

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

V.

Mark McEwen (CRD No. 4613500),

Respondent.

DISCIPLINARY PROCEEDING
No. 20080149406

COMPLAINT

The Department of Enforcement alleges:

1. Respondent Mark McEwen ("Respondent" or "McEwen") first became registered as a limited securities representative (Series 6) and (Series 63) in 2003, at World Group Securities, Inc. ("World Group" or "firm"), in Chesterfield, MO.
2. On September 15, 2008, World Group terminated Respondent McEwen in part for improperly obtaining funds from a customer. Respondent McEwen has not been associated with any FINRA member or registered with FINRA in any capacity since that time.
3. Pursuant to Article V, Section 4 of the NASD By-Laws, FINRA retains jurisdiction over Respondent.

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FIRST CAUSE OF ACTION

CONVERSION OF CUSTOMER'S FUNDS VIOLATION OF NASD

CONDUCT RULES 2330(A) AND 2110

4. The Department realleges and incorporates by reference paragraphs 1-3 above.
5. Customer LL, 78, is a resident of St. Charles, Missouri. She is retired and a widow.
6. LL and her husband opened several Individual Retirement Accounts ("IRAs") and trust accounts with McEwen at World Group in 2004.
7. In 2005, McEwen recommended that LL and her husband sell a variable annuity in order to purchase another one and liquidate Class A mutual funds to purchase yet another variable annuity. LL and her husband followed McEwen's recommendation.
8. As a result of an investigation by the Missouri Securities Division into unsuitable variable annuity sales to the elderly, World Group agreed to a Consent Order to return commissions and other fees paid by LL and her husband for these transactions.
9. Pursuant to this Order, World Group sent LL a check for \$32,528.56 in November 2006.
10. Shortly after LL received the check McEwen falsely informed her that it was sent to her by mistake and actually represented commissions owed to him by the firm. McEwen instructed LL to deposit the check into her bank account and then make a check payable to him in the same amount. LL followed these instructions. McEwen cashed the check supplied by LL in January 2007 and deposited \$32,528.56 into his personal bank account.

11. Additionally, between May 2006 and March 2007, LL wrote five other checks to McEwen for a total amount of \$31,000 in addition to the \$32,528.56 check described in paragraph 10. McEwen deposited these checks into his personal bank account and did not use the money to invest in LL's investment accounts.

12. Of the \$31,000, LL wrote checks made payable to McEwen for \$11,000 to invest in her World Group accounts. However, McEwen deposited these funds in his personal bank account and failed to purchase investments on LL's behalf or otherwise place these funds in her accounts.

13. LL wrote checks payable to McEwen for the remaining portion of the \$31,000, or \$20,000, pursuant to McEwen's suggestion that he could help two of her grandchildren become associated with World Group if she paid certain expenses. However, the amount that McEwen charged LL to pay for registration fees, examination preparation, and related costs, and trips by the grandchildren to firm events greatly exceeded that actual value of these undertakings. Moreover, McEwen separately charged the grandchildren for some of the same costs, such as registration fees.

14. The firm reimbursed LL \$63,528.56 for the monies she provided to McEwen. McEwen did not contribute any money towards the settlement. On September 15, 2008, World Group terminated Respondent McEwen's employment for improperly obtaining funds from LL and for refusing to cooperate with its investigation.

15. By reason of the foregoing, Respondent McEwen violated NASD Conduct Rules 2330(a) and 2110 by misappropriating funds from LL.

SECOND CAUSE OF ACTION

**FAILURE TO APPEAR FOR ON-THE-RECORD INTERVIEW
VIOLATION OF NASD CONDUCT RULE 2110 AND
NASD PROCEDURAL RULE 8210**

16. The Department realleges and incorporates by reference paragraphs 1-15 above.
17. In a letter dated May 19, 2009, sent by certified and United States mail to Respondent McEwen's CRD address, the Department scheduled Respondent McEwen's on-the-record (OTR) testimony pursuant to Rule 8210 for June 18, 2009, in FINRA's Washington, D.C. Enforcement office.
18. The certified letter was returned to Staff as "unclaimed" after three delivery attempts. The copy sent by first class U.S. mail was not returned.
19. Staff left telephone messages for McEwen at his place of employment on June 8, June 15, and June 17, 2009. McEwen did not return any of these messages.
20. Respondent McEwen did not appear at the Washington, D.C. office on June 18, 2009 for his OTR, as requested.
21. The Department sent Respondent McEwen a second Rule 8210 request, dated June 22, 2009, by certified and United States mail pursuant to Rule 8210, scheduling his OTR testimony for July 14, 2009, in FINRA's Washington, D.C. Enforcement office.
22. The certified letter was returned to Staff as "unclaimed" after three delivery attempts. The copy sent by first class U.S. mail was not returned.
23. Respondent McEwen did not appear at the Washington, D.C. office on July 14, 2009 for his OTR, as requested.

24. As Respondent McEwen failed to appear for his OTRs on both June 18, 2009 and July 14, 2009, and no adjournment was requested or granted, he violated NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

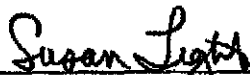
RELIEF REQUESTED

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 NASD Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: 11/4/09


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