

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KEVIN L. MATHIS (CRD No. 2858756),

Respondent.

DISCIPLINARY PROCEEDING
No. 2007008650301

HEARING OFFICER: ANDREW H. PERKINS

**ORDER ACCEPTING OFFER OF
SETTLEMENT BY KEVIN L. MATHIS**

INTRODUCTION

Disciplinary Proceeding No. 2007008650301 was filed on April 18, 2008, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA"). Respondent Kevin L. Mathis submitted an Offer of Settlement ("Offer") to Complainant on June 23, 2008. Pursuant to NASD Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to NASD Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of

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Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Mathis was employed in the securities industry from February 1997 until April 2007. He had been registered as a general securities representative since 1999 and as a general securities principal since 2001. He was employed by Investment Professionals, Inc. (IPI) from January 2002 until April 2007, working as the sole registered representative at a bank branch location of IPI. FINRA retains jurisdiction over Mathis pursuant to Article V, Section 4(a)(i) of FINRA's By-Laws, because the Complaint was filed within two years after the effective date of termination of Respondent's registration and is based upon conduct that commenced prior to the termination of his registration.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

Conversion of Customer Funds

DF was a customer of IPI from December 1993 until her death in September 1994. At the time of DF's death, her account held two mutual funds and a cash balance. IPI was not notified of her death, and her account remained open and continued to accrue dividends and interest as well as gains from appreciation in the value of mutual funds held in the account. Following the death of the registered representative assigned to the account, the DF account was reassigned to Mathis in or about February 2006. By September 2006, the value of the mutual funds and cash balance in the account was more than \$146,000.

In early October 2006, Mathis submitted a change of address request for the DF account, bearing a purported signature of DF, designating a post office box as the mailing address for the account. The legal address designated for the account on the change of address form was the address of the bank branch at which Mathis worked. Shortly thereafter, Mathis obtained check writing privileges and a debit card for use in connection with DF's account by submitting an application which bore a forged signature for DF. Mathis signed the application as the registered representative.

Between October 31, 2006 and March 15, 2007, Mathis withdrew \$41,000 from DF's account by submitting check requests to IPI and depositing four of the checks into his own bank account. He falsely represented in each check request that the client had requested the issuance of the checks. The first check, made out to a mutual fund company for \$8,000, was used to pay for an investment in a mutual fund in the name of another customer of Mathis. This customer had previously written a check for the same amount to Mathis, at Mathis's direction, to invest in the mutual fund. The second check, made out to DF for \$3,000, was never cashed. The remaining four checks, totaling \$30,000, were deposited into Mathis's personal bank account, and bore the forged endorsement of DF along with Mathis's own signature.

Between December 14, 2006 and January 26, 2007, \$22,686 was withdrawn from DF's account through use of the debit card Mathis had obtained, in forty-six separate ATM withdrawals. The debit card was also used to charge \$175.75 at gas stations on six occasions during the same time period.

By the conduct described above, Mathis converted to his own use and misappropriated more than \$60,000 from a customer account.

Unauthorized Trading

Mathis also made six unauthorized trades in DF's account between November 17, 2006 and January 29, 2007:

- On November 17, 2006, Mathis sold 2,135.597 shares of Putnam Fund for Growth for proceeds of \$47,513.
- On November 27, 2006, Mathis bought 2,500 shares of Eaton Vance Tax Managed Diversified Equity Income Fund at a cost of \$50,004. This transaction generated a \$525 commission for Mathis.
- On November 30, 2006, Mathis sold 1,453.488 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$9,996.
- On November 22, 2006, Mathis sold 1,466.276 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$9,996.
- On January 8, 2007, Mathis sold 2,936.858 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$19,996.
- On January 24, 2007, Mathis sold 6,954.832 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$47,011.

Some of the proceeds of these redemptions were taken out of the account as part of the conversion of funds described above.

Mathis did not have the authorization of the customer, her survivors, or anyone else with authority over the DF account to engage in the transactions described above. By engaging in unauthorized transactions in a customer's account, Mathis failed to observe high standards of commercial honor and just and equitable principles of trade, and thereby violated Conduct Rule 2110.

Failure to Testify

On June 11, 2007, FINRA staff sent a letter to Mathis requiring him to appear for testimony on June 26, 2007 pursuant to Procedural Rule 8210. The letter was sent by certified mail and regular first class mail to Mathis's address in the Central Registration Depository (CRD) system. In addition, the letter was sent by certified mail and regular first class mail to a prior address (both with and without an apartment number) identified by the staff. The certified mailings were returned with the notation "Return to Sender. Unclaimed. Unable to Forward." None of the non-certified envelopes were returned as undelivered.

On June 21, 2007, Mathis's counsel sought an extension for testimony until July 5, 2007, which was granted by the staff. On July 5, 2007, Mathis's counsel requested another extension, which was denied because of Mathis's refusal to commit to testifying in the future.

On July 20, 2007, FINRA staff sent a second request for testimony, also pursuant to Procedural Rule 8210, requiring Mathis to testify on August 17, 2007. The letter was sent by certified mail and regular first class mail to Mathis's CRD address as well as to the prior addresses identified by the staff. The certified mailing sent to the CRD address was returned with the notation "Return to Sender. Unclaimed. Unable to Forward." All of the certified mailings and one of the two regular first class mailings sent to the prior address were returned with the notation "Return to Sender. Insufficient Address. Unable to Forward." Neither the first class mailing to the CRD address or the other first class mailing to the prior address were returned as undelivered.

By letter dated July 23, 2007, counsel for Mathis informed the staff that "At this time, Mr. Mathis is unable to come to any meeting in Dallas, Texas for the reason that he can neither afford to travel to Dallas nor will his health permit it at this time." On August 6, 2007, and again on August 8, 2007, Mathis's counsel told the staff that Mathis would not testify. The staff

offered to allow Mathis to testify by telephone, but he refused (through counsel) to do so.

Mathis never appeared for testimony before FINRA staff. By virtue of the foregoing, Mathis violated Procedural Rule 8210, and thereby violated Conduct Rule 2110.

* * *

Based on the foregoing, Respondent Mathis violated Conduct Rules 2110 and 2330(a) and Procedural Rule 8210.

Based upon these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

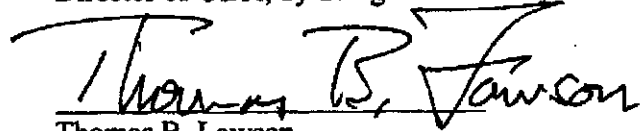
It is ordered that Respondent be barred from association with any FINRA member firm in any capacity. Pursuant to IM-8310-3(e), a bar shall become effective upon approval or acceptance of this Order.

SO ORDERED.

Dated: July 3, 2008

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

A handwritten signature in black ink, appearing to read "Thomas B. Lawson", is written over a horizontal line.

Thomas B. Lawson

Vice President

FINRA Department of Enforcement

1801 K Street, N.W.

Washington, DC 20006

(202) 974-2800

FAX: (202) 974-2805