

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ROBERT DURANT TUCKER (CRD No.
1725356)

Respondent.

DISCIPLINARY PROCEEDING
No. 20090167649

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. On December 19, 2008, while Respondent Robert Durant Tucker ("Tucker") was registered with FINRA through an association with member firm Bishop Rosen & Co. Inc. (BD No. 1258) ("Bishop Rosen"), he converted \$4,500.00 of Bishop Rosen customer PN's funds for his personal use.
2. Tucker converted the funds by first causing the monies to be transferred from PN's account to Tucker's personal checking account. Tucker facilitated this transfer by improperly signing a "Wiring Out Fed Funds" form (the "Wiring Form") as the Bishop Rosen manager approving the wire transaction. He caused the Wiring Form to be transmitted to Bishop Rosen's clearing firm from a candy store near Bishop Rosen's offices. In addition, he commingled PN's funds with his own in his personal checking account.

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JURISDICTION

3. From June 16, 2008 through January 16, 2009, Tucker was registered with FINRA as a Limited Representative - Corporate Securities (LRCS) through an association with Bishop Rosen.
4. On January 27, 2009, Bishop Rosen filed an amended Uniform Termination Notice for Securities Industry Registration (Form U5) stating, among other things, that Tucker was voluntarily terminated and that his last date of employment at the firm was January 16, 2009.
5. Since January 13, 2010, Tucker has been registered with FINRA as an LRCS through an association with another member firm. Accordingly, he is subject to FINRA's jurisdiction.

FIRST CAUSE OF ACTION

(Improperly approving a wire transfer of customer funds to himself)

Violation of FINRA Rule 2010

6. The Department realleges paragraphs 1 through 5.
7. Tucker serviced PN's customer account at Bishop Rosen.
8. On or about December 19, 2008, Tucker prepared the Wiring Form instructing Bishop Rosen's clearing firm to wire \$4,500.00 from PN's Bishop Rosen account to Tucker's personal bank checking account.
9. The Wiring Form required the signature of the Bishop Rosen broker and the signature of a Bishop Rosen manager approving the wire transfer. Tucker signed as the broker and as the manager, even though he was not licensed as a General Securities Principal, he was not a Bishop Rosen manager, and he had no authority to sign as a Bishop Rosen manager.

10. Tucker did not ask a Bishop Rosen manager to sign the Wiring Form or approve the transaction. Instead, Tucker signed his name above the signature line “(Manager Approval)” on the bottom left of the Wiring Form.
11. On December 19, 2008, Tucker faxed the Wiring Form to the clearing firm from a “VMS Candy & Cigar” store, which was located a few blocks from the offices of Bishop Rosen.
12. By signing as the principal and faxing the Wiring Form offsite, Tucker circumvented Bishop Rosen’s supervisory review of the wire transfer to his personal checking account.

By reason of the foregoing, Tucker violated FINRA Conduct Rule 2010.

SECOND CAUSE OF ACTION

(Conversion of customer funds)

Violations of FINRA Rule 2010 and NASD Rule 2330

13. The Department realleges paragraphs 1 through 12 above.
14. As instructed by the Wiring Form, on December 22, 2008, Bishop Rosen’s clearing firm wired \$4,500.00 from PN’s Bishop Rosen account to Tucker’s checking account.
15. Immediately before the \$4,500.00 wire, Tucker’s checking account had a *negative* account balance of \$65.10.
16. The \$4,500.00 wire was the only deposit to Tucker’s checking account during the period from December 19, 2008 through January 1, 2009.
17. Tucker withdrew the entire \$4,500.00 during the course of approximately nine days in December 2008 and used the funds for his personal benefit. At December 31, 2008, Tucker’s checking account balance was *negative* \$103.33.

18. For example, Tucker withdrew \$3,900.00 on the same day the \$4,500.00 was transferred to his checking account and made subsequent cash withdrawals totaling \$243.00 within eight days of the \$4,500.00 transfer. He also used \$213.00 to make two automated payments for his telephone bill within nine days of the transfer, and he made several point of sale (POS) purchases (including metrocards) totaling \$111.00 within seven days of the transfer.
19. Tucker converted PN's funds for his personal use without PN's authorization, consent, or knowledge.
20. Ultimately, Tucker's foster father repaid the funds on behalf of Tucker.

By reason of the foregoing, Tucker violated FINRA Conduct Rule 2010 and NASD Conduct Rule 2330.

THIRD CAUSE OF ACTION
(Commingling)
Violation of FINRA Rule 2010

21. The Department realleges paragraphs 1 through 20 above.
22. By causing \$4,500.00 of PN's funds to be deposited in Tucker's checking account without PN's knowledge or consent, Tucker commingled PN's funds with his own in his personal checking account.

By reason of the foregoing, Tucker violated FINRA Conduct Rule 2010.

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 a bar from association with all members, be imposed;
- B. order that Tucker 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 9, 2011



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