

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DELBERT FOSTER BLOUNT, III
(CRD No. 2991522),

Respondent.

Disciplinary Proceeding
No. 2006007525401

Hearing Officer – LBB

DEFAULT DECISION

July 9, 2008

For Respondent's conversion of customer funds in violation of Conduct Rules 2330(a) and 2110, Respondent is barred from associating with any FINRA member in any capacity. For misrepresentations in violation of Conduct Rule 2110, Respondent is also barred. Respondent is also barred for failure to provide requested information, in violation of Procedural Rule 8210 and Conduct Rule 2110.

Appearances

William Brice La Hue, Esq., Senior Regional Counsel, FINRA, Atlanta, for the
Department of Enforcement.

No appearance by or for Respondent.

DECISION

On January 16, 2008, the Department of Enforcement filed the Complaint in this proceeding, alleging that Respondent Delbert Foster Blount, III ("Respondent"), violated NASD Conduct Rules 2330(a) and 2110 when he deposited customer funds into a bank account that he created and controlled; violated Section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. §78j(b)), Rule 10b-5 thereunder (17 C.F.R. § 240.10b-5), and NASD Conduct Rules 2120 and 2110 by misrepresenting material facts in the purchase or sale of securities by providing false

information concerning the status of their accounts; and violated Procedural Rule 8210 and Conduct Rule 2110 by failing to respond to FINRA staff requests for information. Respondent did not file an Answer to the Complaint or to a Second Notice of Complaint. Enforcement filed a Motion for Entry of Default Decision on May 19, 2008, to which Respondent did not respond. Accordingly, pursuant to Procedural Rules 9215(f) and 9269, the allegations in the Complaint will be deemed admitted and Enforcement's motion will be granted.¹

I. Respondent's Default

Enforcement sent the Complaint to Respondent on January 16, 2008, to Respondent's most current residential address as listed in the Central Registration Depository ("CRD address") by first-class regular and certified mail. The Complaint was returned showing another address. Enforcement sent the Complaint and Notice of Complaint to Respondent on February 21, 2008, by first-class regular and certified mail to the CRD address and to the additional address. Respondent did not file an Answer or otherwise respond to the Complaint. On March 24, 2008, Enforcement sent a Second Notice of Complaint to Respondent at his CRD address and the additional address, by first-class regular and certified mail. Respondent has not responded to the Complaint.

Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with Procedural Rule 9134, giving him constructive notice of this proceeding. By failing to respond, he defaulted.

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the additional materials filed by Enforcement with its motion.

II. Jurisdiction

Respondent entered the securities industry in 1998, when he became registered as a general securities representative. Respondent was employed by Ameriprise Financial Services, Inc., from February 1998 until January 2007.

The Complaint charges Respondent with violations that occurred while he was with Ameriprise, and with failure to respond to requests for information within two years of the termination of Respondent's employment with Ameriprise. While Respondent is not currently registered with a FINRA member firm, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

III. Violations

The investigation of this matter originated when Ameriprise filed a Form U5 on Respondent's behalf, stating that Respondent had been terminated by Ameriprise for accepting checks from customers payable to Ameriprise, but deposited them into his personal bank account. As a result of the investigation, Enforcement filed its Complaint, asserting the three causes of action discussed below.

A. Conversion

The First Cause of Action alleges that Respondent violated NASD Conduct Rules 2330(a) and 2110 by depositing customer funds that were intended for investment into a personal bank account that he created under the name of "Foster Blount, d/b/a Ameriprise Financial." Respondent directed at least six customers who believed they were investing their funds with Ameriprise to make their checks payable to Ameriprise, but deposited the funds into his personal bank account. Respondent used the funds for his own benefit.

FINRA's Sanction Guidelines define conversion as "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." *FINRA Sanction Guidelines* (2007) at 38 ("Sanction Guidelines"). By depositing his customers' funds into his personal bank account and using the funds for his own benefit, Respondent converted customer funds.

Rule 2330(a) provides that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds." Rule 2110 requires members and persons associated with members to "observe high standards of commercial honor and just and equitable principles of trade." The misuse of customer funds in violation of Rule 2330(a) also violates Rule 2110. *Dep't of Enforcement v. Thomas*, No. C10030082, 2004 NASD Discip. LEXIS 49, at *6 n.10 (O.H.O. June 30, 2004); *Dep't of Enforcement v. Patel*, No. C02990052, 2001 NASD Discip. LEXIS 42, at *24-25 (N.A.C. May 23, 2001) (affirming the decision of a Hearing Panel barring a representative for misuse of customer funds by depositing customer funds into his own account rather than investing them as directed by the customers). "An associated person makes improper use of customer funds where he or she fails to apply the funds (or uses them for some purpose other than) as directed by the customer." *Id.* Respondent misused his customers' funds when he deposited their investment money into his personal bank account.

The allegations of the Complaint, which are deemed admitted, are sufficient for purposes of this default decision, to establish that Respondent converted and misused customer funds in violation of NASD Conduct Rules 2330(a) and 2110.

B. Respondent Furthered His Scheme to Convert Customer Funds by Misrepresentations

The Complaint's Second Cause of Action alleges that Respondent obtained login and password information for and thus online access to the Ameriprise accounts of customers who

were victims of his conversion scheme. Respondent then created fictitious investments in the customers' accounts with the intent to mislead customers into believing that their funds had been invested as they had directed rather than deposited into his personal bank account. When questioned by four of his customers concerning the status of their investments, Respondent directed them to the falsified online account statements or provided them with copies of their online account statements.

It is well established that misrepresentations to customers "are inconsistent with just and equitable principles of trade and violate NASD Conduct Rule 2110" even if they do not satisfy all of the technical requirements for a violation of Section 10(b) of the Securities Exchange Act, Rule 10b-5 thereunder, and Conduct Rule 2120. *Dane S. Faber*, 2004 SEC LEXIS 277, at *14, 18. "[C]reating a document that misrepresents the true state of a customer's account 'is the antithesis of a registered representative's [duty to uphold] high standards of commercial honor.'" *Dep't of Enforcement v. Dunbar*, No. C07050050, slip opinion, at 7 (N.A.C. May 20, 2008) (citations omitted). Respondent's misrepresentations to customers that their funds had been invested with Ameriprise in securities, violated Rule 2110. *See Id.* at 7-9; *see also Joseph Abbondante*, Exchange Act Rel. No. 53066, 2006 SEC LEXIS 23, at *48-49 (2006), *petition denied*, 209 Fed. Appx. 6 (2nd Cir. 2006) (unpublished).²

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that by misrepresenting the existence of trades of securities, and creating false account information in furtherance of his fraudulent acts, Respondent violated NASD Conduct Rule 2110.

² Because Respondent's misrepresentations clearly violated Conduct Rule 2110, it is not necessary to decide whether his actions also violated Section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. §78j(b)), Rule 10b-5 thereunder (17 C.F.R. § 240.10b-5), and NASD Conduct Rule 2120.

C. Failure to Respond to Requests for Information

NASD Procedural Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information related to any matter under its investigation. The third cause of the Complaint alleges that on February 26, 2007, FINRA staff sent Respondent a request for information pursuant to Rule 8210, by first-class mail to his CRD address, requesting a written statement and documents relating to the allegations contained in the Form U5. Respondent did not respond. By letter dated March 16, 2007, sent by first-class regular and certified mail, FINRA staff again requested documents and information concerning the allegations set forth in the Form U5, and Respondent again failed to respond. Because the requests were sent to his CRD address, Respondent is deemed to have received them.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110. A violation of Rule 8210 is also a violation of Rule 2110. *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

IV. Sanctions

The Sanction Guidelines ("Guidelines") recommend the consideration of a bar as the sanction for the improper use of customer funds unless the improper use resulted from a respondent's misunderstanding of his customer's intended use of the funds or other mitigation exists. *Sanction Guidelines* at 38 (2007). There is no evidence of any mitigating factors that would make a sanction of anything less than a bar appropriate. Respondent converted a large amount of money from several customers, then concealed his theft by misrepresentations.

Accordingly, Respondent is barred for conversion of customer funds in violation of Rules 2330(a) and 2110.³

For intentional or reckless misrepresentations of material facts, the Sanction Guidelines recommend a fine of \$10,000 to \$100,000 for misrepresentations of material facts. *Sanction Guidelines* at 93. The Guidelines also recommend a suspension of ten days to two years, or, in egregious cases, a bar. The misrepresentations were in furtherance of a scheme to convert customers' funds, enabling Respondent to conceal his theft of a substantial amount of money from several customers. *See Dunbar, supra*, at 14-15. The misrepresentations were egregious, and a bar is the appropriate sanction.

For failing to respond to requests for information, the Guidelines recommend a bar. *Sanction Guidelines* at 35. There is no evidence of any mitigating facts that would support a lesser sanction. There are, however, aggravating factors. The information sought was clearly important to determine the nature of Respondent's conduct with respect to obtaining customer funds, depositing them into his personal account, and creating false account information. A bar is the appropriate sanction for Respondent's failure to respond to requests for information in violation of Procedural Rule 8210 and Conduct Rule 2110.

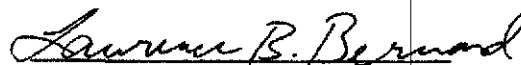
V. Conclusion

Respondent Delbert Foster Blount, III, is barred from associating with any FINRA member in any capacity for conversion of customer funds in violation of NASD Conduct Rules 2330(a) and 2110. For misrepresentation in violation of NASD Conduct Rule 2110, Respondent is also barred. Respondent is also barred for failure to provide requested information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110.

³ Because Ameriprise repaid Respondent's customers, the Department of Enforcement is not seeking restitution.

The bars will be effective immediately if this decision becomes FINRA's final disciplinary action.

SO ORDERED.

A handwritten signature in cursive script, reading "Lawrence B. Bernard".

Lawrence B. Bernard
Hearing Officer

Copies to: Delbert Foster Blount, III (*via overnight courier and first-class mail*)
William Brice La Hue, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic and first-class mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DELBERT FOSTER BLOUNT, III
CRD NO. 2991522,

Respondent.

Disciplinary Proceeding
No. 2006007525401

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT

1. Delbert Foster Blount ("Blount") was registered with Ameriprise Financial Services, Inc. ("Ameriprise"), a member of FINRA (f/k/a NASD), as a General Securities Representative from February 1998 until January 29, 2007. Blount is not currently registered with a FINRA member. However, Blount remains subject to the jurisdiction of FINRA, pursuant to Article V, Section 4 of FINRA's By-Laws.

SUMMARY

2. Blount failed to follow directions from six customers regarding the investment of their funds, and instead, engaged in a scheme to convert funds in an aggregate amount of \$317,825.61 by depositing customer checks into a bank account he controlled. In effecting his scheme, he provided the customers with false account statements, both online and in print, showing overstated values, and created false entries in Ameriprise's online account system showing assets that did not exist. Finally, Blount failed to respond to requests, issued pursuant to NASD Procedural Rule 8210, for information made by FINRA staff in connection with its investigation of his conversion of customer funds.

FIRST CAUSE OF ACTION

Violation of NASD Conduct Rules 2110 and 2330(a)

(Conversion of Customers' Funds)

3. The Department re-alleges and incorporates by reference paragraphs 1 and 2 above.
4. Respondent Blount opened a personal bank account as Foster Blount, d/b/a Ameriprise Financial, with First Tennessee Bank.
5. Once Blount established the personal bank account, he directed certain customers to make their investment checks payable to Ameriprise, but then deposited the checks into his personal bank account at the First Tennessee Bank.

Customer E.J.

6. In or about November 2004, Blount accepted a check from customer E.J. in the amount of \$110,000, to be invested in various equities, bonds and mutual funds. However, Blount did not invest customer E.J.'s funds in the various equities, bonds and mutual funds as directed. Instead, Blount deposited E.J.'s check into his personal bank account at First Tennessee Bank.

Customer C.G.

7. On or about January 28, 2003, Blount accepted a check from customer C.G. in the amount of \$30,000, to be invested in a "Dogs of the Dow" equity investment program. However, Blount did not invest customer C.G.'s funds as directed. Instead, Blount deposited C.G.'s check into his personal bank account at First Tennessee Bank.

Customer L.S.

8. On or about June 24, 2003, Blount accepted a check from customer L.S. in the amount of \$5,924.20, to be invested in her Ameriprise account. On or about June 25, 2003, Blount accepted another check from L.S. in the amount of \$6,541.75, also to be invested in her Ameriprise account. Then, on or about August 25, 2003, Blount accepted a check from L.S. in the amount of \$1,755.59, again to be invested in her Ameriprise account.

9. However, Blount did not invest customer L.S.' funds in her Ameriprise account. Instead, Blount deposited L.S.' checks into his personal bank account at First Tennessee Bank.

Customer L.W.

10. On or about July 19, 2002, Blount accepted a check from the Vanguard Fiduciary Trust Company on behalf of customer L.W., in the amount of \$36,678.96. L.W.'s funds were intended to be invested in his Ameriprise account. However, Blount did not invest customer L.W.'s funds as directed. Instead, Blount deposited L.W.'s Vanguard check into his personal bank account at First Tennessee Bank.

Customer G.S.

11. On or about June 13, 2003, Blount accepted a check from customer G.S. in the amount of \$64,000, to be invested in certain equity securities. Also, on or about December 22, 2003, Blount accepted a check from customer G.S. in the amount of \$12,000, to be invested in his Ameriprise account. However, Blount did not invest customer G.S.' funds in equities securities and/or in his Ameriprise account. Instead, Blount deposited G.S.' checks into his personal bank account at First Tennessee Bank.

Customer S.B.

12. On or about May 1, 2001, Blount accepted a check from customer S.B. in the amount of \$52,446.11, to be invested in her Ameriprise account. Additionally, in or about May 2001, Blount accepted a check from customer S.B. in the amount of \$5,000, to be invested in her Ameriprise account.
13. However, Blount did not invest customer S.B.'s funds, which she provided in May 2001, in her account at Ameriprise. Instead, Blount deposited S.B.'s checks in his personal bank account at First Tennessee Bank.
14. On or about April 10, 2003, Blount accepted a check from customer S.B. in the amount of \$10,500, which S.B. intended to be invested in her Ameriprise account. Subsequently, on or about June 11, 2003, Blount accepted another check from customer S.B. in the amount of \$979, also to be invested in her Ameriprise account.

15. However, Respondent Blount did not invest customer S.B.'s money in her account at Ameriprise.

Instead, Respondent Blount deposited S.B.'s checks into his personal bank account at First Tennessee Bank.

16. Customers E.J., C.G., L.S., L.W., G.S., and S.B. each had accounts with Ameriprise.

17. Respondent Blount converted the funds of customers E.J., C.G., L.S., L.W., G.S., and S.B., in that he failed to deposit their funds in their Ameriprise accounts and purchase investments as directed.

Instead, he deposited the customers' funds into his personal bank account at First Tennessee Bank, without their knowledge, authorization, or consent.

18. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 2330(a) by Respondent Blount.

SECOND CAUSE OF ACTION

Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and NASD

Conduct Rules 2110 and 2120

(Misrepresentations of Material Facts)

19. The Department re-alleges and incorporates by reference paragraphs 1 through 18 above.

20. Respondent Blount obtained customer login and password information from customers C.G., L.S., L.W. and G.S. for online access to their Ameriprise accounts. The Ameriprise online system allowed customers to add outside holdings to their online accounts.

21. Respondent Blount then logged into the customers' accounts and entered false positions and fictitious account values.

22. When questioned by customers C.G., L.S., L.W. and G.S. regarding their investments, Blount directed them to their online account statements or provided them with a copy of their online account statements.

23. These online account statements contained the false investment positions and fictitious account values that Blount created to falsely represent that he had purchased securities as directed in order to effect his scheme to convert the customers' funds.

Customer C.G.

24. On or about October 27, 2004, Blount provided customer C.G. with a printout of an online portfolio from Ameriprise (f/n/a American Express Financial Advisers, Inc.) consisting of five large capitalization equity positions with a combined listed value of over \$32,000.
25. In fact, Blount had never purchased these positions and, instead, had deposited C.G.'s funds into his personal bank account.

Customer L.S.

26. Blount directed customer L.S. to her online portfolio which indicated that her net worth included a position in PIMCO Total Return Class A shares with a value of over \$18,000. This position had been updated by Blount on October 21, 2006.
27. In fact, Blount had not purchased a position with PIMCO mutual funds for Customer L.S. and, instead, had deposited L.S.' funds into his personal bank account.

Customer L.W.

28. On or about October 20, 2005, Blount provided customer L.W. with a printout of an online portfolio from Ameriprise consisting of 11 different mutual fund positions and an aggregate value of over \$54,000.
29. On or about November 6, 2006, Blount provided customer L.W. with a printout of an online portfolio from Ameriprise consisting of the same 11 mutual fund positions and showing an aggregate value of over \$58,000.
30. In fact, Blount had never purchased these mutual fund positions and, instead, had deposited the funds into his personal bank account.

Customer G.S.

31. Blount provided customer G.S. with a printout showing a portfolio of five equity positions with an aggregate value of over \$200,000. In 2006, he provided G.S. with a copy of a "Personal Financial Services Report Package." This report listed his Ameriprise accounts as well as a portfolio listing created by Blount with an aggregate value of almost \$225,000, based upon positions in six equities and a municipal bond fund.
32. In fact, Blount had never purchased these positions and, instead, had deposited the funds into his personal bank account.

Materiality and Scienter

33. The false entries in the customers' online accounts showing fictitious assets and false account values were material facts.
34. Blount acted with scienter in connection with customers' C.G., L.S., L.W. and G.S. securities accounts, in that he knowingly converted their funds, falsified portfolio positions to mask the conversions and provided customers with false account values.

Violations

35. Blount, by engaging in the scheme referenced in paragraphs 1 through 34, above, with scienter, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce, or of the mails: 1) employed devices schemes or artifices to defraud; 2) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or 3) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers or prospective purchasers in violation of Section 10(b) of the Securities and Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 promulgated thereunder.
36. Such acts, practices and conduct constitute separate and distinct violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and Conduct Rules 2110 and 2120 by Respondent Blount.

THIRD CAUSE OF ACTION

Violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210

(Failure to Respond to Requests for Information)

37. The Department re-alleges and incorporates by reference paragraphs 1 through 36 above.
38. In January 2007, the FINRA Atlanta District office received a Uniform Notice of Termination for Securities Industry Registration ("Form U5") filed by Ameriprise on behalf of Respondent Blount. The Form U5 alleged that Blount had accepted cash from customers for investment purposes and failed to fund the customers' investments as instructed by the customers. The FINRA Atlanta District office initiated an investigation into the allegations described on the Form U5.
39. By letter dated February 26, 2007, sent via first class mail to Blount at his CRD address of [REDACTED] [REDACTED] Blount was requested, pursuant to Procedural Rule 8210, to provide a written statement to FINRA and certain specifically enumerated documents, no later than March 12, 2007.
40. The February 26, 2007 letter, sent by first class mail was not returned. Blount failed to provide the requested written statement by March 12, 2007.
41. Consequently, Blount was again requested by letter dated March 16, 2007, sent to his CRD address via both certified and first class mail, pursuant to Procedural Rule 8210, to provide the information requested in the February 26, 2007 letter. Blount's response was due no later than March 30, 2007.
42. The March 16, 2007 letter, sent by first class mail was not returned. However, the certified letter was returned to the FINRA Atlanta District office indicating it was "unclaimed."
43. Blount failed to respond by March 30, 2007, and, as of the date hereon, has not responded.
44. Such acts, practices and conduct constitute separate and distinct violations of NASD Procedural Rule 8210 and Conduct Rule 2110 by Respondent Blount.

RELIEF REQUESTED

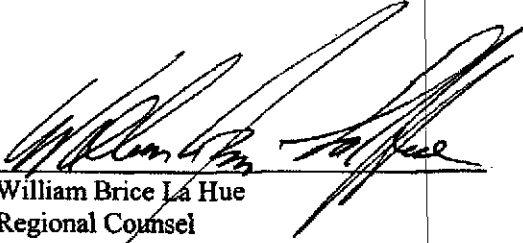
WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under NASD Rule 8310(a) 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.

FINRA DEPARTMENT OF ENFORCEMENT

Date:

2/21/08



William Brice La Hue
Regional Counsel
FINRA Department of Enforcement
One Securities Centre, Suit 500
3490 Piedmont Road, N.E.
Atlanta, Georgia 30305
Phone: (404) 239-6111; Fax: (404) 264-1586
E-Mail: brice.lahue@finra.org

Andrew A. Favret, Assoc. VP/Regional Chief
Counsel
FINRA Department of Enforcement
FINRA New Orleans District Office
1100 Poydras Street
Energy Centre, Suite 850
New Orleans, LA 70163
(504) 522-6527; Fax: (504) 522-4077
E-Mail: Andrew.favret@finra.org

Of Counsel

Rory C. Flynn

Vice President & Chief Litigation Counsel

FINRA Department of Enforcement

1801 K Street, N.W., Suite 800

Washington, D.C. 20006

(202) 974-2974; Fax: (202) 721-8318

E-Mail: rory.flynn@finra.org

Mark P. Dauer

Deputy Chief Litigation Counsel – Regions

FINRA Department of Enforcement

1100 Poydras Street

Energy Centre, Suite 850

New Orleans, LA 70163

(504) 522-6527; Fax: (504) 522-4077

E-Mail: mark.dauer@finra.org