

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

V

**HANSEL CLARENCE LEE
CRD#3259991**

RESPONDENT

**DISCIPLINARY PROCEEDING
No. 20080152807**

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COMPLAINT

The Department of Enforcement ("Enforcement") alleges:

OVERVIEW

1. Respondent Hansel Clarence Lee ("Lee") misused and misappropriated customer funds while working under the auspices of his member firm employer, Banc of America Investment Services, Inc. ("BAIS" or the "Firm").
2. Lee did this by selling without authorization certain securities in customer JA's brokerage account and then taking the proceeds of those sales and depositing them in a checking account opened by Lee in the customer's name, without the customer's consent or knowledge.
3. Lee then requested that a check in the amount of \$500,000 be drawn on the customer's checking account, payable to "Capital Group," a company under Lee's control and ownership. Due to irregularities the check could not be processed.
4. Lee then requested that two checks be drawn on the above referenced customer's checking account for \$220,000 and \$280,000, both payable to "Capital Partners," a company, also under Lee's control and ownership.

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5. Two checks totaling \$500,000 were issued and Lee endorsed them, and deposited them into his own checking account at an outside bank.

6. In addition, Lee failed to cooperate with the Department of Enforcement's investigation in this matter, failing to respond to one request for information in violation of NASD Rules 8210 and 2110 and two other requests for information in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

7. Lee was born on [REDACTED]. He entered the securities industry in June 1999 with Morgan Stanley DW Inc. Lee passed the Series 7 exam in August 1999, the Series 63 exam in October 1999 and the Series 65 exam in January 2007.

8. In January 2002, Lee left Morgan Stanley and began work as a registered representative with ML Stern & Co., LLC. In May 2004, Lee left ML Stern and began working for BAIS as a registered representative. Lee remained there until August 2008.

9. In August 2008, Lee left BAIS and joined Morgan Stanley & Co. Inc. where he remained until September 26, 2008. He was a registered employee during the tenure of his employment at Morgan Stanley.

10. Although Respondent has not been associated with a FINRA member firm since September 26, 2008, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the date upon which he ceased to be associated with a FINRA member and the filing of an amendment to Form U5 and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member and with failing to respond to FINRA requests for information including failing to appear for on-the-record testimony during the two-

year period after the date upon which he ceased to be associated with a FINRA member and the filing of an amendment to Form U5.

FIRST CAUSE OF ACTION

Misappropriation

(NASD Rule 2110)

11. Enforcement re-alleges and incorporates by reference paragraphs 1 through 10 above.

12. In July 2008, a check was drawn on the aforementioned checking account in the amount of \$500,000, payable to "Capital Group," a company under the ownership and control of Respondent.

13. On July, 19, 2008, when the check for \$500,000 could not be processed because of irregularities, Lee requested that two other checks be drawn on JA's checking account.

14. Specifically,

- a. Lee requested that checks in the amount of \$280,000 and \$220,000 be drawn on the account. Both checks were made payable to "Capital Partners," a company under the ownership and control of Lee.
- b. Lee endorsed both of these checks. The checks were then processed and the proceeds were deposited into Lee's Wells Fargo Bank checking account.
- c. Customer JA stated that he has never heard of "Capital Group" or "Capital Partners" and that the signatures appearing on the checks were not his.

15. NASD Rule 2110 requires that members and associated persons observe "high standards of commercial honor and just and equitable principles of trade."

16. Lee engaged in conduct inconsistent with high standards of commercial honor and equitable principles of trade in that while employed by the Firm he improperly used customer funds and misappropriated them for his own purposes.

17. As a result of his conduct, Lee violated NASD Rule 2110.

SECOND CAUSE OF ACTION

Improper Use of Customer Funds

(NASD Rules 2330(a) and 2110)

18. Enforcement re-alleges and incorporates by reference paragraphs 1-17 above.

19. Respondent misused approximately \$500,000 in funds from customer JA by improperly selling treasuries and municipal bonds in JA's account, without JA's knowledge and permission.

20. Respondent then deposited the proceeds in a checking account without the customer's knowledge or permission.

Specifically,

- a. In July 2008, Lee sold approximately \$500,000 in treasuries and municipal bonds in customer JA's brokerage account, without JA's permission.
- b. The proceeds from the sales, approximately \$500,000, were deposited in a checking account in JA's name with the Firm's banking affiliate. Lee set up a checking account in JA's name without JA's permission or knowledge.

21. In July 2008, a check was drawn on the aforementioned checking account in the amount of \$500,000, payable to "Capital Group," a company under the ownership and control of Respondent.

22. On July, 19, 2008, when the check for \$500,000 could not be processed because of irregularities, Lee requested that two other checks be drawn on JA's checking account.

23. Specifically,

- a. Lee requested that checks in the amount of \$280,000 and \$220,000 be drawn on the account. Both checks were made payable to "Capital Partners," a company under the ownership and control of Lee.
- b. Lee endorsed both of these checks. The checks were then processed and the proceeds were deposited into Lee's Wells Fargo Bank checking account.

24. When JA confronted Lee about the sales of the treasuries and bonds, Lee told JA that JA was mistaken and not reading the account statement correctly.

25. Customer JA stated that he has never heard of "Capital Group" or "Capital Partners" and that the signatures appearing on the checks were not his.

26. Lee did not have permission or authority from the customer to sell the securities or use the funds for his own personal purposes.

27. NASD Rule 2330(a) requires that no member or person associated with a member shall make "improper use of a customer's securities or funds."

28. As a result of his conduct, Lee violated NASD Rules 2330(a) and 2110.

THIRD CAUSE OF ACTION

Failure to Cooperate

(NASD Rules 8210 and 2110)

29. Enforcement re-alleges and incorporates by reference paragraphs 1 through 28 above.

30. NASD Rule 8210 requires members and associated persons to provide information orally, in writing or electronically if requested, with respect to any investigation, complaint, examination or proceeding.

31. In a letter dated October 23, 2008, sent via certified and first class mail to Respondent's last known address, as reflected in the Central Registration Depository (the "CRD address"), pursuant to NASD Rule 8210, FINRA requested Respondent's signed, written response to customer JA's allegations that Lee had facilitated an unauthorized sale of bonds in his account. The response was due November 23, 2008. The copy that was sent by certified mail was returned to FINRA and stamped, "Return to sender, unclaimed, unable to forward." The first class copy was not returned to FINRA. Respondent failed to respond.

32. By virtue of the above, Lee violated NASD Rules 8210 and 2110.

FOURTH CAUSE OF ACTION

Failure to Cooperate

(FINRA Rules 8210 and 2010)

33. Enforcement re-alleges and incorporates by reference paragraphs 1 through 32 above.

34. In a letter dated March 2, 2009, sent via certified and first class mail to Respondent's CRD address, FINRA again requested Lee's written response to the allegations made by customer JA. This request was made pursuant to FINRA Rule 8210. It was requested that a signed response from Lee be provided to FINRA by March 16, 2009. Someone at the address signed for the letter sent via certified mail on March 6, 2009, however the signature is indecipherable. The request sent by first class mail was not returned to FINRA. The Respondent failed to respond.

35. In a letter dated May 17, 2010, sent via certified and first class mail to Respondent's CRD address, FINRA requested that Respondent contact Enforcement in order to set up a mutually convenient time to take Respondent's on the record testimony regarding the aforementioned matter. This request was made pursuant to FINRA Rule 8210. It was requested that Lee contact Enforcement no later than June 1, 2010. Someone at the address signed for the request sent by certified mail on May 21, 2010, however the signature is indecipherable. The request sent via first class mail was returned to FINRA, and the envelope was stamped, "Return to sender, not deliverable as addressed, unable to forward." The Respondent failed to respond.

36. By virtue of the above, Lee violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, Enforcement respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.
- 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: June 17, 2010

By: _____


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