

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JASON MICHAEL MUTASCIO,
(CRD No. 4156832)

Respondent.

Disciplinary Proceeding
No. 2009017814901

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT AND JURISDICTION

1. Jason Michael Mutascio ("Mutascio") entered the securities industry in March 2000, with a FINRA member firm. Mutascio was first registered as a general securities representative in January 2001. Mutascio was successively registered by several FINRA member firms from March 2000 through October 2007. Mutascio was registered with FINRA member firm Brewer Financial Services, LLC ("Brewer Financial") as a general securities representative from October 2007 until April 2009.
2. Although Respondent Mutascio has not been associated with a FINRA member firm since April 2009, Mutascio 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 Mutascio ceased to be associated with a FINRA member and (2) the Complaint charges Mutascio with misconduct committed while he was associated with a FINRA member firm and with failing to appear for on-the-record testimony during the two-year period after the date upon which Mutascio ceased to be associated with a FINRA member firm.

SUMMARY

3. In March 2009, Mutascio, while registered with Brewer Financial, falsified third-party wire request forms and obtained funds from a customer without the customer's knowledge or authorization, in violation of NASD Conduct Rules 2330(a) and 3110 and FINRA Rule 2010. Furthermore, Mutascio failed to appear and testify as requested by FINRA, in violation of FINRA Rules 2010 and 8210.

FIRST CAUSE OF ACTION

NASD Conduct Rules 2330(a) and 3110 and FINRA Rule 2010

(Falsification of Records and Misuse of Customer Funds)

4. The Department re-alleges and incorporates by reference paragraphs 1 through 3 above.
5. During the period from March 4, 2009 through March 10, 2009, Mutascio falsified multiple third-party wire request forms, submitted the falsified forms to Brewer Financial, and obtained and exercised control over at least \$52,500 in funds from customer P.W.L.'s account, without P.W.L.'s knowledge or authorization.

First Wire Request

6. On March 4, 2009, Mutascio falsified a third-party wire request form for the brokerage account of customer P.W.L.
7. The wire request was in the amount of \$30,000 and listed the purpose of the wire as "margin call."
8. The funds were directed to a credit union for the credit of MSP, Inc. MSP, Inc. is also known as Mike Sherman Productions, Inc., a company owned by a friend of Mutascio.
9. The wire request contained the purported signature of P.W.L. Mutascio submitted the wire request directly to Brewer Financial, and the funds were wired as Mutascio requested.
10. Customer P.W.L. did not authorize or sign this request, had no knowledge of the wire at that time, did not receive the proceeds and had no knowledge of MSP, Inc.

Second Wire Request

11. On March 9, 2009, Mutascio falsified multiple versions of another third-party wire request form for the brokerage account of customer P.W.L. and submitted each wire request directly to Brewer Financial.
12. One version of the wire request listed the purpose of the wire as "margin call," and directed that the funds be wired to a bank account controlled by Mutascio. This request was rejected by Brewer Financial.
13. Mutascio submitted another version of the third-party wire request form on the same day that requested that \$8,500 be wired from customer P.W.L.'s account to a different bank for the credit of an account controlled by a family member of Mutascio.
14. This wire request contained the purported signature of P.W.L. Mutascio submitted the wire request directly to Brewer Financial, and the funds were wired as Mutascio requested.
15. Customer P.W.L. did not authorize or sign this request, had no knowledge of the wire at that time, did not receive the proceeds and had no knowledge of the entity to which his funds were wired.

Third Wire Request

16. On March 10, 2009, Mutascio submitted still another falsified third-party wire transfer form for the brokerage account of customer P.W.L.
17. This third-party wire request form was in the amount of \$44,000, and did not list a purpose. The wire was directed to the same bank as the March 9, 2009 wire and for credit to the same account controlled by a Mutascio family member.
18. Like the other third-party wire requests, it was purportedly signed by customer P.W.L. Mutascio submitted the wire request directly to Brewer Financial, and the funds were wired as Mutascio requested.
19. Customer P.W.L. did not authorize or sign this request, had no knowledge of the wire at that time, did not receive the proceeds and had no knowledge of the entity to which his funds were wired.

20. Mutascio's submission to Brewer Financial of the falsified wire requests on March 4, 9 and 10, 2009 for the account of P.W.L. caused Brewer Financial's books and records to be inaccurate.
21. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2330(a) and 3110 and FINRA Rule 2010 by Respondent Mutascio.

SECOND CAUSE OF ACTION

FINRA Rules 2010 and 8210

(Failure to Testify)

22. The Department re-alleges and incorporates by reference paragraphs 1 through 21 above.
23. During the course of FINRA's investigation which led to this Complaint, FINRA requested a written statement from Mutascio. An attorney who indicated that he represented Mutascio provided a written statement on Mustachio's behalf, which did not address FINRA's request in its entirety.
24. Subsequently, FINRA determined that it needed a sworn statement from Mutascio regarding his involvement with the wire transfers from P.W.L.'s account.
25. On July 31, 2009, FINRA sent Mutascio a letter via first class and certified mail requesting that Mutascio appear and provide an on-the-record ("OTR") sworn statement, pursuant to FINRA Rule 8210. The July 31, 2009 letter sent by first class mail was not returned. The July 31, 2009 letter sent by certified mail was returned "unclaimed."
26. On August 19, 2009, Mutascio contacted FINRA and confirmed that he would attend the OTR session, which was scheduled for August 27, 2009.
27. However, on August 27, 2009, Mutascio failed to appear and testify.
28. On August 27, 2009, while waiting for Mutascio to appear, FINRA retrieved a voicemail that had been left by a new attorney who indicated that he now represented Mutascio. In the voicemail message, the new attorney indicated that he had advised Mutascio not to appear and testify.

29. After retrieving the voicemail message, FINRA attempted to contact counsel for Mutascio but was unable to reach him on August 27, 2009.
30. On September 3, 2009, after FINRA had left several voicemail messages, counsel for Mutascio called FINRA and confirmed that he represented Mutascio and that Mutascio would not appear and testify before FINRA.
31. Such acts, practices and conduct constitute separate and distinct violations of FINRA Rules 2010 and 8210 by Respondent Mutascio.

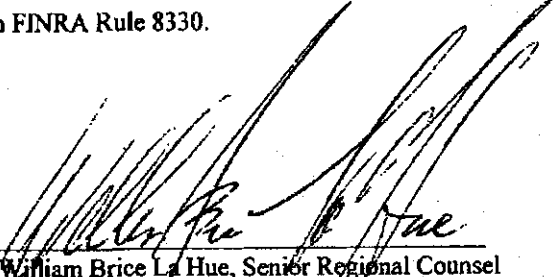
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA Rule 8310(a) 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 the proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: 9/11/10


William Brice La Hue, Senior Regional Counsel
FINRA Department of Enforcement
Atlanta District Office
One Securities Centre, Suite 500
3490 Piedmont Road, N.E.
Atlanta, Georgia 30305
Phone: (404) 239-6111; Fax: (404) 264-1586
E-Mail: brice.lahue@finra.org

Andrew A. Favret, Assoc. VP/Reg'l Chief Counsel
FINRA Department of Enforcement
New Orleans District Office
1100 Poydras Street
Energy Centre, Suite 850
New Orleans, Louisiana 70163
Phone: (504) 412-2404; Fax: (202) 721-6527
E-Mail: andrew.favret@finra.org