

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

DEPARTMENT OF ENFORCEMENT,

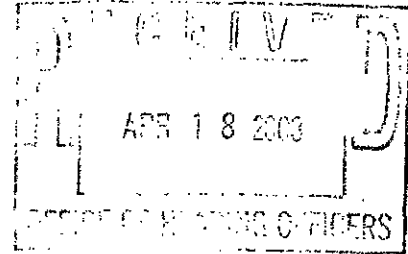
Complainant,

v.

KEVIN L. MATHIS (CRD No. 2858756),

Respondent.

DISCIPLINARY PROCEEDING
No. 2007008650301



COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between October 2006 through March 2007, Respondent Kevin L. Mathis misappropriated more than \$60,000 from the account of a customer of a member firm who has been deceased since 1994. He converted customer funds to his own use by, among other things, submitting false check requests and depositing the proceeds of four check withdrawals into his own bank account. He also obtained a debit card in the name of the customer which was used to take cash out of the customer's account, and engaged in unauthorized transactions in the customer's account. Lastly, Mathis refused to testify in the investigation of the facts leading to this action. By virtue of this conduct, Mathis violated NASD Conduct Rules 2110 and 2330(a), and Procedural Rule 8210.

BACKGROUND AND JURISDICTION

2. 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

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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.

3. FINRA retains jurisdiction over Mathis pursuant to Article V, Section 4(a)(i) of FINRA's By-Laws, because this Complaint is being 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 Respondent's registration.

FIRST CAUSE OF ACTION

Conversion of Customer Funds in Violation of Conduct Rules 2110 and 2330(a)

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. The second check, made out to DF for \$3,000, was never cashed.

11. 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.

12. 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.

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

- a. On November 17, 2006, Mathis sold 2,135.597 shares of Putnam Fund for Growth for proceeds of \$47,513.
- b. 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.

- c. On November 30, 2006, Mathis sold 1,453.488 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$9,996.
- d. On November 22, 2006, Mathis sold 1,466.276 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$9,996.
- e. On January 8, 2007, Mathis sold 2,936.858 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$19,996.
- f. On January 24, 2007, Mathis sold 6,954.832 shares of Alliance Bernstein U.S. Government Bond Fund for proceeds of \$47,011.

14. Some of the proceeds of these redemptions were taken out of the account in the transactions described in paragraphs 8-12 above.

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

16. By making improper use of a customer's securities and funds, Mathis violated Conduct Rule 2330(a), and thereby violated Conduct Rule 2110.

SECOND CAUSE OF ACTION

Unauthorized Trading in Violation of Conduct Rule 2110

17. Paragraphs 1-16 are repeated and realleged herein.

18. 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 in paragraph 13 above.

19. 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.

THIRD CAUSE OF ACTION

Failure to Testify in Violation of Procedural Rule 8210 and Conduct Rule 2110

20. Paragraphs 1-16 are repeated and realleged herein.

21. 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.

22. 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.

23. On June 21, 2007, Mathis's counsel sought an extension for testimony until July 5, 2007, which was granted by the staff.

24. 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.

25. 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.

26. 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.

27. 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."

28. 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.

29. By virtue of the foregoing, Mathis violated Procedural Rule 8210, and thereby violated Conduct Rule 2110.

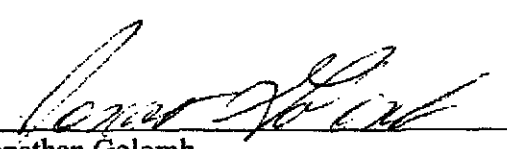
RELIEF REQUESTED

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; and
- 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: April 18, 2008



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