

NASD
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Shane A. Selewach (CRD No. 2936484)

Respondent.

Disciplinary Proceeding
No. 2006005005301

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. During the period October 2004 through February 2006, former Ameriprise Financial Services, Inc. (Ameriprise) registered representative Shane A. Selewach (Selewach) engaged in a pattern of inappropriate and unethical conduct. Specifically, Selewach misused \$71,000 that an elderly customer and her daughter entrusted with him to invest on their behalf. Rather than invest the money as he indicated he would, Selewach deposited the funds into checking account that he controlled. Additionally, during this same period, Selewach borrowed at least \$158,000 from at least three customers, despite Ameriprise's direct prohibition on representatives borrowing money from customers. *Selewach's conduct constituted violations of NASD Conduct Rules 2330(a), 2370 and 2110.*

RESPONDENT

2. Selewach was first registered with the NASD as a General Securities Representative on September 22, 1997 and as a General Securities Principal on July 20, 2000. From September 22, 1997 through April 17, 2006, Selewach was registered with NASD member firm Ameriprise (formerly known as American Express Financial Advisors).¹ He has not been registered with any member firm since he left Ameriprise. NASD retains jurisdiction over Selewach for purposes of this Complaint pursuant to Article V, Section 4 of NASD's By-Laws in that: the misconduct alleged herein occurred while Selewach was associated with Ameriprise; and, this Complaint was filed within two years of Selewach's last registration with a member firm.

FIRST CAUSE OF ACTION

MISUSE OF CUSTOMER FUNDS VIOLATION OF NASD CONDUCT RULES 2330(a) AND 2110

3. The Department realleges and incorporates by reference paragraphs 1 through 2 above.
4. In or about 2000, customer PB and her daughter HS, who served as her mother's power of attorney, opened an account for PB with Selewach at Ameriprise.
5. During the period of approximately April 2004 to April 2005, Selewach spoke to HS and PB about investing in a commodities fund that he anticipated establishing.
6. On or about April 24, 2005, Selewach accepted a check in the amount of \$71,000 from HS on behalf of her mother PB.
7. At or about the time Selewach accepted the \$71,000 check from HS, he told HS that he would invest \$25,000 in the commodities fund when it was established in the near future.

¹ For ease of reference, the firm will be referred to as Ameriprise throughout the complaint, regardless of the firm's name at the time of the particular event in question.

8. Selewach also told HS that he would pay HS and PB 5% interest on the remaining \$46,000 investment, but he did not specify what investments he would make to earn this return.
9. Rather than invest the funds he received from HS and PB, Selewach deposited the check into a personal checking account at TD BankNorth that he controlled. At no point did Selewach tell HS or PB that he deposited their funds into a personal bank account he controlled.
10. Selewach used the funds he received from HS and PB to pay for various personal expenses, including telephone bills, credit card payments, car payments, a utility payment and a checking account overdraft payment. Selewach also used \$23,924.38 of PB's funds to make a partial loan repayment to JF, another of Selewach's Ameriprise customers, as is more fully described below.
11. At no time did Selewach take all or even a portion of the funds he received from HS and PB and invest the funds in a commodities fund or any other investment on the customers' behalf.
12. By virtue of this conduct, Selewach misused customer PB's funds in violation of NASD Conduct Rules 2330(a) and 2110.

SECOND CAUSE OF ACTION

BORROWING FROM CUSTOMERS GM AND SM VIOLATION OF NASD CONDUCT RULES 2370 AND 2110

13. The Department realleges and incorporates by reference paragraphs 1 through 12 above.
14. In 2005-2006, Ameriprise's written supervisory procedures specifically prohibited registered representatives from borrowing funds from all customers other than immediate family members.

15. Ameriprise customers GM and SM were not members of Selewach's immediate family.
16. Nevertheless, between December 2005 and February 2006, Selewach borrowed approximately \$55,000 from GM and SM, who were his customers at the time.
17. Selewach has not repaid GM and SM the approximately \$55,000 he borrowed from them.
18. By virtue of this conduct, Selewach borrowed money from customers in violation of NASD Conduct Rules 2370 and 2110.

THIRD CAUSE OF ACTION

BORROWING FROM CUSTOMER EP VIOLATION OF NASD CONDUCT RULES 2370 AND 2110

19. The Department realleges and incorporates by reference paragraphs 1 through 18 above.
20. Ameriprise customer EP was not a member of Selewach's immediate family.
21. Nevertheless, during October and November 2004, Selewach borrowed approximately \$55,000 from EP, who was his customer at the time.
22. By virtue of this conduct, Selewach borrowed money from a customer in violation of NASD Conduct Rules 2370 and 2110.

FOURTH CAUSE OF ACTION

BORROWING FROM CUSTOMER JF VIOLATION OF NASD CONDUCT RULES 2370 AND 2110

23. The Department realleges and incorporates by reference paragraphs 1 through 22 above.
24. Ameriprise customer JF was not a member of Selewach's immediate family.
25. Nevertheless, on or about February 17, 2005, Selewach borrowed approximately \$48,500 from JF, who was his customer at the time.
26. Selewach has only repaid JF \$23,924.38 of the \$48,500 Selewach borrowed from him.

27. By virtue of this conduct, Selewach borrowed money from a customer in violation of NASD Conduct Rules 2370 and 2110.

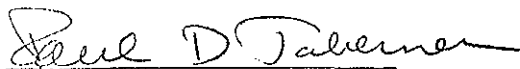
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), 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, be imposed.
- B. order that the Respondent bear such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

NASD DEPARTMENT OF ENFORCEMENT

Date: March 12, 2007



Paul D. Taberner, Regional Counsel
John M. D'Amico, Regional Chief Counsel
NASD Department of Enforcement
99 High Street, 9th Floor
Boston, MA 02110
Tel: (617) 532-3425; Fax: (202) 721-8322

NASD District Director

Frederick F. McDonald, Jr.
NASD, District 11
99 High Street, Suite 900
Boston, MA 02110
(617) 532-3400; Fax: (617) 451-3524

Of Counsel

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

Mark P. Dauer, Of Counsel
NASD Department of Enforcement
1100 Poydras Street
Energy Centre, Suite 850
New Orleans, LA 70163
(504) 522-6527; Fax: (504) 522-4077