

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**THOMAS C. HELBIG
(CRD No. 1039534),**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2006005528601**

COMPLAINT

The Department of Enforcement alleges:

1. Respondent Thomas C. Helbig first became registered with FINRA (f/k/a National Association of Securities Dealers or NASD) in about April 1982. On about February 13, 2006, Helbig became registered with FINRA as a General Securities Representative of PlanMember Securities Corporation (PMSC). He remained registered through PMSC until about June 8, 2006 when PMSC filed a Form U5 with NASD terminating Helbig's association with the firm as of that date. From about August 1, 2006 to about May 18, 2007, Helbig was registered as a General Securities Representative of Fortune Financial Services, Inc. (FFS). He has not been associated with any FINRA member since about May 18, 2007.
2. FINRA retains jurisdiction over Helbig for purposes of this Complaint pursuant to Article V, Section 4, of FINRA's By-Laws, in that: the misconduct alleged in the First Cause of Action occurred while Helbig was associated with PMSC; the

violations of NASD Procedural Rule 8210 alleged in the Second Cause of Action occurred either while Helbig was associated with FFS or within two years after FFS filed a Form U5 terminating Helbig's registration; and, this Complaint was filed within two years after FFS filed a Form U5 terminating Helbig's registration.

SUMMARY

3. While associated with PMSC, Helbig misused funds belonging to customer KM by causing, without authorization, \$10,000 to be transferred from an annuity the customer owned to a bank account Helbig owned. Helbig commingled KM's funds with his personal funds. In addition, Helbig failed to respond fully to letters requesting information and documents that FINRA's staff sent him and failed to appear to testify.

FIRST CAUSE OF ACTION

Misuse of a Customer's Funds Accomplished by an Unauthorized Transfer (NASD Conduct Rules 2330(a) and 2110 and IM-2310-2)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.
5. On about May 26, 2006, while registered with PMSC, Helbig filled out an Annuity Withdrawal Request Form (Request Form) requesting a partial surrender of \$10,000 from a variable annuity (Contract No. [REDACTED] owned by KM, a customer of Helbig's, and then submitted the form to the company that had issued

the annuity (Issuer).¹ The Request Form instructed the Issuer to transmit the \$10,000 withdrawn from KM's annuity to a bank account in the name of "Thomas Helbig & Company" (Helbig Account). Helbig owned that bank account. The Request Form that Helbig submitted to the Issuer reflected the account number for the Helbig Account and the "Transit/ABA" routing number for the bank. On or about May 31, 2006, the Issuer transmitted \$10,000 from KM's annuity to the Helbig Account.

6. Helbig acted without KM's knowledge or authorization in submitting the Request Form and causing \$10,000 to be withdrawn from KM's variable annuity and transferred to the Helbig Account.
7. From on or about May 31, 2006 through June 8, 2006, when his employment at PMSC ended, Helbig held the \$10,000 which belonged to KM in the Helbig Account, commingling the funds with his personal funds.²
8. Based on the foregoing, Helbig violated NASD Conduct Rules 2330(a) and 2110 and IM-2310-2.

SECOND CAUSE OF ACTION

Failure to Respond Fully to Requests for Information and Failure to Appear for Testimony (NASD Procedural Rule 8210 and Conduct Rule 2110)

9. The Department realleges and incorporates by reference paragraphs 1 through 8 above.

¹ The company that issued the annuity is not a FINRA member and was not a member at the times relevant to this Complaint.

² Helbig transferred the \$10,000 back to the Issuer to be re-deposited to KM's annuity on June 9, the day after his association with PMSC ended.

10. In early March 2007, pursuant to a complaint received from Helbig customers MG and AG (husband and wife), FINRA commenced an investigation to determine if Helbig had transferred approximately \$47,000 from an annuity MG owned to a bank account he (Helbig) owned without authorization. On about April 9, 2007, Helbig sent FINRA staff a letter in which he stated that, with respect to the funds transferred from MG's annuity to the bank account he owned, "The proceeds were payment of fees for services provided to and approved by [MG] prior to processing."
11. By a letter dated April 18, 2007, FINRA staff requested, pursuant to NASD Procedural Rule 8210 (Rule 8210), information and documents from Helbig concerning the transfers of funds from MG's annuity to the bank account he owned. Among other things, the staff requested copies of Helbig's federal tax returns and schedules filed with the returns for 2003 through 2006, copies of bank statements for a specified period and a detailed accounting of the fees that were paid with the funds transferred to his bank account including how the fees were calculated. The letter requested a response by April 26, 2007 and it warned Helbig that failure to comply with the request could subject him to disciplinary action. The letter was sent by first class and certified mail to the residential address shown for Helbig in Web CRD. The envelope sent by first class mail was not returned to the District Office. The staff did not receive a return receipt card for the envelope sent by certified mail, nor was the envelope returned to the District Office. Helbig did not respond to the letter by April 26.

12. By a letter dated April 30, 2007, FINRA staff again requested, pursuant to Rule 8210, the information and documents that were requested in the April 18 letter. The letter requested a response by May 10, 2007 and it warned Helbig that failure to comply with the request could subject him to possible disciplinary action. The letter was sent by first class and certified mail to the residential address shown for Helbig in Web CRD. The envelope sent by first class mail was not returned. The staff received a signed return receipt card for the envelope sent by certified mail. The name "Chris Helbig" was printed on the card above the signature.
13. FINRA staff received a letter from Helbig dated May 10, 2007 in response to the request letters dated April 18 and April 30 (Helbig's Web CRD residential address appeared below his signature on the letter). Helbig provided FINRA staff copies of certain documents but he did *not* provide copies of his federal tax returns for 2003 through 2006 or copies of the requested bank statements. Moreover, Helbig did *not* provide FINRA staff all of the information it had requested, including but not limited to an accounting of fees that MG purportedly had paid him with the respective withdrawals from her annuity.
14. By a letter dated July 6, 2007, FINRA staff required Helbig, pursuant to Rule 8210, to appear in the Philadelphia District Office on July 20, 2007 to testify under oath in connection with its investigation. The letter also required Helbig, pursuant to Rule 8210, to produce when he appeared copies of specified documents including, among other things, his federal tax returns for 2003 through 2006 and bank statements for a specified period. The letter warned Helbig that failure to comply with the request could subject him to disciplinary action. The

letter was sent by first class and certified mail to the residential address shown for Helbig in Web CRD. The envelope sent by first class mail was not returned. To the date of this Complaint, the envelope sent by certified mail has not been returned, nor has a return receipt card been received. Helbig did not appear in Philadelphia as required on July 20, 2007 and he failed to provide FINRA staff copies of any documents requested in the letter dated July 6, 2007.

15. FINRA staff has no knowledge of a residential address for Helbig that is more current than the address to which the letters set forth above were sent and has no knowledge of a current business address for Helbig.
16. To the date of this Complaint, Helbig has not provided FINRA staff copies of any of the documents requested in the letter dated July 6, 2007. In addition, to the date of this Complaint Helbig has neither appeared to testify nor contacted FINRA staff to arrange a date to testify.
17. Based on the foregoing, Helbig violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

RELIEF REQUESTED

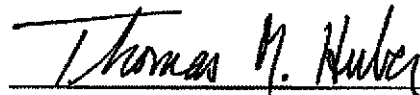
WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed.

- B. order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: October 2, 2007



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