

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PARAMVEER SINGH
(CRD No. 5224401),

Respondent.

Disciplinary Proceeding
No. 2019064313901

Hearing Officer– RES

HEARING PANEL DECISION

July 22, 2021

The Department of Enforcement did not meet its burden of proof that Respondent Paramveer Singh converted firm funds; misused firm funds; provided false or misleading information in a written response to a FINRA Rule 8210 request; or provided false or misleading on-the-record testimony under FINRA Rule 8210. The Complaint is dismissed.

Appearances

For the Complainant: Janine D. Arno, Esq., Sean W. Firley, Esq., Tino Lisella, Esq., David B. Klafter, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For Respondent: Michael Mui, Esq., Jonathan S. Sack, Esq., Sack & Sack LLP.

DECISION

I. Introduction

FINRA’s Department of Enforcement filed a Complaint against Respondent Paramveer Singh, formerly a registered representative. The Complaint consists of four causes of action. The first two causes of action allege that on May 30, 2019, Singh converted and misused \$20,768 belonging to his then-employer, member firm BofA Securities, Inc. (“BofA”).¹ In the early morning hours of that day, Singh allegedly charged personal expenses at “P3,” an adult entertainment venue in New York, to his BofA corporate credit card, knowing the firm had the financial responsibility to pay those charges.² Singh’s alleged use of the corporate credit card in

¹ Complaint (“Compl.”) ¶ 1. Unless otherwise indicated, all monetary amounts in this Hearing Panel Decision are rounded to the nearest dollar.

² Compl. ¶ 1.

this way was not authorized or consistent with firm policy.³ BofA paid the credit card company for the charges.⁴ According to the Complaint, Singh’s alleged conduct violated FINRA Rule 2010.⁵

The third and fourth causes of action allege that Singh provided false information to FINRA staff in a written response to a FINRA Rule 8210 request and in on-the-record (“OTR”) testimony taken under FINRA Rule 8210.⁶ Singh allegedly told FINRA staff that he did not make or authorize the charges at P3 on his corporate credit card.⁷ He denied making a telephone call from P3 to a credit card call center—during which, on a recorded line, the caller identified himself as Singh, confirmed Singh’s work email address and the corporate credit card’s credit limit, and tried to get another charge approved.⁸ According to the Complaint, Singh’s alleged statements to FINRA violated FINRA Rules 8210 and 2010.⁹

Enforcement requests that the Hearing Panel bar Singh.

Singh denies he converted funds or provided false information to FINRA.¹⁰ Singh contends Enforcement failed to prove he (1) violated FINRA Rule 2010 by converting or misusing funds belonging to BofA, or (2) violated FINRA Rules 8210 and 2010 by providing false information to FINRA in a written response or testimony.

A hearing was held before a Hearing Panel. After carefully considering the hearing testimony, the hearing exhibits, and the parties’ pre-hearing and post-hearing briefs, the Hearing Panel finds, as explained below, that Enforcement failed to meet its burden of proving the four causes of action of the Complaint: conversion of funds from BofA; misuse of funds from BofA; providing false and misleading written information to FINRA; and providing false and misleading testimony to FINRA.¹¹

³ Compl. ¶ 1.

⁴ Compl. ¶ 1.

⁵ Compl. ¶ 1.

⁶ Compl. ¶ 2.

⁷ Compl. ¶ 2.

⁸ Compl. ¶ 2.

⁹ Compl. ¶¶ 1-2, 45, 52, 61, 68.

¹⁰ Answer (“Ans.”) ¶¶ 1-2, 45, 52, 61, 68.

¹¹ As provided for by governing law, the Hearing Panel applied the preponderance of the evidence as the standard of proof. In this Decision, the Joint Stipulations are cited as “Stip.” The hearing transcript is cited as “Tr.” Enforcement’s exhibits are cited as “CX.” Singh’s exhibits are cited as “RX.” Joint exhibits are cited as “JX.”

II. Findings of Fact

A. Respondent

Singh entered the securities industry in September 2009.¹² Singh became registered with FINRA as a General Securities Representative in December 2009 and as a Research Analyst in March 2010.¹³ From September 2009 through May 2019, he was associated with several FINRA members.¹⁴ On May 10, 2019, he became registered with FINRA as a General Securities Representative and a Research Analyst through his association with BofA.¹⁵ In October 2019, BofA filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on behalf of Singh, stating he had been discharged because of “[c]onduct involving the use of a corporate credit card inconsistent with firm policy.”¹⁶ FINRA’s investigation originated when FINRA staff read this Form U5.¹⁷

In December 2019, Singh became associated with another FINRA member.¹⁸ On July 20, 2020, that member filed a Form U5 disclosing Singh had voluntarily terminated his association.¹⁹ Since Singh’s voluntary termination, he has not been associated with any FINRA member.²⁰

B. Singh’s Financial Condition and Spending at P3

P3 is an adult entertainment venue, nightclub, and steakhouse in New York.²¹ P3 Grill is the steakhouse that is part of the P3 complex.²² Singh frequented P3 multiple times.²³ Enforcement contends that Singh spent thousands of dollars on his credit card at P3. In 2018 and 2019, Singh spent the following amounts at either P3 or P3 Grill on his personal credit cards:

- On August 3, 2018, Singh spent \$657.59 at P3 Grill.²⁴

¹² Stip. ¶ 1; Tr. 62.

¹³ Stip. ¶ 1.

¹⁴ Stip. ¶ 2.

¹⁵ Stip. ¶ 3; Tr. 63-64.

¹⁶ Stip. ¶ 4.

¹⁷ Tr. 232-33.

¹⁸ Stip. ¶ 5.

¹⁹ Stip. ¶ 5.

²⁰ Tr. 65-66.

²¹ Stip. ¶ 9.

²² Tr. 261.

²³ Stip. ¶ 12.

²⁴ CX-3; JX-5, at 54.

- On August 25, 2018, Singh spent \$122.01 at P3.²⁵
- On August 31, 2018, Singh spent \$883.90 at P3 Grill.²⁶
- On September 11, 2018, Singh spent \$2,505.82 at P3.²⁷
- On September 27, 2018, Singh spent \$2,001.30 at P3 Grill.²⁸
- On November 17, 2018, Singh spent \$5,433.25 at P3.²⁹
- On December 19, 2018, Singh spent \$4,629.45 at P3.³⁰
- On March 24, 2019, Singh spent \$4,029.78 at P3 Grill.³¹
- On April 12, 2019, Singh spent \$10,962.86 at P3.³²
- On May 10, 2019, Singh spent \$7,439.98 at P3.³³ Of this amount, Singh charged \$3,073.46 to his Chase Freedom personal credit card.³⁴ With this charge, he exhausted the credit limit on his Chase Freedom credit card.³⁵

Thus, from August 3, 2018 to May 10, 2019, the total amount charged on Singh's personal credit cards at P3 and P3 Grill came to \$38,665.94.³⁶ In addition, on January 10, 2019, Singh spent \$2,457.30 at an adult entertainment venue in Las Vegas, Nevada.³⁷

Enforcement contends that in May 2019 (i.e., the time of the \$20,768 in corporate credit card charges), Singh's accessible funds and personal sources of credit were depleted. This contention stems from several facts:

²⁵ CX-2; JX-5, at 49.

²⁶ CX-3; JX-5, at 49.

²⁷ CX-2; JX-5, at 50.

²⁸ CX-22, at 104.

²⁹ CX-2; JX-5, at 40.

³⁰ CX-2; JX-5, at 35.

³¹ CX-3; JX-5, at 18.

³² CX-13, at 13 (Chase Freedom card: \$1,847); JX-5, at 19 (Chase Sapphire card: \$8,311).

³³ CX-13, at 9.

³⁴ CX-13, at 9.

³⁵ CX-13, at 7.

³⁶ CX-2; CX-3; CX-4.

³⁷ CX-3; JX-5, at 30.

- In May 2019, the beginning balance of Singh’s Chase College checking account was \$197.³⁸
- In May 2019, the beginning balance of Singh’s Chase savings account was \$4,601.³⁹
- Singh’s Chase Freedom personal credit card was \$255 in excess of his available credit access line.⁴⁰
- Singh’s Chase Sapphire personal credit card had \$1,364 in available credit.⁴¹
- The total credit available on Singh’s BofA personal credit card was \$0.00.⁴²

In May 2019, the \$197 balance in Singh’s Chase College checking account, the \$4,601 balance in his Chase savings account, and the \$1,364 available credit on his personal credit cards totaled \$6,162.⁴³ This amount represents Singh’s accessible funds and personal sources of credit. He had \$48,091 in credit card debt.⁴⁴

C. The Charges Made at P3 to Singh’s BofA Corporate Credit Card

While associated with BofA, Singh had a BofA corporate credit card for which the firm had financial responsibility. The credit limit on this corporate credit card was \$20,000.⁴⁵ BofA’s corporate policies provided that “Corporate Cards must not be used for personal expenditures and must be expensed and paid in full each month.”⁴⁶ BofA employees could not use corporate credit cards for personal expenses at adult entertainment venues.⁴⁷ Singh certified he understood the corporate policies and agreed to adhere to them.⁴⁸

1. The May 29-30, 2019 Charges

On Wednesday, May 29, 2019, Singh effected a charge to his BofA corporate credit card in the amount of \$258 at the “KH” Hotel in New York.⁴⁹ This charge arose from food and drinks

³⁸ CX-12, at 7.

³⁹ CX-12, at 7.

⁴⁰ CX-13, at 7.

⁴¹ JX-5, at 8.

⁴² JX-8, at 40.

⁴³ CX-12, at 7; CX-13, at 7; JX-5, at 8, JX-8, at 40.

⁴⁴ CX-13, at 7; JX-5, at 8; JX-8, at 40.

⁴⁵ JX-6, at 6.

⁴⁶ JX-6, at 42.

⁴⁷ Tr. 312-13.

⁴⁸ JX-6, at 14, 29.

⁴⁹ CX-1, at 3.

Singh consumed with a client.⁵⁰ Later that evening, he effected a charge to his Chase Sapphire personal credit card in the amount of \$152 at the “TU” Restaurant in New York.⁵¹ The evidence did not provide the times of these charges or the locations of these establishments.

After the TU Restaurant, Singh attended P3 on a non-business visit.⁵² Certain charges were made to Singh’s BofA corporate credit card at P3 on Wednesday and Thursday, May 29-30, 2019:

- At 9:01 p.m. on Wednesday, May 29, 2019, a charge was made in the amount of \$235 to Singh’s corporate credit card.
- At 10:54 p.m., there was a charge of \$678.
- At 11:04 p.m., there was a charge of \$104.
- At 11:10 p.m., there was a charge of \$915.
- At 11:23 p.m., there was a charge of \$2,915.
- At 11:25 p.m., there was a charge of \$145.
- At 12:31 a.m. on Thursday, May 30, 2019, there was a charge of \$1,960.
- At 12:34 a.m., there was a charge of \$2,915.
- At 12:45 a.m., there was a charge of \$327.
- At 12:48 a.m., there was a charge of \$1,198.
- At 12:50 a.m., there was a charge of \$708.
- At 1:28 a.m., there was a charge of \$3,623.
- At 1:30 a.m., there was a charge of \$2,613.
- At 2:26 a.m., there was a charge of \$1,670.
- At 2:27 a.m., there was a charge of \$1,790.⁵³

⁵⁰ Stip. ¶ 7.

⁵¹ JX-5, at 10.

⁵² Stip. ¶ 8.

⁵³ JX-12, at 59.

These charges totaled \$21,796. The charges were adjusted and reflected on Singh's corporate credit card statement in the amount of \$20,768.⁵⁴ The record does not disclose why the charges were adjusted.

Enforcement issued a FINRA Rule 8210 request to BofA seeking production of any signed receipts associated with the charges made at P3 on May 29-30, 2019. BofA did not have possession of any signed receipts and thus could not produce any receipts to Enforcement.⁵⁵ No receipts were offered into evidence in the hearing.

On Thursday, May 30, 2019, two charges were made at P3 on Singh's Chase Sapphire personal credit card, in the amounts of \$3,207 and \$5,226.⁵⁶ It is not known what times these charges were effected. The charges were credited back to Singh's account.⁵⁷ Later, the charge in the amount of \$5,226 was reversed permanently;⁵⁸ the \$3,207 charge was reinstated. Adding the \$3,207 charge from Singh's Chase Sapphire personal credit card to the charges on Singh's BofA corporate credit card account statement, the total amount charged to Singh's credit cards on May 29-30, 2019 was \$23,975. Singh had never spent that much money at P3 at one time.⁵⁹

2. The May 30, 2019 Telephone Call

At 2:35 a.m. on Thursday, May 30, 2019, BofA declined an attempted P3 charge in the amount of \$2,613 to Singh's BofA corporate credit card.⁶⁰ At 2:42 a.m., BofA Global Commercial Card ("BofA Global") received a telephone call from a male caller ("Caller") who tried to get this charge approved. BofA recorded this call. The Hearing Panel listened to the audio recording, which was entered into evidence as a hearing exhibit. In the call, the Caller identified himself as Singh and spelled out Singh's name as "Paramveer Singh, p as in peter a-r-a-m-v-double e-r-s-i-n-g-h."⁶¹ The Caller correctly stated there was a \$20,000 credit limit on Singh's corporate credit card and verified Singh's work email address.⁶² As reflected below, the Caller speculated that "*he*" or "*they*" "might have tried multiple times" to get earlier transactions approved:

⁵⁴ CX-1, at 3.

⁵⁵ JX-11, at 3.

⁵⁶ JX-5, at 10.

⁵⁷ JX-7, at 12.

⁵⁸ Tr. 260.

⁵⁹ Tr. 288-89.

⁶⁰ JX-12, at 59.

⁶¹ CX-5, at 1.

⁶² CX-5, at 1.

BofA Global Operator: Thank you so much for patiently holding, I'm still looking into the transaction, uhm, question, cause I see that there was quite a few transactions put through from P3.⁶³

Caller: Okay, I mean, he might have tried multiple times, what transactions do you have?

BofA Global Operator: Actually, between today and yesterday, there's quite a few. So there was one for \$1,789.58.

Caller: Okay, I think they might have tried it multiple times for the same amount of dollars, and transaction amounts, but it might have been for \$1,700 and then it got blocked multiple times, so they might've tried like lower amounts just to get it through. So, how about we get the card working again and try one time for one transaction and then we'll getting [sic] it working, or maybe like a second transaction on top of that and that will be it.

BofA Global Operator: Well, and that's the thing Mr. Singh all of these transactions have been approved since yesterday.

Caller: Oh, they have.

BofA Global Operator: They've run up quite a few large charges. Uhm the biggest one being, two of them for almost \$3,000 each. So, that's taking up your credit limit, which is what is causing the decline on the last one.

Caller: Okay. I thought my credit limit was \$20,000. I mean, I don't understand what the problem is.

BofA Global Operator: Right, but they have put through multiple charges for over \$3,000. So, there was one \$3,622 was approved, there's another one for \$2,950 approved, uhm, I mean that pretty much is taking up all your credit limit and there's quite a few.

Caller: Oh oh really? I think there might be an error, but uhm you gotta pick that up.

BofA Global Operator: So right now, these charges would have to be removed by the merchant or dropped off by the merchant for your credit to be available. Because, they were all approved.

⁶³ Throughout this Decision, abbreviations masking the identities of third parties are used in both the text and quoted passages. In quoted passages, abbreviations are used without brackets, so as not to distract the reader.

Caller: Understood. Thank you so much.⁶⁴

Enforcement contends the Caller was Singh. Singh contends the Caller was not him. Neither party presented the testimony of a voice identification expert.

There are a couple of additional facts about the May 29-30, 2019 telephone call that are notable. First, the “he” or “they” who tried to get the corporate credit card charges through “multiple times” were not identified. Second, the audio recording—which was supposed to have been made from an adult entertainment venue and nightclub—does not have any background noise.

Singh’s personal and work telephone bills for May 30, 2019 do not reflect a call from Singh to BofA Global.⁶⁵ Instead, the call was traced to telephone number (xxx) xxx-5413, which related to “HC”, a real estate agent working at “KR Realty” in New York.⁶⁶ On June 18, 2020, FINRA staff called HC at (xxx) xxx-5413.⁶⁷ FINRA staff’s notes of the call reflect that HC did not know Singh and was confused by the staff’s questions about P3:

[FINRA staff person] “JA” asked HC if she knew Paramveer Singh. HC asked “who” and was asked again. JA asked HC if she had this phone number for at least a year and HC confirmed that she had this number for at least a year.

JA stated to HC that someone identifying himself as Paramveer Singh made a call from this phone number last year at a place of business called P3. JA asked HC if she had been to P3.

At this point, HC stated that she was really confused and asked if JA would send her an email because she was in the middle of something.⁶⁸

There is no evidence that FINRA sent HC an email before or after this phone call. In the hearing, FINRA Principal Investigator “MP” testified he was unaware of any written communication between Enforcement and HC.⁶⁹ MP testified there was no follow-up with HC because JA, the FINRA staff person, “had already had a conversation with her where it’s my understanding that HC was not very enthusiastic about speaking to us.”⁷⁰ According to MP, “we

⁶⁴ CX-5, at 2.

⁶⁵ JX-7, at 18.

⁶⁶ RX-1.

⁶⁷ RX-4.

⁶⁸ RX-4.

⁶⁹ Tr. 273-74.

⁷⁰ Tr. 273.

did attempt to look HC up to like run background checks to see if we could notice anything that would indicate a connection, but we didn't note anything in that regard."⁷¹

In sum, there were several unanswered questions about the May 30, 2019 telephone call. Those questions were still unanswered at the end of the hearing.

3. The Chase Fraud Alerts

At 2:51 a.m. on Thursday, May 30, 2019 (i.e., nine minutes after the telephone call to BofA Global), Chase Fraud sent Singh by text message four fraud alerts about his Chase Sapphire personal credit card stating, "We approved \$5226.00 at P3 & Approved \$2207.38 at P3? Reply Yes to both, No to any."⁷² At 4:15 a.m., Singh sent a reply text message to Chase Fraud stating, "No."⁷³

Singh did not call Chase Fraud about the fraud alerts. Singh contends he did not do so because Thursday, May 30, 2019 was a very busy workday for him. At 8:43 a.m. that day, he participated in a 68-minute toll-free conference call concerning Tech Data.⁷⁴ At 4:28 p.m., he participated in a 65-minute toll-free conference call about Nutanix.⁷⁵ At 7:18 p.m., Singh participated in a 20-minute conference call concerning Nutanix.⁷⁶

At 12:56 p.m. on Friday, May 31, 2019, Singh received an incoming call from Chase about his personal Chase Sapphire credit card.⁷⁷ At 8:57 p.m., Singh sent a text message to his assistant, "AM", stating, "I can't find my corporate card. I think I lost it when I lost my personal card on Wednesday evening. I also had a bunch of fraudulent charges hit my personal card, and I cancelled it."⁷⁸

4. The June 1, 2019 Telephone Call

At 1:01 p.m. on Saturday, June 1, 2019, Singh placed a 32-minute call to BofA about his corporate credit card.⁷⁹ BofA transferred the call to its Fraud Department. The conversation between Singh and the Fraud Department was recorded and the Hearing Panel has listened to the audio recording. In this call, Singh spelled his name as "p as in peter-a-r-a-m-v-double e-r last name is Singh, s-i-n-g-h," similar to the Caller's spelling in the May 30, 2019 telephone call to

⁷¹ Tr. 285.

⁷² JX-7, at 6. These charges later appeared on Singh's Chase Sapphire personal credit card. JX-5, at 10.

⁷³ JX-7, at 6.

⁷⁴ JX-7, at 18; Tr. 145.

⁷⁵ JX-7, at 18; Tr. 146.

⁷⁶ JX-7, at 18; Tr. 147.

⁷⁷ JX-7, at 18; Tr. 153.

⁷⁸ JX-7, at 4-5.

⁷⁹ Stip. ¶ 10; JX-7, at 18; Tr. 160-61.

BofA Global.⁸⁰ When asked to spell out his first name again, Singh did it differently stating, “first alphabet is p just like peter then it’s a-r-a-m-v-e-e-r, Paramveer.”⁸¹ Singh did not respond when the Fraud Department Operator stated the last time BofA had spoken with him was on May 30, 2019:

Fraud Department Operator: Alright, so let me just look at the notes here cause I do see, let’s see you called in on, I see the last time we spoke with you looks like on the 30th here. Uhm, and it looks like just for some reason it was just insufficient funds. But, just so I am clear did you lose this card on Wednesday? Is that correct?

Singh: So, uhm, I realized I lost my card, but I last used it on Wednesday at the KH Hotel, when I was out with a client. I did also lose my personal credit card the same day. So, and I wasn’t after that, so,--and then on my personal credit card, I was actually talking to Chase last evening. Because they called me and that I had a whole bunch of charges that’s how I realized I lost my card and uh, it looks like when I called for a replacement card on the Bank of America corporate card today because I did have it, they told me that I had the same charges from the same location, so obviously that’s fraud as well.⁸²

There are several additional facts about the June 1, 2019 telephone call that are notable. Singh appeared to be hesitant about identifying P3 as the location where he had allegedly lost his corporate credit card on May 29-30, 2019.⁸³ Singh was keenly interested in getting a replacement for his corporate credit card because he was going on a business trip on Monday, June 3, 2019.⁸⁴ He wanted to be sure the corporate credit card charges from May 29-30, 2019 were removed from his account.⁸⁵

5. Disposition of Singh’s Credit Card Fraud Claims

Two weeks later, on June 14, 2019, Singh went to P3.⁸⁶ While there, Singh spent \$4,765.⁸⁷

⁸⁰ CX-6, at 1.

⁸¹ CX-6, at 1.

⁸² CX-6, at 2-3.

⁸³ CX-6, at 4.

⁸⁴ CX-6, at 6.

⁸⁵ CX-6, at 7-8.

⁸⁶ JX-7, at 12.

⁸⁷ JX-7, at 12.

On June 16, 2019, Chase permanently reversed one of the May 29-30, 2019 P3 charges on Singh's Chase Sapphire personal credit card in the amount of \$5,226.⁸⁸ The other charge, in the amount of \$3,207, remained on Singh's account.⁸⁹

BofA sent Singh a letter on August 1, 2019 denying his corporate credit card fraud claim of \$20,768, for the charges arising from P3 on May 29-30, 2019. The letter stated in its entirety:

Thank you for your recent inquiry regarding the possibility of fraudulent usage on the above-referenced account. We thoroughly researched the details of your claim(s) totaling \$20,767.96 and after additional review, it has been determined that we are unable to approve your fraud claim because your claim wasn't made on time. You're required to inform us no later than the business day after discovering the card was lost or stolen.⁹⁰

BofA paid the May 29-30, 2019 charges on the corporate credit card but did not seek reimbursement from Singh.⁹¹ There is no evidence Singh knew that BofA had paid the charges until being informed of it in this proceeding.

D. BofA Investigates the May 29-30, 2019 Charges on Singh's Corporate Credit Card

Third-party witness "BM" is employed by BofA as a senior internal investigator.⁹² BM testified he was assigned to an internal investigation that arose when BofA's credit claims department alleged Singh had expensed many personal items and then called a day or two later to claim those charges were fraudulent.⁹³ As part of BM's investigation, he obtained the audio recordings of the May 30 and June 1, 2019 telephone calls to BofA.⁹⁴ BM testified he found several identifiers the Caller got correct on the May 30, 2019 call, including "[t]he caller on the first call was able to provide a spelling of first and last name, the credit limit on the card and the CVV."⁹⁵

BM's investigative notes for July 17, 2019 state the telephone number on the May 30, 2019 call "was 5413 and this came back to HC . . . On 6/1/2019, the number dialing in was unknown—they sent [Singh] an email to verify him so they know it was him. [A BofA Global

⁸⁸ JX-8, at 214.

⁸⁹ JX-8, at 214.

⁹⁰ RX-6.

⁹¹ Stip. ¶ 11; JX-11, at 3 ("The firm has not requested . . . reimbursement from Singh").

⁹² Tr. 309.

⁹³ Tr. 313.

⁹⁴ Tr. 314.

⁹⁵ Tr. 317.

employee] says the two calls sounded exactly the same.”⁹⁶ BM testified he ran the 5413 telephone number through LexisNexis.⁹⁷ He does not remember dialing the 5413 phone number himself.⁹⁸ He does not believe he spoke with HC.⁹⁹ BM testified he concluded the Caller was Singh because “the facts of what [Singh] told me and the phone calls suggested to me that he was the one who initiated that phone call on May 30th . . . and ultimately [was] responsible for those [corporate credit card] charges.”¹⁰⁰

BM’s investigation included three telephonic interviews of Singh.¹⁰¹ The first interview took place on July 26, 2019. BM’s investigative notes reflect his skepticism about Singh’s claim of credit card fraud:

During the [interview], Singh could not provide a sufficient explanation for how his card had been lost and why he called in on 5/30/2019 to have the charges honored. When asked to provide copies of an external credit card, Singh informed [BM] that he had spent time at P3 on prior occasions and ran up thousand dollar plus expenses at same but that his external credit card had also been lost or stolen on the 5/30/2019 visit. Singh also advised [BM] that his prior visits to P3 should not be reflective of his 5/30/2019 visit.¹⁰²

According to BM’s notes, Singh told BM he “went with friends to P3 and his personal credit card and his corporate credit card were stolen and maxxed out . . . He says he carries a money clip and he lost his petty cash and the two cards. He had all of this in [his] jacket pocket.”¹⁰³ Yet, BM testified, “Mr. Singh could not give me any great detail about what had happened during the evening when the cards were either lost or stolen.”¹⁰⁴

The notes state that in the second interview, on August 19, 2019, Singh reiterated his claim that “he did lose his corp card and his [Chase] Sapphire card. He has no recollection of the 5/30 call to [BoFA Global] to push the charge through.”¹⁰⁵ In the third interview, on August 26,

⁹⁶ JX-12, at 54.

⁹⁷ Tr. 357-58.

⁹⁸ Tr. 358-59.

⁹⁹ Tr. 414-15.

¹⁰⁰ Tr. 416-17.

¹⁰¹ Tr. 398.

¹⁰² CX-22, at 6; *accord* Tr. 321.

¹⁰³ CX-22, at 7-8; *accord* Tr. 324.

¹⁰⁴ Tr. 331.

¹⁰⁵ JX-12, at 57.

2019, BM and two other BofA employees “[p]layed call. [Singh] says he doesn’t have any recollection of having this call (5/30).”¹⁰⁶

BM’s notes of September 27, 2019—i.e., a week after BofA had terminated Singh’s employment—reflect that two employees of the BofA claims department “report that Singh tried a similar tact in 2017 (see email).”¹⁰⁷ As for this alleged 2017 incident BM testified, “I can remember getting a string of e-mails about that and looking at it and of course more recently reviewing my notes, I have seen some documentation on that.”¹⁰⁸ Other than this passage in BM’s notes, Enforcement presented no documentation relating or referring to the alleged 2017 incident.

BM’s internal investigation concluded in October 2019. According to BofA’s response to a FINRA Preliminary Investigation Request, BofA “determined that, in apparent aims of circumventing the Firm’s expense policy for reimbursement, Mr. Singh called and stated he lost his card and [claimed] charges at P3 on May 30, 2019 as fraudulent.”¹⁰⁹ BofA’s response stated, “further review of Mr. Singh’s external account statements indicates that he had frequented P3 and similar establishments on multiple occasions and spent thousands of dollars at same.”¹¹⁰

BM testified, “My conclusion . . . was that Mr. Singh initiated those charges or was responsible for those charges.”¹¹¹ Several factors led BM to this conclusion:

Listening to the phone calls, the similarities in voices, the ability to verify certain details . . . identifiers and things like that, the credit limit, the circumstantial evidence, obviously and prior visits to that location, the overall tone of the calls I thought was of note given that the first caller, on the first call rather I should say, the caller indicated they were with a client.¹¹²

E. Singh’s Written Response to a FINRA Rule 8210 Request and His OTR Testimony

On October 25, 2019, FINRA staff issued a request to Singh under FINRA Rule 8210 seeking documents and information relating to the May 29-30, 2019 P3 charges on his BofA corporate credit card and his termination from BofA.¹¹³ Singh responded to the request in writing stating, “Mr. Singh was . . . informed by BofA that he allegedly called BofA corporate card

¹⁰⁶ JX-12, at 57; *accord* Tr. 373.

¹⁰⁷ JX-12, at 57; *accord* Tr. 333-34.

¹⁰⁸ Tr. 378.

¹⁰⁹ JX-6, at 3.

¹¹⁰ JX-6, at 2.

¹¹¹ Tr. 339-40; *accord* Tr. 411.

¹¹² Tr. 412.

¹¹³ Stip. ¶ 13.

services that night to approve a charge and that he was with a client . . . However, Mr. Singh made no such call.”¹¹⁴

On March 31, 2020, FINRA staff sent Singh a request under FINRA Rule 8210 to provide OTR testimony.¹¹⁵ Singh appeared and testified on April 17, 2020.¹¹⁶ He testified, “I am 100 percent certain that I did not make the charges that I disputed on May 29th . . . I did not authorize those charges and I have no idea who actually used it on that May 29th/May 30th.”¹¹⁷ After listening to the audio recording of the May 30, 2019 telephone call from P3 to BofA Global, Singh denied it was him on the call stating, “I don’t think that’s me, pretty confident, pretty sure.”¹¹⁸

F. Singh’s Hearing Testimony

1. Singh’s BofA Corporate Credit Card

In the hearing, Singh testified he understood he was supposed to use his BofA corporate credit card only for business purposes, “[b]roadly speaking with exceptions.”¹¹⁹ When Singh completed annual compliance certifications, he agreed to comply with BofA’s policies and code of conduct.¹²⁰ He is unaware of any exception in BofA’s policies allowing the use of a corporate credit card in an adult entertainment venue.¹²¹ Singh testified he incorrectly thought the credit limit on his corporate credit card was \$25,000.¹²²

2. Singh’s Activities on May 29-30, 2019

Singh testified he visited P3 15 to 20 times “at least in my lifetime.”¹²³ On Wednesday, May 29, 2019, Singh went to the KH Hotel bar with a client for food and drinks.¹²⁴ He arrived at the KH Hotel between 5:30 and 6:00 p.m.¹²⁵ At around 8:00 p.m., he left the client and the KH

¹¹⁴ JX-7, at 2; *accord* Stip. ¶¶ 14-16.

¹¹⁵ Stip. ¶ 19; CX-24.

¹¹⁶ Stip. ¶ 19.

¹¹⁷ JX-17, at 18; *accord* Stip. ¶ 20.

¹¹⁸ JX-17, at 19; *accord* Stip. ¶ 21.

¹¹⁹ Tr. 70.

¹²⁰ Tr. 68.

¹²¹ Tr. 70.

¹²² Tr. 128, 130.

¹²³ Tr. 73-74.

¹²⁴ Tr. 89-90, 100.

¹²⁵ Tr. 133.

Hotel and went to TU Restaurant.¹²⁶ There he met two women.¹²⁷ He testified, “I met my friend who was accompanied by her own friend.”¹²⁸ Singh was at TU Restaurant for 1 to 1.5 hours.¹²⁹

Singh testified that he left TU Restaurant and went to P3 with the two women.¹³⁰ Singh arrived at P3 between 10:00 and 10:30 p.m. which time, he testified, “would be the closest guess I could make.”¹³¹ He had his personal credit cards, his BofA corporate credit card, his BofA business cards, cash, and his driver’s license in a money clip.¹³² His business card contained his name, his work address, his work telephone number, and his work email address.¹³³

Singh testified, “Before I entered physically through the door, I took the cash, put it in a different pocket and entered the door.”¹³⁴ Singh opened a tab with his personal Chase Freedom credit card and his driver’s license.¹³⁵ Because he put his cash in a different pocket, he had no reason to take out the money clip after that.¹³⁶ The two women left P3 around 30-45 minutes after they had arrived.¹³⁷ Singh has not spoken with either of the two women since May 29-30, 2019.¹³⁸

Singh testified that while he was at P3, he had “two drinks and . . . a lap dance or two.”¹³⁹ Singh was at P3 for a few hours.¹⁴⁰ He does not remember when he left.¹⁴¹ While he was there, he did not notice his credit cards were missing.¹⁴² He closed his tab by paying cash.¹⁴³ He was

¹²⁶ Tr. 134.

¹²⁷ Tr. 135.

¹²⁸ Tr. 90.

¹²⁹ Tr. 136-37.

¹³⁰ Tr. 90-91, 137.

¹³¹ Tr. 91.

¹³² Tr. 107-08, 137-38.

¹³³ Tr. 151.

¹³⁴ Tr. 108.

¹³⁵ Tr. 112, 137.

¹³⁶ Tr. 220.

¹³⁷ Tr. 138-39.

¹³⁸ Tr. 215.

¹³⁹ Tr. 120.

¹⁴⁰ Tr. 93.

¹⁴¹ Tr. 139.

¹⁴² Tr. 105.

¹⁴³ Tr. 112.

alone when he closed his tab and went home.¹⁴⁴ Putting his personal Chase Freedom credit card back into his money clip, Singh did not notice that any credit cards were missing.¹⁴⁵

Singh denied he was the Caller on the May 30, 2019 telephone call to BofA Global.¹⁴⁶ When a Hearing Panelist asked Singh who the Caller might be, he answered that he wished he knew:

Q. So getting back to this . . . May 30th recording, obviously you have had a lot of time to think about this. You listened to the recording a number of times. What do you make of that?

A. It ruined my life, sir.

Q. Who do you think it is?

A. I wish I knew.

Q. How do you explain the similarity in voices between those two recorded calls?

A. Sir, voices are—there's definitely differences, sir, I see differences in voices.¹⁴⁷

Singh testified that although the Caller told the BofA Global Operator the correct credit limit on Singh's corporate credit card, "[i]t would not be very difficult to surmise if you are running transactions and see that the first one or the second one got declined, it would not be very difficult at all."¹⁴⁸ Singh had no connection with the telephone number used to place the May 30, 2019 call, either through work or personally.¹⁴⁹ He does not know HC.¹⁵⁰ Singh most likely was home sleeping at 2:42 a.m., the time of the call.¹⁵¹

¹⁴⁴ Tr. 216.

¹⁴⁵ Tr. 106.

¹⁴⁶ Tr. 96.

¹⁴⁷ Tr. 213-14.

¹⁴⁸ Tr. 97.

¹⁴⁹ Tr. 189-90.

¹⁵⁰ Tr. 192.

¹⁵¹ Tr. 217.

3. Singh's Credit Card Fraud Claims

Singh testified that when he arrived home from P3, "I remember waking up in the morning and looking at texts on my cellphone with fraud alerts and responding immediately."¹⁵² Singh denies he received the Chase fraud alerts when he was closing his tab at P3.¹⁵³ He did not telephone Chase about the fraud alerts because, he testified, "I had responded to it. So once you put in a dispute, Chase typically freezes a card as it happened to me in international travel."¹⁵⁴ When Singh received the Chase fraud alerts, he had no idea that his BofA corporate credit card or his Chase personal credit card was missing.¹⁵⁵

Singh testified that on Friday, May 31, 2019, "I had an incoming call from Chase around midday."¹⁵⁶ Shortly after this call, Singh discovered his corporate credit card was missing.¹⁵⁷ He texted his assistant AM because he needed his corporate credit card for a trip to San Francisco on Monday, June 3, 2019.¹⁵⁸ At 1:01 p.m. on Saturday, June 1, 2019, he telephoned BofA to obtain a replacement credit card.¹⁵⁹ After several minutes, his call was transferred to the BofA Fraud Department. Singh misspoke when he told the Fraud Department Operator that he had used one of his personal credit cards to close his tab at P3.¹⁶⁰

Singh testified he went back to P3 to find out what happened to his credit cards:

Q. So there must be people there [at P3] that know you. Has there been any discussions with any of the bartenders or anybody? . . .

A. If you notice, I went to P3 one more time in June and when I was there, I went to the front desk, I told them this is what happened with my cards, can you look into it, please. The front desk lady I give her my name and that was it.¹⁶¹

4. BofA's Termination of Singh's Employment

Singh testified he was terminated from BofA on September 20, 2019. At that time, an employee from the Human Resources Department "informs me that my employment has been

¹⁵² Tr. 140.

¹⁵³ Tr. 201.

¹⁵⁴ Tr. 141.

¹⁵⁵ Tr. 142-43.

¹⁵⁶ Tr. 152.

¹⁵⁷ Tr. 154-55.

¹⁵⁸ Tr. 157; *see* Tr. 148.

¹⁵⁹ Tr. 111, 158-60; CX-6, at 6.

¹⁶⁰ Tr. 114-15.

¹⁶¹ Tr. 218.

terminated and it's related to the conversations I had with the internal investigation, but no clarity beyond that.”¹⁶²

III. Conclusions of Law

A. FINRA's Definitions of Conversion and Misuse of Funds

In the first and second causes of action, Enforcement charges Singh with violating FINRA Rule 2010 by allegedly converting and misusing \$20,768 of BofA's funds. FINRA Rule 2010 requires that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”¹⁶³ Conduct that reflects poorly on an associated person's ability to comply with regulatory requirements fundamental to the securities industry conflicts with such standards and principles.¹⁶⁴ FINRA Rule 2010 proscribes all unethical, business-related conduct, even if it is not in connection with securities or a securities transaction.¹⁶⁵ The Rule articulates a broad ethical principle that is not limited to illegal conduct.¹⁶⁶

Conversion is the intentional and unauthorized taking of, or exercise of ownership over, property by one who neither owns the property nor is entitled to possess it.¹⁶⁷ Conversion violates FINRA Rule 2010 because it is antithetical to the high standards of commercial honor and just and equitable principles of trade that FINRA seeks to promote.¹⁶⁸ It is one of the gravest violations that a securities industry professional can commit.¹⁶⁹ FINRA Rule 2010 prohibits conversion even when the victim is not a customer of the firm with which the respondent is associated.¹⁷⁰

¹⁶² Tr. 183.

¹⁶³ FINRA Rules “apply to all members and persons associated with a member,” and associated persons “have the same duties and obligations as a member under the Rules.” FINRA Rule 0140(a).

¹⁶⁴ *Keilan Dimone Wiley*, Exchange Act Release No. 76558, 2015 SEC LEXIS 4952, at *15 (Dec. 4, 2015), *petition for review denied*, 663 F.App'x 353 (5th Cir. 2016); *Dep't of Enforcement v. Reifler*, No. 2016050924601, 2019 FINRA Discip. LEXIS 44, at *14 (NAC Sept. 30, 2019), *appeal docketed*, No. 3-19589, (SEC Oct. 10, 2019).

¹⁶⁵ *Allen Holeman*, Exchange Act Release No. 86523, 2019 SEC LEXIS 1903, at *30-31 (July 31, 2019), *petition for review denied*, 2021 U.S. App. LEXIS 208 (D.C. Cir. Jan. 5, 2021); *Stephen Grivas*, Exchange Act Release No. 77470, 2016 SEC LEXIS 1173, at *10 (Mar. 29, 2016); *Dep't of Enforcement v. Clarke*, No. 2016050938301, 2020 FINRA Discip. LEXIS 42, at *19 (NAC Sept. 17, 2020), *appeal docketed*, No. 3-20126 (SEC Oct. 19, 2020).

¹⁶⁶ *Dep't of Enforcement v. Mehringer*, No. 2014041868001, 2020 FINRA Discip. LEXIS 27, at *43 (NAC June 15, 2020).

¹⁶⁷ FINRA Sanction Guidelines at 36 n.2 (Oct. 2020), <http://www.finra.org/sanction-guidelines>; *Dep't of Enforcement v. Casas*, No. 2013036799501, 2017 FINRA Discip. LEXIS 1, at *20 (NAC Jan. 13, 2017).

¹⁶⁸ *Kenny Akindemowo*, Exchange Act Release No. 79007, 2016 SEC LEXIS 3769, at *22 (Sept. 30, 2016); *Dep't of Enforcement v. Braeger*, No. 2015045456401, 2019 FINRA Discip. LEXIS 55, at *25, 29 (NAC Dec. 16, 2019).

¹⁶⁹ *Alfred P. Reeves, III*, Exchange Act Release No. 76376, 2015 SEC LEXIS 4568, at *15 (Nov. 5, 2015); *Dep't of Enforcement v. Vedovino*, No. 2015048362402, 2019 FINRA Discip. LEXIS 20, at *27 (NAC May 15, 2019).

¹⁷⁰ *Clarke*, 2020 FINRA Discip. LEXIS 42, at *21.

An associated person misuses funds in violation of FINRA Rule 2010 when he fails to use the funds as directed by the owner of the funds, and instead uses the funds for his own purposes.¹⁷¹ Misuse of funds violates FINRA Rule 2010.¹⁷²

B. The Burden and Standard of Proof

In FINRA disciplinary proceedings, the burden of proof rests with Enforcement.¹⁷³ This burden includes the burden of production—the burden of going forward with proof of Enforcement’s claims—and the burden of persuasion—the burden of persuading the trier of fact.¹⁷⁴ Preponderance of the evidence is the governing standard of proof.¹⁷⁵ Under this standard, the trier of fact makes a judgment about the persuasiveness of the evidence presented and decides whether it is more probable than not that the respondent committed the acts alleged in the complaint.¹⁷⁶ Circumstantial evidence is sufficient to meet the standard of a preponderance of the evidence.¹⁷⁷ Still, the standard incorporates a requirement that the facts meet a minimum of reliability.¹⁷⁸ For Enforcement to satisfy its burden of proof, it must produce evidence, not offer speculation.¹⁷⁹

After considering the hearing testimony and exhibits, the Hearing Panel concludes that Enforcement did not meet its burden of proof that Singh converted or misused funds from BofA, in violation of FINRA Rule 2010. The bases for this conclusion are set forth below.

¹⁷¹ *Dep’t of Enforcement v. Potter*, No. 2017052871401, 2021 FINRA Discip. LEXIS 8, at *36 (NAC May 27, 2021); *Dep’t of Enforcement v. Taboada*, No. 2012034719701, 2017 FINRA Discip. LEXIS 29, at *35-36 (NAC July 24, 2017), *appeal dismissed*, Exchange Act Release No. 82970, 2018 SEC LEXIS 823 (Mar. 30, 2018).

¹⁷² *Dep’t of Enforcement v. Springsteen-Abbott*, No. 2011025675501r, 2017 FINRA Discip. LEXIS 23, at *44 (NAC July 20, 2017), *modified*, Exchange Act Release No. 88156, 2020 SEC LEXIS 2684 (Feb. 7, 2020), *petition for review dismissed in part and denied in part*, 2021 U.S. App. LEXIS 5724 (D.C. Cir. Feb. 26, 2021).

¹⁷³ *Dep’t of Enforcement v. Holaday*, No. 2012032519101, 2016 FINRA Discip. LEXIS 64, at *16-17 (NAC Oct. 3, 2016).

¹⁷⁴ *Dep’t of Enforcement v. Morton*, No. 2016052347901, 2019 FINRA Discip. LEXIS 19, at *32-33 (NAC May 15, 2019).

¹⁷⁵ *Joseph R. Butler*, Exchange Act Release No. 77984, 2016 SEC LEXIS 1989, at *16 (June 2, 2016).

¹⁷⁶ *Morton*, 2019 FINRA Discip. LEXIS 19, at *34.

¹⁷⁷ *Braeger*, 2019 FINRA Discip. LEXIS 55, at *32; *accord Herman & MacLean v. Huddleston*, 459 U.S. 375, 391 n.30 (1983).

¹⁷⁸ *Morton*, 2019 FINRA Discip. LEXIS 19, at *41-42.

¹⁷⁹ *Holaday*, 2016 FINRA Discip. LEXIS 64, at *16-17.

C. Enforcement Failed to Meet its Burden of Proof That Singh Converted or Misused BofA's Funds, in Violation of FINRA Rule 2010

Nearly all of Enforcement's case depends on a positive identification of Singh's voice on the May 30, 2019 telephone call to BofA Global. Having listened to the audio recording of that call, and having compared that call to the June 1, 2019 call from Singh to the BofA Fraud Department, the Hearing Panel cannot make the positive identification that Enforcement seeks and needs for its case. To do so would be to engage in improper speculation. We cannot recognize Singh's voice on the May 30, 2019 call. As a result, Enforcement did not prove the Caller was Singh. Neither party presented the testimony of a voice identification expert to assist the Hearing Panel.

Another lacuna in evidence (for which Enforcement is not responsible) is that BofA does not have possession of any signed receipts associated with the charges made at P3 on May 29-30, 2019.¹⁸⁰ The lack of signed receipts supports the inference that the charges were not legitimate commercial transactions. This absence makes it even harder for the Hearing Panel to identify Singh as the person who effected the charges.

Without a positive voice identification on the May 30, 2019 call, and without signed receipts, Enforcement's case hinges on circumstantial evidence. But there is substantial circumstantial evidence that cuts against Enforcement's case. The May 30, 2019 call traces, not to any telephone number associated with Singh, but to the telephone number of HC, a real estate agent with no known connection to Singh or P3. The Hearing Panel could only speculate as to how Singh might have made the call from HC's phone.

Enforcement argues that Singh was the person on the May 30, 2019 call because the Caller stated correctly the \$20,000 credit limit on the corporate credit card. But \$20,000 is an extraordinarily round number (i.e., a good candidate for a guess), and the Caller probably knew already that more than \$10,000 in charges had been made on the credit card, and that a charge in the amount of \$2,613 had just been declined.¹⁸¹ Thus, there is a reasonable possibility that the Caller made a lucky guess. In any event, the probative value of this datum of circumstantial evidence does not outweigh the evidence—such as HC's telephone number—tending to disprove Enforcement's case.

The Hearing Panel reaches a similar conclusion about the other purported "identifiers" in the May 30, 2019 telephone call to BofA Global. The spelling of Singh's name—"p as in peter a-r-a-m-v-double e-r-s-i-n-g-h"—was the same as in the June 1, 2019 telephone call to the BofA Fraud Department, but it is common for people spelling their names to say "P as in Peter" and to say "double E" when the letter repeats itself. In any event, Singh spelled his name differently in another portion of the June 1, 2019 call. The Caller was able to give Singh's work email address

¹⁸⁰ JX-11, at 3.

¹⁸¹ JX-12, at 59.

on the May 30, 2019 call, but Singh testified he carried some of his BofA business cards in his money clip, and those cards contained his work email address.¹⁸²

Enforcement argues the June 1, 2019 call to the BofA Fraud Department contains a tacit admission by Singh that he made the May 30, 2019 call, when the Fraud Operator stated, “I see the last time we spoke with you looks like on the 30th here,” and Singh did not deny or object to that statement.¹⁸³ But the Fraud Operator’s reference to the call was embedded in a longer statement that concluded with the question, “But, just so I am clear did you lose this card on Wednesday? Is that correct?” Singh responded to that question stating, “I last used it on Wednesday at the KH Hotel.” Taking the entire exchange between the Fraud Operator and Singh in context, the Hearing Panel does not find that Singh’s silence about the May 30, 2019 call was a tacit admission that he had made the call. We make a similar finding on the passage in BM’s investigative notes stating that Singh “says he doesn’t have any recollection of having this call (5/30).”¹⁸⁴ This is not a tacit admission that Singh made the May 30, 2019 call but does not remember it.

Enforcement’s theory is that Singh made the May 30, 2019 telephone call from P3—an adult entertainment venue and nightclub. Yet the audio recording does not have any background noise—no music playing, no people talking. If the theory is that the call was made just outside the venue, there is no sound of New York traffic. The Hearing Panel could only speculate about whether the call was made from P3, the street outside, or somewhere else.

Enforcement contends Singh had to turn to his corporate credit card in his May 30, 2019 visit to P3 because his accessible funds and personal sources of credit were depleted. This is analogous to a motive-and-opportunity argument: Singh had the motive to purchase goods and services from P3, and the available credit on his corporate credit card provided the opportunity. But the fact that a respondent had the motive and opportunity to commit a FINRA Rule violation, without more, does not prove that the respondent *did* commit the violation.¹⁸⁵ Motive and opportunity do not make up for the lack of a positive voice identification on the May 30, 2019 audio recording, the lack of signed corporate credit card receipts, and the failure of the evidence to trace the call to BofA Global to a telephone number associated with Singh.

Enforcement argues that the amount of the May 29-30 2019 credit card charges is consistent with Singh’s earlier spending habits at P3.¹⁸⁶ On the contrary, the \$23,975 total amount of charges (i.e., the corporate card charges plus the personal card charges) was more than twice the second-highest amount that Singh spent at P3 in one day (\$10,963 on April 12, 2019). The volume and speed of the May 29-30, 2019 charges support the inference that the person

¹⁸² Tr. 107, 137-38, 151.

¹⁸³ CX-6, at 2-3.

¹⁸⁴ JX-12, at 57.

¹⁸⁵ *Holaday*, 2016 FINRA Discip. LEXIS 64, at *13-14.

¹⁸⁶ Tr. 444-46.

making the charges was more interested in maximizing the available credit than in purchasing actual goods and services. While the prices at an adult entertainment venue are probably exorbitant, Enforcement provided no evidence of what Singh would have bought with \$23,975 in credit card charges at P3 at one time.

For the reasons stated above, the Hearing Panel concludes that Enforcement failed to prove that Singh took possession or ownership of \$20,768 of BofA's funds, or that Singh misused such funds. Accordingly, the Hearing Panel dismisses the first and second causes of action.

D. Enforcement Failed to Meet its Burden of Proof That Singh Provided False Information or Testimony, in Violation of FINRA Rules 8210 and 2010

In the third and fourth causes of action, Enforcement charges Singh with violating FINRA Rules 8210 and 2010 by allegedly providing false information to FINRA staff in a written response to a FINRA Rule 8210 request and in OTR testimony. FINRA Rule 8210 mandates that an associated person shall provide documents and information upon FINRA's request.¹⁸⁷ Because FINRA lacks subpoena power, it must rely on FINRA Rule 8210 to investigate possibly violative activities of its members and associated persons.¹⁸⁸ FINRA Rule 8210 is the principal way FINRA learns about such possibly violative activities.¹⁸⁹ Thus, FINRA Rule 8210 is indispensable to FINRA's ability to fulfill its regulatory function.¹⁹⁰ Providing false or misleading information to FINRA in response to a FINRA Rule 8210 request violates the Rule.¹⁹¹ A violation of FINRA Rule 8210 also violates FINRA Rule 2010.¹⁹²

On October 25, 2019, FINRA sent Singh a letter under FINRA Rule 8210 requesting that he describe the circumstances surrounding the May 29-30, 2019 charges on his BofA corporate

¹⁸⁷ *Robert Marcus Lane*, Exchange Act Release No. 74269, 2015 SEC LEXIS 558, at *68 (Feb. 13, 2015).

¹⁸⁸ *Dep't of Enforcement v. North Woodward Fin. Corp.*, No. 2010021303301, 2014 FINRA Discip. LEXIS 32, at *19-20 (NAC July 21, 2014), *aff'd*, Exchange Act Release No. 74913, 2015 SEC LEXIS 1867 (May 8, 2015), *petition for review denied sub nom. Troszak v. SEC*, No. 15-3729, 2016 U.S. App. LEXIS 24259 (6th Cir. June 29, 2016).

¹⁸⁹ *Merrimac Corp. Sec., Inc.*, Exchange Act Release No. 86404, 2019 SEC LEXIS 1771, at *6 (July 17, 2019).

¹⁹⁰ *David Kristian Evansen*, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080, at *63 (July 27, 2015); *Dep't of Enforcement v. Saliba*, No. 2013037522501, 2019 FINRA Discip. LEXIS 1, at *44 (NAC Jan. 8, 2019), *remanded*, Nos. 3-18989 & 3-18990, 2021 SEC LEXIS 865 (SEC Apr. 9, 2021).

¹⁹¹ *Dep't of Enforcement v. Milberger*, No. 2015047303901, 2020 FINRA Discip. LEXIS 4, at *17 (NAC Mar. 27, 2020).

¹⁹² *Howard Brett Berger*, Exchange Act Release No. 58950, 2008 SEC LEXIS 3141, at *2-3 n.2 (Nov. 14, 2008) ("A violation of another NASD rule, such as Rule 8210, constitutes a violation of Conduct Rule 2110."), *petition for review denied*, 347 F.App'x 692 (2d Cir. 2009); *accord Dep't of Enforcement v. Meyers Assoc., L.P.*, No. 2010020954501, 2018 FINRA Discip. LEXIS 1, at *13 n.13 (NAC Jan. 4, 2018) ("A violation of any FINRA rule constitutes also a violation of FINRA Rule 2010"), *aff'd*, Exchange Act Release No. 86497, 2019 SEC LEXIS 1869 (July 26, 2019).

credit card at P3.¹⁹³ Singh submitted a written response to this request in which he denied using the corporate credit card at P3 or calling BofA Global to get another charge approved on his corporate credit card.¹⁹⁴ On March 31, 2020, FINRA staff sent him a request under FINRA Rule 8210 to provide OTR testimony.¹⁹⁵ In the OTR, Singh testified he did not make or authorize the charges on his corporate credit card at P3.¹⁹⁶ After listening to the audio recording of the telephone call to BofA Global, Singh testified that he was not the person who made the call.¹⁹⁷ Enforcement contends Singh's written response and OTR testimony were false because, according to Enforcement, he was the person who made the charges at P3 and who called BofA seeking to get another charge approved.

The Hearing Panel concludes that Enforcement did not meet its burden of proving false information or testimony in Singh's written response to the October 25, 2019 FINRA Rule 8210 request or in his OTR testimony. The third and fourth causes of action rest on the premise that Singh was the person who effected the May 29-30, 2019 charges to the corporate credit card and made the telephone call to BofA Global. Other than speculating that the voice on the telephone call might be Singh, there is no evidence linking him to the call. The inference that the Caller was Singh is contradicted by other evidence, such as phone records showing the call was made from a telephone number associated with HC, a person with no known connection to Singh. The evidence is inconclusive as to whether Singh made the call or effected the charges to the corporate credit card. Because the third and fourth causes of action depend on favorable outcomes as to the first and second causes of action—outcomes unavailable here given the state of the evidence—Enforcement did not meet its burden of proving false information or testimony in violation of FINRA Rules 8210 and 2010. Accordingly, the Hearing Panel dismisses the third and fourth causes of action.

IV. Order

The Department of Enforcement failed to meet its burden of proving that Respondent Paramveer Singh converted funds from BofA; misused funds from BofA; provided false or

¹⁹³ Stip. ¶ 13.

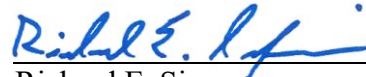
¹⁹⁴ Stip. ¶ 15; JX-7, at 2.

¹⁹⁵ Stip. ¶ 19; CX-24.

¹⁹⁶ JX-17, at 18.

¹⁹⁷ Stip. ¶ 21; JX-17, at 19.

misleading information in a written response to a FINRA Rule 8210 request; or provided false on-the-record testimony under FINRA Rule 8210. The Complaint is dismissed.¹⁹⁸


Richard E. Simpson
Hearing Officer
For the Hearing Panel

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¹⁹⁸ The Hearing Panel has considered and rejects without discussion all other arguments of the parties.