

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

Department of Enforcement,

COMPLAINANT,

V.

**Alan D. Schell
CRD No. 4955739**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 20090176940**

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT & JURISDICTION

1. In June 2005, Respondent Alan D. Schell ("Respondent") became registered with Wachovia Securities, LLC ("Wachovia" or the "Firm") as a result of his employment as a financial specialist with the Firm's affiliate, Wachovia Bank, N.A. ("Wachovia Bank"). On April 8, 2009, Wachovia filed a Uniform Termination Notice for Securities Industry Registration reporting that Wachovia Bank had terminated Respondent's employment on March 17, 2009. Since that time, Respondent has not been associated with any other FINRA member.

2. Although Respondent is not currently associated with a FINRA member, he remains subject to the jurisdiction of FINRA pursuant to Article V, Section 4, of the FINRA By-Laws in that the misconduct alleged occurred while Respondent was associated with a member and a Complaint was filed within two years of Respondent's registration termination.

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OVERVIEW

3. Respondent wrongfully converted customer funds from a Wachovia Bank customer and failed to cooperate with FINRA's investigation.

FIRST CAUSE OF ACTION

Conversion of Funds

(NASD Conduct Rule 2110)

4. The Department realleges and incorporates by reference paragraphs 1-2 above.

5. From December 2006 through December 2008, Respondent converted \$13,310 from four certificates of deposit ("CDs") belonging to a Wachovia Bank customer.

6. During the year 2000, GB purchased three CDs from Wachovia Bank. GB purchased an additional CD from Wachovia Bank in 2007. On January 16, 2006 GB's daughter, CP, was given power of attorney over the CDs GB had at Wachovia Bank because GB had become ill.

7. On March 9, 2009, CP visited a local branch of Wachovia Bank to discuss several withdrawals made to GB's CDs for which she received an IRS 1099 Form. CP identified four CDs from which there were several unauthorized withdrawals.

8. Specifically, from December 6, 2006 through December 13, 2008, there were 20 unauthorized withdrawals from GB's CDs, totaling \$13,310.

9. The withdrawals were made using handwritten withdrawal slips with GB's name signed at the bottom.

10. According to Wachovia Bank records, Respondent processed each withdrawal at a Wachovia Bank branch office in Glenburnie, Maryland.

11. Cash was received for 19 of the withdrawals and the remaining withdrawal was drawn from the CD as a money order. The money order was processed on September 12, 2008 in the amount of \$400 and was made payable to Bryn Mawr School ("the September 2008 Money Order").

12. On March 17, 2009, Wachovia Bank conducted an interview of Respondent during which Respondent admitted, both verbally and in writing, that he made unauthorized withdrawals from GB's CDs. Respondent stated that he used the money to fund the inner city girls' basketball team that he coached at the Bryn Mawr School.

13. Neither GB, CP, Wachovia Bank nor the Firm gave Respondent permission or authority to withdraw the \$13,310 from GB's CDs.

14. On October 29, 2009, the State of Maryland filed a criminal case against Respondent in the Circuit Court for Anne Arundel County for his conduct at Wachovia Bank.

15. On March 24, 2010, Respondent pleaded guilty to Theft-Scheme \$500 Plus, a felony in violation of Title 7, Section 104 of the Maryland Criminal Code regarding funds that he improperly withdrew from GB's CDs.

16. Respondent is scheduled to be sentenced on May 25, 2010.

17. Accordingly, Respondent violated NASD Conduct Rule 2110 in that he wrongfully converted \$13,310 from GB's CD accounts.

SECOND CAUSE OF ACTION

Conversion of Funds

(FINRA Conduct Rule 2010)

18. The Department realleges and incorporates by reference paragraphs 1, 2, 6, 7, and 12-17 above.

19. Between December 16, 2008 through January 26, 2009, there were three withdrawals from GB's CDs, totaling \$4,100.

20. The withdrawals were made using handwritten withdrawal slips with GB's name signed at the bottom.

21. According to Wachovia Bank records, the Respondent processed each withdrawal at a Wachovia Bank branch office located in Glenburnie, Maryland. Cash was received for each withdrawal.

22. Neither GB, CP, Wachovia Bank nor the Firm gave Respondent permission or authority to withdraw the \$4,100 from GB's CDs.

23. Accordingly, Respondent violated FINRA Conduct Rule 2010 in that he wrongfully converted \$4,100 from GB's CDs.

THIRD CAUSE OF ACTION

Failing to Provide Requested Documents

(FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010)

24. The Department realleges and incorporates by reference paragraphs 1-2 above.

25. On several occasions, Respondent failed to provide documents and information requested pursuant to FINRA Rule 8210.

26. On December 16, 2009, Enforcement sent a letter to Respondent, requesting that, pursuant to FINRA Rule 8210, he provide certain documents and information regarding Enforcement's investigation. The letter was sent via certified mail and return receipt requested and a copy was sent by first class mail to Respondent at his last known residential address as reflected in the Central Registration Depository: [REDACTED]

[REDACTED] The letter sent via certified mail was returned to

Enforcement and marked "Unclaimed." The letter sent via first class mail was never returned to Enforcement. To date, Respondent has failed to provide the requested information.

27. On December 30, 2009, Enforcement sent a letter to Respondent, requesting that, pursuant to FINRA Rule 8210, he provide certain documents and information regarding Enforcement's investigation. The letter was sent via certified mail and return receipt requested and a copy was sent by first class mail to Respondent at his CRD Address. The return receipt associated with the letter sent via certified mail was returned to Enforcement with an illegible signature on it. The letter sent via first class mail was never returned to Enforcement. To date, Respondent has failed to provide the requested information.

28. On March 23, 2010, Enforcement sent a letter to Respondent pursuant to FINRA Rule 8210 which renewed its request for documents and information. The letter was sent via certified mail and return receipt requested and a copy was sent by first class mail to Respondent at his CRD Address, as well as an address listed on Respondent's court documentation from the Circuit Court of Maryland's website: [REDACTED]

[REDACTED] (the "Alternate Address"). The return receipts associated with the letters sent to the CRD Address and Alternate Address via certified mail were returned to Enforcement with illegible signatures on them. The letters sent via first class mail were never returned to Enforcement.

29. To date, Respondent has failed to provide the requested information.

30. Accordingly, Respondent violated FINRA Procedural Rule 8210 and Conduct Rule 2010 by failing to provide the requested documents and information.

RELIEF REQUESTED

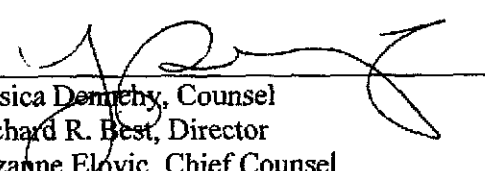
WHEREFORE, the Department respectfully requests that the Panel:

A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions and restitution, be imposed; and

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

Dated: 5/18/2010


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To: Alan D. Schell

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Alan D. Schell

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