

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Daniel Abbott
(CRD No. 1360876),

Respondent.

DISCIPLINARY PROCEEDING
No. 2008015270701

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Daniel Abbott ("Abbott") used discretion in a customer's account without prior written authorization from the customer or acceptance of the customer's account as discretionary by his employer firm, in violation of NASD Conduct Rules 2510(b) and 2110.

RESPONDENT AND JURISDICTION

2. Abbott first became registered with FINRA on November 23, 1994 as a General Securities Representative with a member firm.
3. At all times relevant to this matter, Abbott was registered as a General Securities Representative with Wachovia Securities, LLC.

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4. Abbott ended his employment at Wachovia in August 2008. Currently, he is registered as a General Securities Representative with another FINRA member firm.

CAUSE OF ACTION

NASD Conduct Rules 2510(b) and 2110–
Exercise of Discretion Without Prior Written Authorization,
Against Daniel Abbott

5. The Department realleges and incorporates by reference paragraphs 1 through 4 above.
6. NASD Conduct Rule 2510(b) states that “[n]o member or registered representative shall exercise any discretionary power in a customer’s account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member, in accordance with Rule 3010.”
7. In the fall of 2007, JD was 85 years old and had served as a missionary in Africa for several years.
8. In preparation for another six-month mission to Africa, JD held a series of meetings with Abbott to discuss the status of his investments. Abbott was aware that JD was planning to leave for Africa on October 20, 2007, and that while JD was in Africa, JD would not be able to communicate with Abbott via telephone or email.
9. As of October 2007, JD held investments in several annuity contracts.
10. At the conclusion of the meetings in the fall of 2007, JD authorized Abbott to liquidate the fixed annuity contract JD had with American International Group (“AIG”).
11. On October 20, 2007, JD left the United States for his mission to Cameroon, Africa.

12. On or about October 29, 2007, Abbott submitted to AIG an annuity withdrawal form signed by JD.
13. On or about November 7, 2007, Abbott received approximately \$262,409.70 in proceeds from the liquidation of JD's AIG annuity.
14. On or about November 13, 2007, Abbott used the proceeds from the annuity liquidation to purchase the following five mutual funds:

Date	Action	Description	Amount
11/13/2007	Purchase	Income Fund of America Class B	\$50,007.50
11/13/2007	Purchase	Putnam Asset Allocation Fund Balanced Portfolio Class B	\$25,007.50
11/13/2007	Purchase	TransAmerica IDEX Asset Allocation Moderate Portfolio Class B	\$50,007.50
11/14/2007	Purchase	Evergreen Equity Trust Asset Allocation Fund Class B	\$50,007.50
11/14/2007	Purchase	ING Diversified International Class B	\$25,007.50

15. On November 13, 2007, Abbott did not communicate at all with JD.
16. Despite knowledge that JD would be in Cameroon, Africa at the time Abbott planned to purchase the five mutual funds, Abbott did not obtain written authorization from JD to exercise discretion and purchase the funds at a future date. In addition, Abbott did not request and Wachovia did not accept JD's account as discretionary.
17. Furthermore, Abbott's use of discretion did not constitute permitted exercise of time and price discretion, because Abbott did not exercise the discretion by the end of the day on which he held the meeting with JD.

18. In fact, after JD returned from Africa he reviewed his accounts in connection with the filing of his tax return, and noticed the mutual fund transactions that Abbott had executed in the account during JD's absence. JD complained to Abbott and Wachovia regarding the unauthorized trading.
19. Such conduct constitutes separate and distinct violations of NASD Conduct Rules 2510(b) and 2110 by Respondent Abbott.

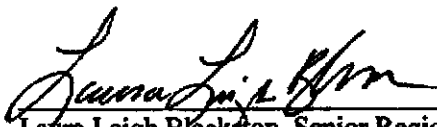
RELIEF REQUESTED

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: September 10, 2010


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