

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,
Complainant,

v.

VIKRAM MANHAS
(CRD No. 2518451),

Respondent.

Disciplinary Proceeding
No. 20050027081-01

DEFAULT DECISION

Hearing Officer – SW

Date: February 21, 2007

Respondent is barred from associating with any member firm in any capacity for: (1) converting funds from customer WP's securities account, in violation of NASD Conduct Rules 2330(a) and 2110; (2) falsifying documents, in violation of NASD Conduct Rule 2110; and (3) failing to respond to requests for information and a request for an on-the-record interview issued by the NASD staff, in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

Appearances

William St. Louis, Esq., Deputy Regional Chief Counsel, New York, NY,
David M. Jaffe, Esq., Regional Chief Counsel, New York, NY, Rory C. Flynn,
Esq., Of Counsel, Washington, D.C., and Mark P. Dauer, Esq., Of Counsel, New
Orleans, LA, for the Department of Enforcement.

No appearance by or for Vikram Manhas.

DECISION

I. Introduction

On September 7, 2006, the NASD Department of Enforcement ("Enforcement") filed the attached three-count Complaint against Respondent Vikram Manhas ("Respondent"). The first count of the Complaint alleges that, while associated with NASD member firm McLaughlin, Piven, Vogel Securities, Inc. ("McLaughlin"), Respondent converted to his own use and benefit funds from the securities account of his

customer WP, without WP's knowledge or consent, in violation of NASD Conduct Rules 2330(a) and 2110. The second count of the Complaint alleges that as part of his scheme to convert WP's funds, Respondent submitted or facilitated the submission of various forms to another NASD member, Ameritrade, purportedly from customer WP, but which contained both false information and WP's forged signature, in violation of NASD Conduct Rule 2110. The third count of the Complaint alleges that Respondent failed to respond to requests for information and to a request for an on-the-record interview, issued by the NASD staff, in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

On January 24, 2007, Enforcement filed a Motion for Entry of Default Decision ("Motion"), supported by the Declaration of William St. Louis, Esq., Deputy Regional Chief Counsel in NASD's New York, NY office, and 26 exhibits.¹ For the reasons set forth below, the Hearing Officer grants Enforcement's Motion.

II. Respondent's Default

Because of a typographical error, Enforcement initially served the Complaint, the First Notice of Complaint, and the Second Notice of Complaint on Respondent at an incorrect address.² On November 28, 2006, Enforcement served the Complaint and Third Notice of Complaint on Respondent, via certified and first class mail, at his last known residential address shown in the Central Registration Depository ("CRD address").³ (CX-1; CX-2; DECL at ¶ 13). Enforcement also served the Complaint and Third Notice of

¹ Hereinafter, the statements in the Motion will be designated as "Motion, p."; statements in the St. Louis Declaration will be designated as "DECL at ¶"; and Enforcement's exhibits will be designated as "CX-" with the appropriate page or paragraph number.

² Enforcement mailed the Complaint, First Notice of Complaint and Second Notice of Complaint to Respondent at [REDACTED] (DECL at ¶ 13 footnote 1).

³ Respondent's CRD address is [REDACTED] (CX-1, p. 1).

Complaint at a variation of Respondent's CRD address ("Alternate address") and at two-email addresses, which were obtained from the brokerage account at Ameritrade that Respondent had opened in furtherance of his conversion scheme. (CX-3; DECL at ¶ 14).

On January 3, 2007, Enforcement served the Complaint and Fourth Notice of Complaint, via certified and first class mail, on Respondent at his CRD address and the Alternate address. (CX-9; DECL at ¶¶ 19-20). Enforcement also served the Complaint and Fourth Notice of Complaint on Respondent via the two e-mail addresses. (CX-9; DECL at ¶ 20). Respondent did not file an Answer to the allegations of the Complaint. (DECL at ¶¶ 18, 25, 26).

The Hearing Officer finds that Enforcement complied with NASD Procedural Rule 9134(b)(1) by sending the third and fourth mailings to Respondent's CRD address and the Alternate address.⁴ Accordingly, the Hearing Officer finds that Respondent received effective constructive notice of this proceeding and defaulted by failing to answer the Complaint.⁵

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

Respondent was registered with McLaughlin as an investment company and variable contracts products representative from July 28, 1994 through September 19, 2005, and as a general securities representative from November 10, 1995 to September 19, 2005. (CX-1, p. 4; DECL at ¶ 8). From September 2, 2005 to November 1, 2005, Respondent was registered with National Securities Corporation ("National Securities")

⁴ See Department of Enforcement v. Verdiner, No. CAF020004, 2003 NASD Discip. LEXIS 42, at * 5 n.1 (N.A.C. Dec. 9, 2003) (finding that respondent received constructive notice when complaint was mailed to respondent's CRD address).

⁵ The following Findings of Fact and Conclusions of Law incorporate the allegations in the attached Complaint, pursuant to Rule 9215(f) and NASD Notice to Members 99-77.

as an investment company and variable contracts products representative and as a general securities representative. (CX-1, p. 3). Respondent has not been associated with any NASD member since November 1, 2005. (CX-1, pp. 2-3; Complaint at ¶ 5). However, Respondent remains subject to NASD jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of the NASD By-Laws, because (1) the Complaint was filed within two years after Respondent's association with National Securities was terminated, and (2) the Complaint charges Respondent with misconduct while he was associated with McLaughlin and with failures to provide information or appear for an on-the-record interview as requested pursuant to Rule 8210 during the two-year period of retained jurisdiction.

B. Respondent Converted the Funds of his Customer WP

The first cause of the Complaint alleges that Respondent serviced the securities account of customer WP, and that in or about June 2004, Respondent engaged in conversion, in violation of NASD Conduct Rules 2330(a) and 2110, by (i) having WP unknowingly sign documents to open a securities account at another broker-dealer, Ameritrade, in June 2004, (ii) transferring approximately \$240,000 in securities from WP's McLaughlin account to WP's Ameritrade account in July 2004, (iii) submitting falsified documents to Ameritrade to authorize the transfer of assets from WP's Ameritrade account to Respondent's Ameritrade account in 2004, and (iv) selling the assets and withdrawing the proceeds from Respondent's Ameritrade account by checks and wire transfers. (Complaint at ¶¶ 8-20; CX-15; CX-18, p. 12; CX-19; CX-20; CX-21; CX-22). In 2004, customer WP was in his nineties and was increasingly forgetful and easily confused. (Complaint at ¶ 9).

Enforcement provided the additional information that McLaughlin became aware of the conversion in 2005 when WP's tax preparer contacted the firm to inquire about the large drop in value in WP's account in July 2004. (CX-14).

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.⁶

The allegations in the first cause of the Complaint and the evidence submitted by Enforcement are sufficient to establish that Respondent converted to his own use and benefit \$240,000 belonging to customer WP. Accordingly, the Hearing Officer finds that Respondent violated NASD Conduct Rules 2330(a) and 2110 by withdrawing assets from customer WP's Ameritrade securities account, as alleged in count one of the Complaint.

C. Respondent Submitted False Documents

The second cause of the Complaint alleges that as part of his scheme to convert customer WP's funds, Respondent submitted or facilitated the submission of various forms to Ameritrade purportedly from customer WP, but which contained both false information and WP's forged signature. (Complaint at ¶¶ 23-28). Specifically, WP's Ameritrade account form included WP's correct name, address, and some other personal information, but the form listed an e-mail address and telephone numbers with a [REDACTED] exchange, when WP did not have any e-mail addresses nor any telephone numbers with a [REDACTED] exchange. (Complaint at ¶ 13; CX-15). In July 2004, WP's residential address for his Ameritrade account was changed from WP's correct address to Respondent's residential address. (Complaint at ¶ 16).

⁶ NASD Sanction Guidelines, p. 38 (2006).

In August 2004 and September 2004, Ameritrade received two internal transfer forms and two letters of authorization purportedly signed by WP requesting that assets in WP's Ameritrade account be transferred to an Ameritrade account owned by Respondent. (Complaint at ¶¶ 17, 23-25; CX-21; CX-22). The letters of authorization falsely indicated that Respondent was WP's grandson and that the transfers were a part of WP's estate planning and upon the advice of WP's accountants and lawyers. (Complaint at ¶¶ 17-18, 26; CX-22). WP never completed or executed these documents and did not request or intend to transfer assets to Respondent. (Complaint at ¶ 27). Respondent prepared or caused to be prepared the false letters of authorization and internal transfer forms. (Complaint at ¶ 28).

It is well established that falsification of documents is not consistent with high standards of commercial honor and just and equitable principles of trade as required by Rule 2110.⁷ The violation is equally problematic whether the forgery is submitted to the NASD or to a member firm."⁸

The allegations in the second cause of the Complaint and the evidence submitted by Enforcement are sufficient to establish that Respondent submitted or caused to be submitted falsified documents to NASD member Ameritrade in furtherance of his scheme to convert customer WP's assets. Accordingly, the Hearing Officer finds that Respondent violated NASD Conduct Rules 2110 by preparing or causing to be prepared false documents to Ameritrade, as alleged in count two of the Complaint.

⁷ See, e.g., Donald M. Bickerstaff, Exchange Act Rel. No. 35,607, 1995 SEC LEXIS 982 (Apr. 17, 1995).

⁸ DBCC No. 2 v. Peters, No. C02960024, 1998 NASD Discip. LEXIS 42, at *4-5 (NAC Nov. 13, 1998) (citation omitted).

D. Respondent Failed to Respond to Rule 8210 Requests from NASD

The third cause of the Complaint alleges that Respondent failed to respond to written requests for information dated October 25, 2005, November 14, 2005, and March 3, 2006, which the NASD staff issued to Respondent to obtain certain information concerning, inter alia, customer WP. (Complaint at ¶¶ 30-53). In addition, by a letter dated October 25, 2005, NASD requested that Respondent appear for an on-the-record interview to be held on January 5, 2006. Both October 25, 2005 requests were sent to Respondent (i) at his CRD address, (ii) the Alternate address, and (iii) at the address of his then employer National Securities, via first class mail and certified mail, in accordance with NASD Procedural Rule 8210. (Complaint at ¶¶ 31, 38). Respondent did not respond in any manner to either the request for information or the request to appear for an on-the-record interview. (Complaint at ¶¶ 36, 43).

After Respondent's termination by National Securities, NASD sent an additional request for information on November 14, 2005 to Respondent at his CRD address and the Alternate address, via first class mail and certified mail. (Complaint at ¶¶ 44-45). A March 3, 2006 request for information was sent to Respondent at his CRD address and the Alternate address, via first class mail and certified mail, and to an e-mail address. (Complaint at ¶¶ 49-50). Respondent did not furnish the requested information or otherwise respond to the requests for information. (Complaint at ¶¶ 48, 53).

Failure to comply with Rule 8210 requests for information is a serious violation because it subverts NASD's ability to perform its regulatory responsibilities.⁹

⁹ See, e.g., Richard J. Rouse, Exchange Act Release No. 32,685, 1993 SEC LEXIS 1831, at *7 (1993); Joseph G. Chiulli, Exchange Act Release No. 42,359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for NASD to conduct its investigations effectively, and emphasizing that NASD members and associated persons must fully cooperate with requests for information).

The allegations in the third cause of the Complaint and the evidence submitted by Enforcement are sufficient to establish that Respondent violated NASD Procedural Rule 8210 and thereby violated NASD Conduct Rule 2110 by failing to respond to the staff's requests for information and for an on-the-record interview.¹⁰

IV. Sanctions

A. Conversion

For conversion of customer funds as alleged in count one of the Complaint, the NASD Sanction Guidelines recommend a bar regardless of the amount converted.¹¹ Here, there is no evidence of any mitigating factors. Accordingly, a bar is the appropriate sanction for the violation under the first cause of the Complaint.

B. Forgery or Falsification of Documents

For forgery or falsification of documents as alleged in count two of the Complaint, the Sanction Guidelines recommend a suspension of up to two years, as well as a substantial fine, if mitigating factors exist, or a bar in egregious cases.¹² Considering (i) the nature of the documents that Respondent falsified, i.e., internal transfer forms and letters of authorization to enrich himself at his 90-year old customer's expense, and (ii) the intentional nature of the misconduct, the Hearing Officer finds that this is an egregious case warranting a bar.

C. Failure to Respond to Rule 8210 Requests for Information

For failing to respond in any manner to the requests for information and the request for an on-the-record interview issued by the NASD staff pursuant to NASD

¹⁰ See Dep't of Enforcement v. Baxter, No. C07990016, 2000 NASD Discip. LEXIS 3, at **21, 25 (NAC Apr. 19, 2000).

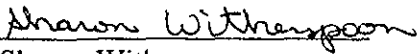
¹¹ Guidelines at 38.

¹² Id. at 39.

Procedural Rule 8210 as alleged in count three of the Complaint, the Sanction Guidelines recommend the imposition of a bar unless mitigating circumstances exist warranting a lesser sanction.¹³ Here, the record discloses no mitigating factors. Accordingly, a bar also is appropriate for the violation set forth in the third cause of the Complaint.

V. Order

Respondent Vikram Manhas is barred from associating with any member firm in any capacity for: (1) converting funds from customer WP's securities account, in violation of NASD Conduct Rules 2330(a) and 2110; (2) falsifying documents, in violation of NASD Conduct Rule 2110; and (3) failing to respond to requests for information and a request for an on-the-record interview issued by the NASD staff, in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210. The bars will become effective immediately if this Default Decision becomes NASD's final disciplinary action in this proceeding.


Sharon Witherspoon
Hearing Officer

Dated: Washington, DC
February 21, 2007

Copies to:

Vikram Manhas (via FedEx and first class mail)
William St. Louis, Esq. (via electronic and first class mail)
David M. Jaffe, Esq. (via electronic and first class mail)
Rory C. Flynn, Esq. (via electronic and first class mail)
Mark P. Dauer, Esq. (via electronic and first class mail)

¹³ Id. at 35.

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DEPARTMENT OF ENFORCEMENT,

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VIKRAM MANHAS
(CRD No. 2518451),

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Disciplinary Proceeding
No. 20050027081-01

Hearing Officer

COMPLAINT

Upon information and belief, the Department of Enforcement ("Complainant") alleges as follows:

JURISDICTION

1. Respondent Vikram Manhas ("Respondent") was registered as an Investment Company Products/Variable Contracts Representative ("IR") (from July 28, 1994 through September 2, 2005) and General Securities Representative ("GSR") (from November 10, 1995 through September 2, 2005) through an association with member firm McLaughlin, Piven, Vogel Securities, Inc. (BD No. 7404) ("MPV").
2. On September 19, 2005, MPV filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") terminating Respondent's registration.
3. Most recently, Respondent was registered as an IR and GSR from September 2, 2005 through November 1, 2005 through his association with another member firm.

4. On November 1, 2005, that firm filed a Form U-5 terminating Respondent's registration. The form noted that Respondent's last date of employment was October 26, 2005 and that Respondent was no longer at the firm because "Representative absent without notice or explanation to the firm for a period of 5 business days or more."
5. Upon information and belief, Respondent is not currently registered with NASD, nor is he otherwise employed in the securities industry. However, Respondent remains subject to the jurisdiction of NASD pursuant to Article V, Section 4 of its By-Laws.

BACKGROUND

6. Paragraphs 1 through 5 of this Complaint are re-alleged and incorporated herein by reference.
7. WP, a Delaware resident, opened a brokerage account at MPV in or about 1990.
8. In 2004, Respondent serviced WP's MPV brokerage account.
9. WP was over 90 years old in 2004. At this time, WP was increasingly forgetful and easily confused. In April of 2004 he fell and broke his shoulder.
10. WP resides with his wife who is older than him.
11. In or around June 2004, in addition to his MPV account, WP opened another brokerage account at Ameritrade, another brokerage firm ("WP's Ameritrade Account").
12. WP's Ameritrade Account was established with forms that were purportedly signed by WP.
13. These forms included WP's correct name, address, and some other personal information, but also listed an e-mail address and telephone numbers with a [REDACTED] exchange for WP. WP did not have any e-mail address or [REDACTED] telephone numbers.

FIRST CAUSE OF COMPLAINT
(Conversion)
Violation of NASD Conduct Rule 2110

14. Paragraphs 1 through 13 of this Complaint are re-alleged and incorporated herein by reference.
15. In or around July 2004, MPV received a signed, notarized request dated July 6, 2004, from WP, to transfer securities from WP's MPV account to WP's Ameritrade Account (hereinafter the "Transfer Request").
 - a. Respondent prepared or caused the Transfer Request to be prepared.
 - b. The Transfer Request misspelled WP's first name in the body of the letter and contained the line "I am in full compliance with all SEC and IRS rules and regulations."
 - c. Respondent asked WP to sign the Transfer Request and WP, relying on Respondent's advice and unaware of what it was that he was signing, complied.
 - d. WP did not know or understand the ramifications of the Transfer Request.
 - e. The letter listed the securities to be transferred and did not explicitly state a dollar value for the securities to be transferred.
 - f. The securities were worth at least \$240,000.
16. In or around July 2004, WP's residential address for WP's Ameritrade Account was changed from WP's Delaware address to Respondent's residential address.
17. Ameritrade received two Internal Transfer Forms and Letters of Authorization ("LOA"), purportedly signed by WP, requesting that assets in WP's Ameritrade Account be transferred into an Ameritrade account owned by Respondent.
 - a. One Internal Transfer Form and LOA are both dated August 12, 2004. The LOA reads: "Please Transfer [securities] from my account to my grandson Vikram Manhas

ameritrade account [REDACTED] This is part of my Estate Tax Planning and on the advise of my accountants and lawyers. I am in full compliance with all SEC and IRS rules and regulations.”

- b. The other Internal Transfer Form and LOA are both dated September 1, 2004. The LOA reads: “Please Transfer all assets from my Ameritrade account . . . to my grandson Vikram S Manhas Account [REDACTED] This is part of my Estate Tax Planning and on the advise of my accountants and lawyers. Please close my account after the transfer as I don’t want to incur any charges.”

18. Both LOAs falsely indicated that Respondent was WP’s grandson.
19. Respondent prepared or caused the LOAs and Internal Transfer Forms to be prepared.
20. After the assets from WP’s Ameritrade Account were in Respondent’s Ameritrade account, Respondent sold them and the proceeds from these sales were withdrawn from Respondent’s Ameritrade account by checks and wire transfers away from Ameritrade.
21. Without WP’s knowledge, consent, or authorization, Respondent engaged in the above acts and thereby converted securities/funds totaling at least \$240,000 from WP.

By reason of the foregoing, Respondent violated NASD Conduct Rules 2110 and 2330.

SECOND CAUSE OF COMPLAINT
(Falsification)

Violation of NASD Conduct Rule 2110

22. Paragraphs 1 through 21 of this Complaint are re-alleged and incorporated herein by reference.
23. In connection with WP’s Ameritrade Account, Respondent submitted or facilitated the submission of various forms that were purportedly from customer WP that contained false information and contained WP’s forged signature.

24. These forms included, the Internal Transfer Forms and LOAs received by Ameritrade in August and September 2004.
25. These documents, purportedly signed by WP, requested that assets in WP's Ameritrade Account be transferred into an Ameritrade account owned by Respondent.
26. The LOAs falsely stated that Respondent was WP's grandson.
27. WP never completed or executed these documents and did not request or intend to transfer assets to Respondent.
28. Respondent prepared or caused the false LOAs and Internal Transfer Forms to be prepared.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

THIRD CAUSE OF COMPLAINT

(Failure to Respond)

Violation of NASD Procedural Rule 8210 and Conduct Rule 2110

29. Paragraphs 1 through 28 of the Complaint are re-alleged and incorporated herein by reference.

October 25, 2005 Request For Information

30. By letter dated October 25, 2005, the staff of NASD's District No. 10 office (the "Staff") requested, pursuant to NASD Procedural Rule 8210, that Respondent provide a written response to certain questions concerning, *inter alia*, WP by November 8, 2005.
31. The letter was sent to Respondent by regular and certified mail, return receipt requested, at:
 - a. his last known residential address as reflected in the records of NASD's Central Registration Depository [REDACTED] (the "CRD Address"), and

b. a variation on Respondent's CRD Address [REDACTED]

[REDACTED] (the "24J Address"); and

c. a member firm at which Respondent was then associated (the "Work Address").

32. The regular mailings to the CRD and 24J Addresses were returned to the Staff stamped "Returned to Sender."

33. The certified mailing to the CRD and 24J Addresses were returned to the Staff stamped "Return to Sender – Moved, Unable to Forward."

34. The return receipt for the certified mailing to the Work Address was returned bearing an illegible signature.

35. The regular mailing to the Work Address was not returned to the Staff.

36. Respondent did not furnish the requested information or otherwise respond to this letter.

October 25, 2005 Request For Interview

37. By letter dated October 25, 2005, the "Staff requested, pursuant to NASD Procedural Rule 8210, that Respondent appear for an on-the-record interview to be held on January 5, 2006 and that Respondent contact the Staff to confirm his appearance or discuss rescheduling the interview by November 4, 2005.

38. The letter was sent to Respondent by regular and certified mail, return receipt requested, at the CRD Address, the 24J Address and the Work Address.

39. The regular mailings to the CRD and 24J Addresses were returned to the Staff stamped "Returned to Sender."

40. The certified mailing to the CRD and 24J Addresses were returned to the Staff stamped "Return to Sender – Moved, Unable to Forward."

41. The return receipt for the certified mailing to the Work Address was returned bearing an illegible signature.

- 42. The regular mailing to the Work Address was not returned to the Staff.
- 43. Respondent did respond to this letter or appear for the interview.

November 14, 2005 Request For Information

- 44. By letter dated November 14, 2005, the Staff again requested, pursuant to NASD Procedural Rule 8210, that Respondent provide a written response to certain questions concerning, *inter alia*, WP by November 25, 2005.
- 45. The letter was sent to Respondent by regular and certified mail, return receipt requested, at the CRD and 24J Addresses.
- 46. The regular mailings to the CRD Address and the 24J Address were returned to the Staff stamped "Returned to Sender – Not Deliverable as Addressed – Unable to Forward."
- 47. The certified mailing to the CRD and 24J Addresses were returned to the Staff stamped "Return to Sender – Moved, Unable to Forward."
- 48. Respondent did not furnish the requested information or otherwise respond to this letter.

March 3, 2006 Request For Information

- 49. By letter dated March 3, 2006, the Staff again requested, pursuant to NASD Procedural Rule 8210, that Respondent provide a written response to certain questions concerning, *inter alia*, WP by March 17, 2006.
- 50. The letter was sent to Respondent by regular and certified mail, return receipt requested, at the CRD Address, the 24J Address and an e-mail address [REDACTED]
- 51. The regular mailings to the CRD and 24J Addresses were returned to the Staff stamped "Returned to Sender – Attempted – Not Known – Unable to Forward."
- 52. The certified mailing to the CRD and 24J Addresses were returned to the Staff stamped "Return to Sender – Moved, Unable to Forward."
- 53. Respondent did not furnish the requested information or otherwise respond to this letter.

By reason of the foregoing, Respondent violated NASD Procedural Rule 8210 and Conduct Rule 2110.

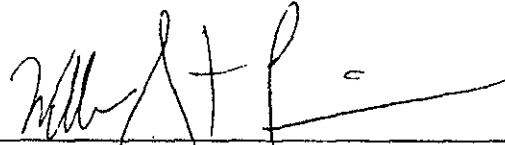
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a) be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- B. order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

Dated: September 6, 2006

DEPARTMENT OF ENFORCEMENT



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