

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

Department of Enforcement,

Complainant,

vs.

Shawn P. Casuccio (CRD No. 4193661),

Respondent.

DISCIPLINARY PROCEEDING

No. : 2008015240601

HEARING OFFICER:

RECEIVED
2009 OCT 13 A 7 11
REGISTRATION & DISCLOSURE

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between 2005 and September 2008, Shawn P. Casuccio ("Casuccio") fraudulently induced six customers to invest approximately \$723,000 in fictitious investments. Rather than invest the money, Casuccio deposited the customers' funds in his personal bank account for his own benefit and use. He made payments totaling \$55,800 to two of the six customers, telling them that these payments were either interest earned or other returns on their investments. Casuccio misappropriated the remaining approximately \$667,000. By virtue of this conduct, Casuccio violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, and NASD Conduct Rules 2330, 2120, 2110, and IM-2310-2.

JURISDICTION

2. Casuccio was first registered with FINRA (f/k/a NASD) as a General Securities Representative ("GSR") in May 2000. From June 2003 through September 2006, Casuccio was registered with FINRA as a GSR with The O.N. Equity Sales Company ("Ohio National"). From October 30, 2006 until September 29, 2008, Casuccio

000048286 2009

was registered with FINRA as a GSR with MetLife Securities, Inc. ("MetLife" or the "Firm").

3. Casuccio has not been associated with a FINRA regulated broker-dealer since his termination from MetLife in September 2008. FINRA retains jurisdiction over Casuccio 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 Casuccio's termination of registration from a FINRA regulated broker-dealer.

FACTS COMMON TO THE FIRST AND SECOND CAUSES OF ACTION

Customer J.M.

4. In 2005, Casuccio solicited his 73 year old customer, J.M., to make an investment in "the Chinese stock market." In connection with the recommendation, Casuccio told the customer that the investment was a three-year investment and she would receive returns in the last quarter of 2008, all of which was false. Based on the recommendation, J.M. gave Casuccio \$30,000 to invest. Casuccio instead took the \$30,000 for his personal use.

Customer M.K.

5. Casuccio told his 63 year old customer, M.K, who was invested in several annuities, that he "had a better way" for her to make money. In April 2006, Casuccio recommended that M.K. surrender an annuity, which had a cash value of \$222,623.24, and invest in what she understood to be the Mundell Financial Group, which was the name of the entity under which Casuccio was doing business. After surrendering the annuity, on May 17, 2006, M.K. gave Casuccio a check made payable to Shawn Casuccio for

\$100,000 to invest in Mundell Financial Group. Casuccio did not invest the money on M.K.'s behalf, but instead, deposited M.K.'s check into his personal bank account.

6. In September, October and November 2006, and January 2007, Casuccio sent M.K. checks from his personal bank account for \$750 each. Casuccio told M.K. that the checks he sent were a return on her investment in what she understood to be the Mundell Financial Group.

7. In January 2007, Casuccio recommended that M.K. partially surrender another annuity and invest more money in what she understood to be the Mundell Financial Group. After receiving \$191,290.50 for the partial surrender of the annuity, on February 11, 2007, M.K. gave Casuccio a check for \$180,000 to invest in Mundell Financial Group. Once again, M.K.'s check was made payable to Shawn Casuccio and he deposited it into his personal account.

8. On February 22, 2007, Casuccio began sending M.K. regular monthly checks from his personal account for \$1,750 per month. Casuccio continued sending these monthly checks to M.K. until on or around September 1, 2008.

9. M.K. also gave Casuccio additional money to invest in what she understood to be the Mundell Financial Group. On July 27, 2007, M.K. gave Casuccio a check for \$50,000, payable to Shawn Casuccio, and on March 25, 2008, M.K. gave Casuccio a check for \$4,127, payable to Shawn Casuccio. As with the other funds, Casuccio deposited the checks into his personal bank account. The money was not invested in Mundell Financial Group or any other investment for the benefit of M.K.

10. In total, M.K. gave Casuccio \$334,127 to invest in the Mundell Financial Group. During the period of September 2006 until September 2008, Casuccio returned a

total of \$39,750 to M.K. Casuccio retained \$294,377 of M.K.'s money for his personal use.

Customer K.G.

11. In September 2006, K.G., a 46 year old customer of Casuccio, received approximately \$110,000 from a partial surrender of an annuity, which she had surrendered at Casuccio's recommendation. Casuccio also recommended that K.G. lend \$150,000 to Marshall G. Hibbs ("Hibbs"), who Casuccio claimed was the president of the Silver Pinnacle Group. On September 18, 2006, K.G. gave Casuccio a check for \$150,000, payable to Shawn Casuccio, and signed a loan agreement. Under the loan agreement, in exchange for loaning Hibbs \$150,000 for 120 months, K.G. would receive 9.25% annual interest, paid out in monthly installments of \$1,783.33 per month. At the end of the 120 month period, the agreement provided that K.G.'s principal payment of \$150,000 was to be returned to her.

12. Hibbs was not present when K.G. signed the agreement, nor did K.G. ever meet anyone named Hibbs. A signature in the name of Hibbs was added and dated approximately one week after K.G. executed the agreement. In actuality, Hibbs was a fictitious person and the Silver Pinnacle Group was a fictitious entity, both created by Casuccio.

13. In or around November 2007, Casuccio told K.G. that he had another investment opportunity with the Silver Pinnacle Group, but that she had to act quickly to take advantage of the investment opportunity. Casuccio recommended that K.G. fully surrender her annuity, from which she received \$84,000, and invest \$50,000 in the Silver Pinnacle Group. Casuccio told K.G. that while she waited for her check from the surrender

of the annuity, he would invest \$50,000 of his own money in the Silver Pinnacle Group and that she could pay him back when she got the money. On November 27, 2007, K.G. wrote a check for \$50,000 made payable to Shawn Casuccio, to reimburse him for the purported Silver Pinnacle Group investment.

14. Casuccio used the \$150,000 he received from K.G. in September 2006 for his own personal use. After receiving the additional \$50,000 from K.G. in November 2007, Casuccio began to give K.G. what he told her were interest payments from Hibbs. Beginning in January 2008 and continuing through September 2008, Casuccio wrote K.G. a regular monthly check for \$1,783.33 from his personal bank account. K.G. received a total of \$16,050 from Casuccio. Casuccio kept the rest of K.G.'s \$50,000 for his personal use.

15. In total, Casuccio misappropriated approximately \$183,950 from K.G.

Customer M.O.

16. Between September 2007 and January 2008, Casuccio recommended that his 26 year old customer, M.O., sell her investments in four different mutual funds because the market was unstable. M.O. grossed \$59,518 from the sale of her mutual funds. On October 18, 2007, Casuccio recommended that M.K. invest in mutual funds that he claimed he created through Mundell Financial and MetLife. M.K. wrote him a check for \$28,000, payable to Shawn Casuccio, for this purported mutual fund investment. On February 11, 2008, M.O. gave Casuccio another check for \$28,000, payable to Shawn Casuccio, to invest in the same purported mutual funds. Casuccio, however, did not invest the \$56,000 in mutual funds or any other investment. He instead kept the money for his own personal use.

Customers V.A. and R.A.

17. R.A. and V.A. are two elderly sisters who began investing with Casuccio in or around January 2006. At the time, R.A. was 64 years old, and V.A. was 73 years old and disabled. In April 2008, Casuccio solicited R.A. and V.A. to invest in an entity, "Summit Trading," of which Casuccio said he was the President. Based on his recommendation, R.A. gave Casuccio a check from her and V.A.'s joint account for \$50,000, payable to Shawn Casuccio.

18. In June 2008, Casuccio recommended that V.A. take a partial withdrawal of approximately \$59,000 from one of her annuities and invest the money in Summit Trading. On June 24, 2008, V.A. wrote a check from her and R.A.'s joint checking account for \$53,000, payable to Shawn Casuccio.

19. Casuccio characterized the sisters' investment in Summit Trading as a "loan" that would be repaid with interest. On July 1, 2008, the sisters entered into a "Loan Agreement" with Casuccio, as President of Summit Trading. According to the "Loan Agreement," interest would accumulate at a rate of 7.9% for 36 months. No payments were to be made to R.A. and V.A. until the loan came due on August 1, 2011. On that date, the sisters were to be paid \$28,952 in interest, plus their principal of \$113,000. (The loan agreement referenced the amount of \$113,000 rather than the \$103,000 which R.A. and V.A. actually gave Casuccio).

20. Casuccio did not use the sisters' so-called "loan" of \$103,000 to benefit Summit Trading. Instead, Casuccio misappropriated the sisters' money for his personal use.

FIRST CAUSE OF ACTION

**Fraud in Connection with the Purchase of Securities
Violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5
promulgated thereunder, and NASD Conduct Rules 2120 and 2110**

21. The Department realleges and incorporates Paragraphs 1 through 20 by reference.

22. Casuccio defrauded J.M, M.K. and M.O. by soliciting them to invest in various types of securities, all of which Casuccio knew involved fictitious entities or non-existent securities. J.M., M.K. and M.O. each gave Casuccio substantial sums of money to invest in the recommended schemes.

23. By reason of the foregoing, Casuccio violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, and NASD Conduct Rules 2120 and 2110.

SECOND CAUSE OF ACTION

**Misappropriation of Customers' Funds
Violation of NASD Conduct Rules 2330 and 2110 and IM-2310-2**

24. The Department realleges and incorporates Paragraphs 1 through 23 by reference.

25. Casuccio admits that he made improper use of his customers' funds. Rather than invest his customers' money, Casuccio retained for his personal use a total of approximately \$667,000 from his customers J.M., M.K., K.G., M.O., and R.A. and V.A.

26. By reason of the foregoing, Casuccio violated NASD Rules 2330, 2110 and IM-2310-2.

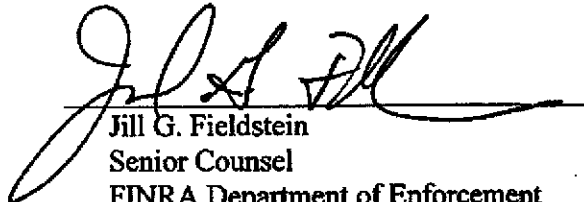
RELIEF REQUESTED

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; and
- B. Order that Casuccio bear such costs of this proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Dated: October 12, 2009



Jill G. Fieldstein
Senior Counsel
FINRA Department of Enforcement
14 Wall Street
New York, New York 10005
(646) 315-7336; (202) 689-3436 (fax)
jill.fieldstein@finra.org

Julie H. Broderick
Director
FINRA Department of Enforcement
14 Wall Street
New York, New York 10005
(646) 315-7313; (202) 689-3414 (fax)
julie.broderick@finra.org