

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

RECEIVED
2009 NOV 19 P 9 10
REGISTRATION & DISCIPLINE

Department of Enforcement,

Complainant,

v.

Ryan Matthew Nestor (CRD No. 4376585),

Respondent.

DISCIPLINARY PROCEEDING
No. 20080125402

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between April 3, 2007 and May 14, 2007, Respondent Ryan Matthew Nestor ("Nestor") converted a total of \$760,000 from two customers (the "customers") by causing the unauthorized wire transfer of funds from the customers' accounts to a third party account at EW Bank. Nestor caused the unauthorized wire transfer of funds from the first customer's account by forging the customer's signature on a wire transfer form. Nestor caused the unauthorized wire transfer of funds from the second customer's account by forging the signature of the trustee for the second customer's account on a wire transfer form. This conduct violated NASD Conduct Rules 2330(a) and 2110.
2. FINRA staff sent Nestor two NASD Procedural Rule 8210 requests for information regarding the unauthorized wire transfers effected in the customers' accounts.

000049324 2009

JURISDICTION

3. Nestor first became registered with the NASD as an Investment Company and Variable Contracts Products Representative ("IR") in January 2003. From on or about January 19, 2006 through February 27, 2008, Nestor was employed as an independent contractor and registered IR with FINRA member MML Investor Services, Inc. ("MMLISI" or the "Firm"). During the same time period, Nestor was also affiliated with Charter Oak Insurance and Financial Services Co. ("Charter Oak"), an insurance company affiliate of MMLISI. Nestor was employed as an independent contractor and IR with MMLISI until his termination on February 27, 2008.

4. Nestor has not been associated with a FINRA regulated broker-dealer since his affiliation with MMLISI was terminated in February 2008. FINRA retains jurisdiction over Nestor pursuant to Article V, Section 4(a) of the By-Laws because the conduct that serves as the basis for this action commenced prior to his termination of registration from a FINRA regulated broker-dealer and this Complaint has been filed within two years after the effective date of Nestor's termination of registration from a FINRA regulated broker-dealer.

FACTS

Conversion - Unauthorized Wire Transfer of Funds from Customer JM's Account

5. On or about April 3, 2007, Nestor caused the unauthorized wire transfer of \$170,000 from customer JM's account at MMLISI to a third party account at EW Bank by signing customer JM's signature to a wire transfer form, without JM's authorization or consent.

6. JM never gave Nestor permission or authority to transfer \$170,000 from her account to a third party account at EW Bank.

7. JM was a 74 year-old widow at the time of the unauthorized wire transfer.

Conversion - Unauthorized Wire Transfer of Funds from the HH Trust Account

8. Between January 2007 through May 2007, GC was the trustee of the HH Irrevocable Life Insurance Trust (the "HH Trust") that was established by HH, on behalf of her two adult children.

9. In May of 2007, HH was an 85 year-old widow.

10. On or about May 14, 2007, Nestor caused the unauthorized wire transfer of \$590,000 from the HH Trust account at MMLISI to a third party account at EW Bank by signing GC's signature to a wire transfer form, without GC's authorization or consent.

11. Trustee GC and HH never gave Nestor permission or authority to transfer \$590,000 from the HH Trust account to a third party account at EW Bank.

Nestor Failed to Provide Information

12. On or about June 13, 2008 and pursuant to NASD Procedural Rule 8210, FINRA staff sent a letter (the "June 13 Letter") to Nestor requesting information regarding his conduct in connection with the unauthorized wire transfers from the accounts of JM and HH Trust. The June 13 Letter required a response by June 30, 2008. In addition, the June 13 Letter warned Nestor that if he did not provide the information he would be subject to disciplinary action. The June 13 Letter was sent by certified mail, return receipt requested, and by first class mail to Nestor's last known home address, as reflected in the FINRA Central Registration Depository ("CRD"): [REDACTED] (the "CRD Address"). The first class copy of the June 13 Letter was not returned to FINRA. The certified copy of the June 13 Letter was returned to FINRA marked "unclaimed". Nestor never responded to the June 13 Letter.

13. On or about July 11, 2008 and pursuant to NASD Procedural Rule 8210, FINRA staff sent a second letter (the "July 11 Letter") to Nestor requesting information regarding his conduct in connection with the unauthorized wire transfers from the accounts of JM and HH Trust. The July 11 Letter required a response by July 31, 2008. In addition, the July 11 Letter warned Nestor that if he did not provide the information he would be subject to disciplinary action. The July 31 Letter was sent by certified mail, return receipt requested, and by first class mail to Nestor's CRD address. The first class copy of the July 11 Letter was not returned to FINRA. The return receipt that was attached to the July 11 Letter was returned to FINRA, but the signature was not legible. Nestor never responded to the July 11 Letter.

FIRST CAUSE OF ACTION

Wrongful Conversion of Customer Funds (NASD Conduct Rules 2330(a) and 2110)

14. The Department realleges and incorporates by reference paragraphs 1 through 13.
15. NASD Rule 2330(a) prohibits members and associated persons from making improper use of customer funds.
16. NASD Rule 2110 requires that members and associated persons observe "high standards of commercial honor and just and equitable principles of trade."
17. Respondent wrongfully converted funds from two customers of his member firm employer.
18. As a result of this conduct, Respondent violated NASD Conduct Rules 2330(a) and 2110.

SECOND CAUSE OF ACTION

Forgery (NASD Conduct Rule 2110)

19. The Department realleges and incorporates by reference Paragraphs 1 through 18.
20. Respondent signed customer JM's name to a wire transfer form without JM's consent or authorization.
21. Respondent signed trustee GC's name to a wire transfer form without GC's consent or authorization.
22. As a result of this conduct, Respondent violated NASD Conduct Rule 2110.

THIRD CAUSE OF ACTION

Failure to Provide Information (NASD Procedural Rule 8210 and Conduct Rule 2110)

23. The Department realleges and incorporates by reference paragraphs 1 through 22.
24. NASD Procedural Rule 8210 requires any person subject to FINRA's jurisdiction to provide information as requested by FINRA staff.
25. Respondent failed to provide information requested by FINRA staff in the June 13 Letter and the July 11 Letter pursuant to NASD Procedural Rule 8210.
26. As a result of this conduct, Respondent 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 FINRA 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:

November 19, 2007

Stephanie Glenn-Palmer

Stephanie Glenn-Palmer

Senior Counsel

FINRA Department of Enforcement

14 Wall Street

New York, New York 10005

Phone: 646-315-7341

Fax: 646-315-7442

Email: Stephanie.Palmer@FINRA.org