

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

Department of Enforcement,

Complainant,

v.

DEVIN R. ANAND
(CRD No. 5160369),

Respondent.

Disciplinary Proceeding

No. 2009017302001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between January 14, 2009 and February 23, 2009, Respondent misappropriated customer funds by wiring funds from the customer's account to outside bank accounts associated with Respondent in violation of NASD Rule 2330(a) and FINRA Rule 2010.
2. On or about January 23, 2009, Respondent opened an account in the name of an individual, who was not a customer of his member firm employer, using funds obtained from a loan against the individual's 401(k) account, without the individual's permission, authority or knowledge. Once the account was opened, Respondent misappropriated the funds by wiring them to outside bank accounts associated with Respondent. In opening the falsified account, Respondent caused the books and records of his member firm employer to be inaccurate. By virtue of the foregoing,

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Respondent misappropriated money in violation of FINRA Rule 2010 and caused his firm to create and maintain inaccurate books and records in violation of NASD Rule 3110 and FINRA Rule 2010.

3. Respondent failed to respond to multiple requests for information and failed to appear for testimony in violation of FINRA Rules 8210 and 2010.

RESPONDENT(S) AND JURISDICTION

4. Respondent entered the securities industry in May 2006 as an associated person at Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch" or the "Firm"), a FINRA member firm. From March 2008, until his termination on or about February 27, 2009, Respondent was a registered representative through the Firm as a General Securities Representative.
5. Although Respondent has not been associated with a FINRA member firm since February 27, 2009, 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 (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 during the two-year period after the date upon which he ceased to be associated with a FINRA member.

FIRST CAUSE OF ACTION (MISAPPROPRIATION – NASD RULE 2330[A] AND FINRA RULE 2010)

6. The Department realleges and incorporates by reference paragraphs 1-5 above.

- 7.. In or around November 2008, Respondent became the registered representative assigned to the Firm account belonging to LL ("LL Account").
8. On January 14, 2009, Respondent wired \$6,000 from the LL Account to an outside bank account belonging to a company in which Respondent had a business interest ("Respondent's Company").
9. On January 22, 2009, Respondent wired \$4,000 from the LL Account to an outside bank account belonging Respondent's Company.
10. On February 5, 2009, Respondent wired \$24,000 from the LL Account to an outside bank account belonging to LR, an employee of RI, a business owned by Respondent's parents.
11. On February 5, 2009, Respondent wired \$17,289 from the LL Account to an outside bank account belonging to a company that leased property to RI.
12. On February 23, 2009, Respondent attempted to wire \$19,000 from the LL Account to LR and \$5,000 from the LL Account to Respondent's Company. Neither of those two wires was completed by the Firm.
13. LL did not authorize and had no knowledge of any of the wires referenced in paragraphs 8-12.
14. As a result of the foregoing, Respondent violated NASD Rule 2330(a) and FINRA Rule 2010.

**SECOND CAUSE OF ACTION
(MISAPPROPRIATION AND CAUSING INACCURATE BOOKS AND RECORDS
NASD RULE 3110 AND FINRA RULE 2010)**

15. The Department realleges and incorporates by reference paragraphs 1-14 above.

16. On or about January 23, 2009, Respondent opened an account at the Firm in the name of SM ("SM Account"), an employee of RI.
17. SM did not authorize Respondent to open an account at the Firm and did not complete or sign any new account opening documents.
18. The SM Account was funded by a loan in the amount of \$49,500 that was made against SM's 401(k) account which SM had as an employee of RI.
19. On January 28, 2009, Respondent wired \$6,000 from the SM Account to an outside bank account belonging to RI.
20. On January 29, 2009, Respondent wired \$15,000 from the SM Account to an outside bank account belonging to RI.
21. On January 30, 2009, Respondent wired \$14,683 from the SM Account to an outside bank account belonging to a company that leased property to RI.
22. SM did not authorize anyone to take a loan against her 401(k) account in or around January 2009 and did not authorize any of the wires referenced in paragraphs 19-21.
23. By virtue of the foregoing, Respondent misappropriated money in violation of FINRA Rule 2010 and falsified new account documents, thereby causing his firm to create and maintain inaccurate books and records in violation of NASD Rules 3110 and FINRA Rule 2010.

**THIRD CAUSE OF ACTION
(FAILURE TO RESPOND – FINRA RULES 8210 AND 2010)**

24. The Department realleges and incorporates by reference paragraphs 1-23 above.

25. A Uniform Termination Notice for Securities Industry Registration ("Form U5"), dated March 9, 2009, was filed by the Firm indicating that Respondent had been terminated on February 27, 2009, for among other things, "transferring a client's funds to an account controlled by [Respondent] without the client's authorization" and opening an "account in the name of a client without that client's authorization and deposit[ing] checks which he then liquidated through wire transfer."
26. On April 7, 2009, FINRA staff sent a letter to Respondent pursuant to FINRA Rule 8210 requesting that he provide a detailed written statement regarding the circumstances of his termination from Merrill Lynch. The letter was sent to Respondent's last known residential address as reflected in the Central Registration Depository (the "CRD address"), via United States Postal Service first class mail and certified mail, return receipt requested. The letter required a response no later than May 7, 2009.
27. The April 7 Letter sent via first class mail was not returned to FINRA. The copy of this letter sent via certified mail with return receipt requested was delivered to the CRD Address on April 13, 2009, and signed for by a person other than Respondent. Respondent did not respond to the letter.
28. On May 29, 2009, FINRA staff sent a second request for information pursuant to FINRA Rule 8210 relating to the same subject matter, via United States Postal Service first class mail and certified mail, return receipt requested, to Respondent at the CRD Address. The letter required a response no later than June 12, 2009.
29. The May 29 letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was delivered to the

CRD Address on June 2, 2009, and the return receipt bore a signature in Respondent's name. Respondent did not respond to the letter.

30. On January 19, 2010, FINRA staff sent a third request for information pursuant to FINRA Rule 8210 relating to the same subject matter, via United States Postal Service first class mail and certified mail, return receipt requested, to Respondent at the CRD Address. The letter required a response no later than February 9, 2010.
31. The January 19 Letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was returned to FINRA with a notation, "Return to Sender. Unclaimed. Unable to forward" and dated February 14, 2010. Respondent did not respond to the letter.
32. On February 16, 2010, FINRA staff sent a fourth request for information pursuant to FINRA Rule 8210 relating to the same subject matter, via United States Postal Service first class mail and certified mail, return receipt requested, to Respondent at the CRD Address. The letter required a response no later than March 9, 2010.
33. The February 16 Letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was delivered to the CRD Address on February 18, 2010, and signed for with a signature of someone other than Respondent. Respondent did not respond to the letter.
34. On June 25, 2010, FINRA staff sent a request to Respondent at the CRD Address via United States Postal Service first class mail and certified mail, return receipt requested, to appear and testify at FINRA's office located at 14 Wall Street, New York, NY 10005 on July 22, 2010.

35. The June 25 Letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was returned to FINRA with a notation, "Return to Sender. Unclaimed. Unable to forward" and dated July 21, 2010. Respondent did not appear and testify on July 22, 2010.

36. To date, FINRA has not received any response from Respondent to the foregoing. Such acts, practices and conduct constitute separate and distinct violations of FINRA Rules 8210 and 2010.

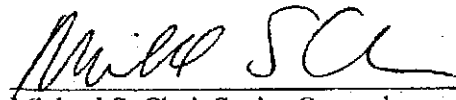
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- B. order that 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: February 7, 2011


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