

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

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REGISTRATION & DISCLOSURE

DEPARTMENT OF ENFORCEMENT,
COMPLAINANT,
V.
BRYAN DAVID BUDVITIS,
CRD #4216953
RESPONDENT.

**DISCIPLINARY PROCEEDING
NO. 20080160135**

COMPLAINT

The Department of Enforcement alleges:

OVERVIEW

1. Respondent Bryan David Budvitis ("Budvitis"), while employed by Citigroup Global Markets, misappropriated funds from the account of one customer in the name of "G. and C. F ("the F account")". When Enforcement sought Budvitis' explanation for the relevant events, Budvitis refused to provide the requested testimony. Budvitis' conduct was in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

RESPONDENT AND JURISDICTION

2. Bryan David Budvitis was born in [REDACTED] Budvitis first entered the securities industry in March 2001 when he began his employment with Man Financial, Inc as an account executive.
3. During the period March 2005 until his employment was terminated on November 22, 2008, Budvitis was employed by Citigroup Global Markets as a client service assistant for two brokers. Budvitis held Series 7 and 63 licenses.
4. Budvitis has not been employed with a FINRA member firm since November 22, 2008.
5. Budvitis remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of the NASD By-Laws as his misconduct alleged occurred while Budvitis was associated with a member firm and a complaint was filed within two years following Respondent's resignation.

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FIRST CAUSE OF ACTION

Misappropriation of Customer Funds and Falsification of Firm Documents

(NASD PROCEDURAL RULE 2110 and 2330 (a))

6. Enforcement re-alleges and incorporates by reference paragraphs 1-5 above.
7. Respondent misappropriated \$26,500.00 in funds from his customer's account. Budvitis misappropriated an additional \$40,000 but either issued a stop payment or replaced the misappropriated funds himself.
8. Specifically,
 - a. On August 22, 2008 Budvitis completed a Client Verbal Instructions Form requesting that a \$20,000 check be issued to his wife, [REDACTED] from the F account. Budvitis represented that he received and confirmed these instructions from all the account owners; that he repeated the instructions back to the account owners and that he personally knew the account holders. A check was issued.
 - b. On August 25, 2008, Budvitis requested a stop payment for the check to [REDACTED] in the amount of \$20,000.
 - c. On August 29, 2008, Budvitis completed a Client Verbal Instructions Form requested that \$40,000 be transferred from the F account to the account of [REDACTED] at Bank One. Budvitis represented that he received and confirmed these instructions from all the account owners; that he repeated the instructions back to the account owners and that he personally knew the account holders. These funds were thereafter transferred to [REDACTED] account at Banc One.
 - d. On September 2, 2008, Budvitis deposited a cashier's check in the amount of \$20,000 to the F account.
 - e. On October 17, 2008, Budvitis completed a Client Verbal Instructions Form requesting that \$6,500 be transferred from the F account to the account of [REDACTED] at Bank One. Budvitis represented that he received and confirmed these instructions from all the account owners; that he repeated the instructions back to the account owners and that he

personally knew the account holders. These funds were thereafter transferred to [REDACTED] account at Banc One.

- f. The total amount of misappropriated funds, taking into account the \$20,000 returned by cashier's check to the F account, was \$26,500.

9. Budvitis did not have permission or authority from F to take or use his funds for Budvitis' use and purposes.

10. NASD Rule 2110 requires that members and associated persons observe "high standards of commercial honor and just and equitable principles of trade." NASD Rule 2330(a) states "No member or person associated with a member shall make improper use of a customer's securities or funds.

11. Budvitis engaged in conduct inconsistent with high standards of commercial honor and equitable principles of trade in that he misappropriated funds from his member firm employer and falsified firm documents in order to effect his misappropriation.

12. As a result of his conduct, Budvitis violated NASD Rule 2110.

SECOND CAUSE OF ACTION

Failure to Respond to a Request for Information and Requests to Appear and Testify

(NASD Rules 8210 and 2110)

13. Enforcement re-alleges and incorporates by reference paragraphs 1-12 above.

Background

14. Budvitis failed to cooperate with FINRA's requests to appear and testify in connection with its investigation into his misconduct.

15. By letter dated February 23, 2009, sent first class mail to his CRD address, which Budvitis received, FINRA asked, pursuant to NASD Rules 8210 and 2110, Budvitis to provide a written statement to Enforcement no later than March 4, 2009.

16. On March 4, 2009 Budvitis contacted FINRA by e-mail and requested an extension of time until March 10, 2009 to respond to FINRA's request. That request was granted.

17. On March 13, 2009, Budvitis was contacted by FINRA since his written statement had not been received on March 10, 2009. Budvitis informed the staff that his statement would arrive by Federal Express on March 16, 2009.

18. As of September 14, 2009 Budvitis' response has not been received by FINRA.

19. By letter dated March 19, 2009, FINRA sent Budvitis an additional request for a written statement by first class and certified mail at his CRD address, the certified letter was returned unclaimed but the first class letter was not returned. Budvitis was asked to respond by March 30, 2009. In addition, Budvitis was requested to appear and testify, on-the-record, on March 30, 2009.

20. In an e-mail dated March 29, 2009, Budvitis informed FINRA he would not attend the on-the-record interview scheduled for the next day and asked that it be rescheduled to take place in Chicago.

21. On May 4, 2009, FINRA, by first class and certified mail to his CRD address, which certified letter was returned unclaimed, renewed its request for information with a response date of May 8, 2009 and rescheduled Budvitis' on-the-record interview for May 13, 2009 at FINRA's Chicago office.

22. On May 13, 2009, Budvitis failed to appear for his on-the-record interview in the Chicago office and did not contact the staff for an adjournment.

23. On May 13, 2009, Enforcement opened and closed an official transcribed record noting Budvitis' failure to appear.

24. Budvitis has failed to cooperate and has not complied with Enforcement's requests for testimony pursuant to NASD Rule 8210.

25. NASD Rule 8210 (a) provides that Enforcement may "require a member, person associated with a member, or a person subject to the Association's jurisdiction to provide information orally, in writing or electronically..." NASD Rule 8210 (c) provides that "No member or person shall fail to provide information or testimony or to permit an inspection and copying of books and records, or accounts pursuant to this Rule."

26. As a result of the conduct set forth in paragraphs 1 through 23 above, Budvitis violated NASD Rules 8210 and 2110.

RELIEF REQUESTED

WHEREFORE, Enforcement respectfully requests that the Panel:

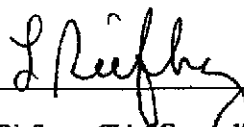
- A. Order that one or more of the sanctions provided under NASD Rule 8310(a) be imposed.

FINRA DEPARTMENT OF ENFORCEMENT

Date:

10/9/09

By:



Linda S. Riefberg, Chief Counsel, Vice President
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