as well as on Thurgood’s declaration and its exhibits.

² Compl. ¶¶ 11-19; Thurgood Decl. ¶¶ 3, 12.

³ Compl. ¶¶ 3, 5-6; Thurgood Decl. ¶¶ 4, 5; CX-1; CX-2, at 2.

⁴ The Hearing Officer takes official notice that Reid’s Central Registration Depository Record reflects that FINRA terminated his registration on August 2, 2013.

⁵ Compl. ¶ 6; Thurgood Decl. ¶ 5; CX-2, at 2.

respond to requests for information during the two-year period after the termination of his registration.⁶

III. Respondent's Default

On August 15, 2014, Enforcement served the notice of complaint and complaint on Reid by first-class and first-class certified mail, return receipt requested, to his residential address as reflected in FINRA's Central Registration Depository ("CRD address"). The first-class mailing was not returned. The certified mailing was returned as unclaimed. Although Reid was required to file his answer by September 12, 2014, he failed to do so.⁷

Accordingly, on September 16, 2014, Enforcement served a second notice of complaint and complaint on Reid by first-class and first-class certified mail, return receipt requested, to his CRD address. The return receipt was returned to Enforcement bearing a printed name and signature of "James Reid." Although Reid was required to file his answer by October 3, 2014, to date he has not filed an answer or otherwise responded to the complaint.⁸

Reid received actual and constructive notice of this proceeding and, therefore, the Hearing Officer finds that he has defaulted by failing to answer the complaint.⁹ The Hearing Officer deems the allegations in the attached complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

⁶ See Article V, Sec. 4(a), FINRA By-Laws, www.finra.org/Industry/Regulation/FINRARules.

⁷ Thurgood Decl. ¶¶ 6-7; CX-2, at 1; CX-3.

⁸ Thurgood Decl. ¶¶ 8-9; CX-4.

⁹ See FINRA Rules 9134(a)(2), (b)(1), and (b)(3); *Dep't of Enforcement v. Moore*, Complaint No. 2008015105601, 2012 FINRA Discip. LEXIS 45, at *19-21 (FINRA NAC July 26, 2012) (respondent had constructive notice of complaint mailed to his CRD address); see also NASD Notice to Members 99-77, <http://www.finra.org/Industry/Regulation/Notices/1999/P004087>.

IV. Findings of Fact and Conclusions of Law

A. Reid Converted Insurance Customer Funds.

Between April 2 and May 21, 2013, Reid collected cash and check insurance premiums totaling more than \$21,000 from 15 Farmers Insurance customers, but failed to apply the funds for the customers' benefit. Instead, Reid converted the customer funds for his personal use by depositing them in his personal checking account. As a consequence, he lost his appointment with Farmers Insurance and his employment with Farmers Financial.¹⁰

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."¹¹ Thus, when a person intentionally takes and uses another person's property for his own benefit, he engages in conversion.¹² Conversion is conduct patently inconsistent with the high standards of commercial honor and just and equitable principles of trade that FINRA seeks to promote, and therefore violates FINRA Rule 2010.¹³ That is so regardless of whether the person whose property is taken is a securities customer.¹⁴ Based on the foregoing, the Hearing Officer concludes that Reid violated FINRA Rule 2010 by converting his employer's funds.

B. Reid Failed to Respond to Three Requests for Testimony.

On August 6, 2013, FINRA's Preliminary Investigations Unit sent Reid a request under FINRA Rule 8210 that he provide a signed statement in response to the allegations in Farmers

¹⁰ Compl. ¶ 8; Thurgood Decl. 5; CX-1.

¹¹ *FINRA Sanction Guidelines*, at 36, n.2 (2013), www.finra.org/Industry/Enforcement/SanctionGuidelines.

¹² *See, e.g., Joseph H. O'Brien II*, 51 S.E.C. 1112 (1994) (president of broker-dealer converted customer funds by withdrawing them from a customer's account without authorization).

¹³ *See John Edward Mullins*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464, at *33 (Feb. 10, 2012); *see also Dep't of Enforcement v. Olson*, Complaint No. 2010023349601, 2014 FINRA Discip. LEXIS 7, at *8-9 (FINRA Bd. of Governors May 9, 2014), *appeal docketed*, No. 3-15916 (SEC June 9, 2014).

¹⁴ *See, e.g., Vail v. SEC*, 101 F.3d 37 (5th Cir. 1996).

Financial's August 2 Form U5 regarding his misappropriation of insurance customer premiums. One week later, Reid provided a seven-sentence response, claiming the incident "involved a homeowners insurance check that was deposited into an incorrect account in error" that "was subsequently rectified." Thereafter, Enforcement staff sought to take Reid's testimony to probe his statement but Reid failed to appear for testimony on three separate occasions.¹⁵

The staff sent its first request for testimony to Reid on September 27, 2013, by first-class mail to Reid's CRD address. On October 4, the staff also sent a copy of the request to his CRD address by FedEx for overnight delivery. The request, made pursuant to Rule 8210, sought Reid's appearance at the FINRA Dallas, Texas District Offices to give testimony on October 8, 2013. Reid failed to appear for and provide testimony on October 8, 2013.¹⁶

Accordingly, on October 9, 2013, the staff sent its second Rule 8210 request to Reid to provide investigative testimony. This time the request sought Reid's appearance at FINRA's Enforcement Offices in Rockville, Maryland, on October 22, 2013. The request was sent to Reid at his CRD address by both certified mail, return receipt requested, and first-class mail. Reid failed to appear for and provide testimony on October 22, 2013.¹⁷

Finally, on October 30, 2013, the staff sent a third Rule 8210 request to Reid to provide investigative testimony, again at FINRA's Enforcement Offices in Rockville, Maryland, on November 13, 2013. Again, the request was sent to Reid at his CRD address by both certified mail, return receipt requested, and first-class mail. And again he failed to appear for and provide testimony as requested.¹⁸

¹⁵ Thurgood Decl. ¶ 12.

¹⁶ Compl. ¶¶ 11-13.

¹⁷ Compl. ¶¶ 14-16.

¹⁸ Compl. ¶¶ 17-19.

FINRA Rule 8210(c) sets forth an unequivocal requirement that registered persons comply with FINRA information requests, providing that “[n]o member or person shall fail to provide information” requested pursuant to the Rule. Although Reid responded to the August 6, 2013 letter and provided information about the conversion allegations, he failed to appear for testimony on three occasions, depriving FINRA of the opportunity to probe his statements and obtain additional information about his use of premium funds. Accordingly, the Hearing Officer finds that Reid violated Rule 8210. His violation of Rule 8210 is also a violation of Rule 2010.¹⁹

V. Sanctions

A. Conversion

In cases involving conversion, the Sanction Guidelines recommend a bar regardless of the amount converted.²⁰ Given that the record does not disclose any factors that would warrant a lesser sanction, the Hearing Officer concludes that Reid should be barred from associating with any FINRA member in any capacity for violating FINRA Rule 2010.

B. Failure to Respond to Rule 8210 Requests

A violation of Rule 8210 is serious because Rule 8210 “provides a means, in the absence of subpoena power, for [FINRA] to obtain from its members information necessary to conduct investigations.”²¹ The rule thus “is at the heart of the self-regulatory system for the securities

¹⁹ See *Michael A. Rooms*, 58 S.E.C. 220, 228 & n.15 (2005) (holding that efforts to impede NASD (now FINRA) investigations violate high standards of commercial honor and just and equitable principles of trade), *aff’d*, 444 F.3d 1208 (10th Cir. 2006).

²⁰ *FINRA Sanction Guidelines*, at 36.

²¹ *Richard J. Rouse*, 51 S.E.C. 581, 584 (1993) (addressing predecessor provision).

industry.”²² For these reasons, FINRA’s Sanction Guidelines recommend a bar when an individual does not respond in any manner.²³

Given that Reid did respond to FINRA’s August 6, 2013 request for information, his misconduct will be treated as a partial but incomplete response. In such cases, a bar is standard unless the person can demonstrate that the information provided substantially complied with all aspects of the request.²⁴ The record does not show that Reid substantially complied with all aspects of FINRA’s requests for information; it shows instead his complete failure to comply with three requests for testimony. That failure in turn illustrates Reid’s disregard for his obligation to cooperate with FINRA’s investigative efforts. Given that the record does not reveal any mitigating facts that would justify a sanction less than a bar, the Hearing Officer concludes that Reid should be barred from associating with any FINRA member in any capacity for violating FINRA Rules 8210 and 2010.

VI. Order

Respondent James Francis Reid is barred for violating FINRA Rule 2010 by converting insurance customer funds. Reid also is barred for violating FINRA Rules 8210 and 2010 by failing to respond completely to three requests for testimony. If this decision becomes FINRA’s final disciplinary action, the bars shall become effective immediately.



Rada Lynn Potts
Hearing Officer

²² *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at *13 (Nov. 14, 2008), *petition denied*, 347 F. App’x 692 (2d Cir. 2009).

²³ *FINRA Sanction Guidelines*, at 33.

²⁴ *FINRA Sanction Guidelines*, at 33.

Copies to:

James F. Reid (*via FedEx, overnight delivery*)

Lane A. Thurgood, Esq. (*via email and first-class mail*)

Jeffrey D. Pariser, Esq. (*via email*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

JAMES FRANCIS REID
(CRD No. 2197427),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013037842501

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between April 2, 2013, and May 21, 2013, James Francis Reid (“Reid”) converted more than \$21,000 of insurance customer funds intended for property and casualty insurance premiums. Reid thereby violated FINRA Rule 2010.
2. Additionally, Reid failed to provide investigative testimony on three occasions, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Reid entered the securities industry in November 1991 and was associated with various FINRA member firms through August 1, 2013.
4. He acquired several securities licenses, including Series 6, 7, 8 and 63.

5. On August 2, 2013, Farmers filed a Form U5 for Reid, terminating his association with the firm as of August 1, 2013.
6. Although Reid 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 (1) the Complaint was filed within two years after the effective date of termination of Reid's registration; and (2) the Complaint charges him with misconduct during his period of association and with failing to appear for 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
CONVERSION OF FUNDS
FINRA RULE 2010

7. The Department realleges and incorporates by reference paragraphs 1-6 above.
8. Between April 2, 2013, and May 21, 2013, Reid collected cash and check insurance premiums totaling more than \$21,000 from 15 Farmers Insurance customers, but failed to apply the Funds for the customers' benefit. Instead, Reid converted the customer funds for his personal use by depositing them in his personal checking account.
9. By virtue of the foregoing conduct, Reid violated FINRA Rule 2010.

SECOND CAUSE OF ACTION
FAILURE TO RESPOND TO REQUESTS FOR INFORMATION
FINRA RULES 8210 AND 2010

10. The Department realleges and incorporates by reference paragraphs 1-9 above.

11. On September 27, 2013, in connection with the investigation of the foregoing allegations and pursuant to FINRA Rule 8210, the staff sent a written request to Reid to provide investigative testimony at the FINRA Dallas, Texas District Offices on October 8, 2013 (“Request for Testimony”).
12. The staff sent the Request for Testimony to Reid at his residential address reflected in CRD (“CRD Address”), the most current address the staff had for him, by First Class U.S Mail. On October 4, 2013, the staff also sent a copy of the Request for Testimony to Reid at the same address by Federal Express Overnight Mail.
13. Reid failed to appear for and provide testimony on October 8, 2013.
14. On October 9, 2013, in connection with the investigation and pursuant to FINRA Rule 8210, the staff sent a written request to Reid to provide investigative testimony at FINRA’s Enforcement Offices in Rockville, Maryland on October 22, 2013 (“Second Request for Testimony”).
15. The staff sent the Second Request for Testimony to Reid at his CRD Address by both certified mail, return receipt requested, and first class mail.
16. Reid failed to appear for and provide testimony on October 22, 2013.
17. On October 30, 2013, in connection with the investigation and pursuant to FINRA Rule 8210, the staff sent a written request to Reid to provide investigative testimony at FINRA’s Enforcement Offices in Rockville, Maryland on November 13, 2013 (“Third Request for Testimony”).
18. The staff sent the Third Request for Testimony to Reid at his CRD address by both certified mail, return receipt requested, and first class mail.

19. Reid failed to appear for and provide testimony on November 13, 2013.

20. By virtue of the foregoing, Reid failed to provide testimony on three occasions and thereby 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.
- 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:

August 15, 2014



Lane A. Thurgood
Director, Enforcement Center
FINRA Department of Enforcement
15200 Omega Drive, 3rd Floor
Rockville, MD 20850
Telephone (310) 258-8584
Facsimile (202)721-8326
Lane.Thurgood@finra.org