

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant

vs.

RUSSELL PALERMO,
Registered Representative
(CRD No. 4392296)

Respondent

**Disciplinary Proceeding
No. 2005000118401**

Hearing Officer

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. Between approximately July 2004 and January 2005, Russell Palermo ("Respondent") was registered as an Investment Company/Variable Contracts Products Representative with MML Investors Services, Inc. ("Member"), a member of NASD. Respondent therefore is subject to the jurisdiction of the NASD, pursuant to Article V, Section 4 of the NASD's By-Laws.

**FIRST CAUSE FOR COMPLAINT
Misappropriation of Customers' Funds
Violations of NASD Conduct Rule 2110**

2. On or about March 1, 2004, Respondent received \$200 from customer P.S. for the purchase of insurance. Respondent did not apply the funds as directed by P.S. Instead, without the knowledge or consent of P.S., Respondent used the funds to pay his office expenses.

3000065234 2011

3. On or about July 14, 2004, Respondent received \$130 from customer P.S. for the purchase of insurance. Respondent did not apply the funds as directed by P.S. Instead, without the knowledge or consent of P.S., Respondent used the funds to pay his office expenses.

4. On or about September 13, 2004, Respondent received \$85 from customer L.F. for the purchase of insurance. Respondent did not apply the funds as directed by L.F. Instead, without the knowledge or consent of L.F., Respondent used the funds to pay his office expenses.

5. On or about September 13, 2004, Respondent received \$500 from customer J.R. for the purchase of insurance. Respondent did not apply the funds as directed by J.R. Instead, without the knowledge or consent of J.R., Respondent used the funds to pay his office expenses.

6. On or about November 15, 2004, Respondent received \$300 from customer L.B. for the purchase of insurance. Respondent did not apply the funds as directed by L.B. Instead, without the knowledge or consent of L.B., Respondent used the funds to pay his office expenses.

7. The acts, practices and conduct above constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent.

SECOND CAUSE FOR COMPLAINT
NASD Conduct Rule 2110 and NASD Procedural Rule 8210
Failure to Respond Timely to Requests for Information

8. On or about March 7, 2005, NASD staff sent to Respondent a request that he provide certain documents and information, pursuant to and in accordance with the

provisions of NASD Procedural Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mailing was not returned to NASD staff. The envelope for the certified mailing was returned to NASD staff, marked "Returned to Sender" and "Unclaimed."

9. NASD did not receive a response to the March 7, 2005 request described in Paragraph 8 above by March 21, 2005, the date by which NASD staff requested a response from Respondent.

10. Accordingly, on or about April 8, 2005, NASD staff sent to Respondent a request that he provide certain documents and information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mailing was not returned to NASD staff. The envelope for the certified mailing was returned to NASD staff, marked "Returned to Sender" and "Unclaimed."

11. NASD did not receive a response to the April 8, 2005 request described in Paragraph 10 above by April 25, 2005, the date by which NASD staff requested a response from Respondent.

12. On or about June 27, 2005, NASD staff made a telephone call to Respondent, during which NASD staff asked whether Respondent intended to respond to the NASD's requests for information, described in Paragraphs 8 and 10 above, and

advised Respondent that his failure to respond would likely result in him being barred from the industry.

13. On June 27, 2003, after the telephone conversation described in Paragraph 12 above, Respondent sent by facsimile an untimely response to the requests for documents and information described in Paragraphs 8 and 10 above.

14. The acts, practices and conduct described above constitutes a violation of NASD Conduct Rule 2110 and Procedural Rule 8210 by Respondent.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. An order imposing sanctions upon Respondent in accordance with NASD Procedural Rule 8310;
- C. An order requiring Respondent to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- D. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Procedural Rule 8330; and

E. An order imposing any other fitting sanction.

Dated: October 7, 2005


Dale A. Glanzman, Regional Counsel
Mark A. Koerner, Regional Chief Counsel
NASD Department of Enforcement
55 W. Monroe St., 27th Floor
Chicago, IL 60603
(312) 899-4312; Fax No. (312) 899-4312

NASD District Director

Carlotta A. Romano
Senior Vice President and
Regional Director
NASD, District 8
55 W. Monroe St., 27th Floor
Chicago, IL 60603
(312) 899-4324

Of Counsel

Rory C. Flynn
NASD Department of Enforcement
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
(202) 974-2974; Fax No. (202) 721-8318

Roger D. Hogoboom
NASD Department of Enforcement
370 17th Street, Suite 2900
Denver, CO 80202
(303) 446-3114; Fax No. (303) 620-9540