

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DOUGLAS EUGENE VANNOY
(CRD No. 2711538),

Respondent.

Disciplinary Proceeding
No. 20090180850

Hearing Officer – MC

DEFAULT DECISION

January 13, 2012

Respondent Douglas Eugene Vannoy is barred from associating with any FINRA member firm in any capacity for (i) misappropriating funds from the estate of a deceased customer, in violation of NASD Conduct Rules 2110 and 2330, and FINRA Rule 2010; (ii) submitting altered documents to his employer, in violation of NASD Conduct Rule 2110; and (iii) failing to appear and provide testimony pursuant to Rule 8210, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.

Appearances

Steven F. Korostoff, Director, New York, New York, and Keith A. Alt, Principal Counsel, New York, New York, for the Department of Enforcement.

No appearances by or on behalf of Respondent.

DECISION

I. Introduction

The Department of Enforcement filed the attached Complaint on July 1, 2011. The misconduct alleged against Respondent Douglas Eugene Vannoy in the Complaint's three causes of action relate to an account for the estate of a deceased customer.

Enforcement served the Complaint and Notices of Complaint upon Vannoy by certified mail at his residential address as it appears in FINRA's Central Registration Depository ("CRD address") as well as at the address of the prison where Vannoy is confined. Vannoy failed to file

an Answer. Consequently, on September 28, 2011, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions, accompanied by the Declaration of Steven F. Korostoff and 12 exhibits.¹

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Vannoy entered the securities industry in 1996. In August 2005, he registered with FINRA as a General Securities Representative through member firm Wachovia Securities, LLC (the “Firm”).² On April 21, 2009, the Firm terminated Vannoy’s employment. On May 12, 2009, the Firm filed an initial Form U5 disclosing “misappropriation of client funds” as the reason for his termination.³

After the Firm terminated Vannoy, it received an unrelated customer complaint against him. Because that complaint arose from facts unrelated to the termination, the Firm did not disclose the customer complaint in the initial Form U5.⁴ On June 22, 2009, the Firm reached a settlement with the customer,⁵ and it filed an amended Form U5 disclosing the customer complaint on July 16. FINRA had learned of the customer complaint on July 6, 2009.⁶

Since his discharge by the Firm, Vannoy has not been registered with FINRA or associated with any FINRA member firm.⁷ FINRA’s By-Laws provide that FINRA retains jurisdiction to file a complaint against a person whose registration has been terminated for two years after the effective date of the termination. The two-year jurisdictional period may be

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion, which include Steven F. Korostoff’s Declaration in Support of Motion for Entry of Default Decision, and the exhibits attached to the Declaration. The Declaration is referred to as “Decl.” or “Korostoff Decl.” The exhibits are referred to as “CX-__.”

² Wachovia Securities, LLC is now Wells Fargo Advisors, LLC. Decl. ¶ 4; CX-1.

³ Complaint ¶ 5.

⁴ The customer complained orally on May 8, 2009, after the Firm had terminated Vannoy. CX-3, p. 7, ¶ 7 D.

⁵ CX-3, p. 7, ¶¶ 10-11.

⁶ Complaint ¶ 6.

⁷ CX-1.

recommenced by the filing of an amendment to the original Form U5 filed by the member firm.⁸

As noted above, Enforcement filed the Complaint in this case on July 1, 2011, more than two years after the Firm filed the initial Form U5 notice of Vannoy's termination on May 12, 2009. However, the two-year jurisdictional period renewed when the Firm filed its amended Form U5 on July 16, 2009. Vannoy remains subject to FINRA's jurisdiction, therefore, because (i) he was registered through the Firm when the conduct described in the Complaint occurred; (ii) the Complaint was filed less than two years after the Firm filed the amended Form U5 and within two years of the date on which FINRA had become aware of the matter reported in the amendment; and (iii) the Complaint charges him with failing to respond to Rule 8210 requests for information within two years of the termination of his registration.⁹

B. Default

On July 1, 2011, Enforcement served the Complaint and Notice of Complaint upon Vannoy by first-class certified mail and first-class mail to Vannoy's CRD address, as well as to the Federal Correctional Institution in Three Rivers, Texas ("prison address"). Vannoy is serving a sentence at the prison as a result of a criminal conviction related to the misconduct that is subject of this disciplinary proceeding.¹⁰

On July 11, 2011, Enforcement received the return receipt for the certified mailing sent to Vannoy's CRD address. It was dated July 5, 2011, and contained the signature of Laura Vannoy, who is Vannoy's wife.¹¹ Enforcement received the return receipt for the certified

⁸ FINRA By-Laws, Article V, Section 4(i).

⁹ Decl. ¶ 7.

¹⁰ Decl. ¶ 23.

¹¹ Decl. ¶ 26.

mailing sent to the prison address, which also reflected delivery on July 5, 2011. It contained an illegible signature.¹² The first-class mailings were not returned.¹³

On August 4, 2011, Enforcement served the Complaint and Second Notice of Complaint upon Vannoy by certified mail and first-class mail at his CRD and prison addresses.¹⁴ On August 12, 2011, Enforcement received the return receipt for the certified mailing sent to the prison address, which was signed illegibly and indicated it was delivered on August 9, 2011.¹⁵

The Postal Service returned the first-class mailing sent to the CRD address on August 19, 2011. On the envelope, Vannoy's CRD address was crossed out and "Moved" had been written next to it. An adhesive label stamped "Attempted Not Known" had been placed on the envelope.¹⁶

Enforcement received the return receipt for the certified mailing to Vannoy's CRD address on September 7, 2011. The envelope was stamped "Returned to Sender" and had handwritten notations indicating it was "Unclaimed" and that the Postal Service had left notices on three different dates in August.¹⁷ Vannoy has not filed an Answer or otherwise responded to the Complaint.¹⁸

By serving the Complaint and Notices of Complaint upon Vannoy at his CRD and prison addresses, Enforcement complied with the requirements of Rule 9134 and provided him with sufficient notice that the Complaint had been filed.¹⁹ By failing to file an Answer, Vannoy

¹² Decl. ¶ 25.

¹³ Decl. ¶ 27.

¹⁴ Decl. ¶ 29.

¹⁵ Decl. ¶ 31.

¹⁶ Decl. ¶ 33.

¹⁷ Decl. ¶ 34.

¹⁸ Decl. ¶¶ 28, 35.

¹⁹ FINRA Procedural Rule 9134(a); *Dep't of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (citing *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

defaulted. Accordingly, pursuant to Rules 9215(f) and 9262(a)(2), and for the reasons set forth below, Enforcement's Default Motion is granted.

C. Violations

The Complaint contains three causes of action, charging Vannoy with (i) misappropriating funds from the accounts of a deceased customer of the Firm, in violation of NASD Conduct Rules 2110 and 2330(a), and FINRA Conduct Rule 2010; (ii) submitting an altered death certificate of the customer to the Firm, in violation of NASD Conduct Rule 2110; and (iii) failing to comply with requests issued to him pursuant to FINRA Procedural Rule 8210 to appear and provide testimony, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.²⁰

1. Vannoy Misappropriated Customer Funds

When he was employed by the Firm, Vannoy was the registered representative for customer JMK's three accounts.²¹ JMK died on July 17, 2008.²² Vannoy visited JMK's home shortly after he died, served as a pall bearer at JMK's funeral, and participated in a meeting with JMK's heirs in late August 2008 to discuss JMK's estate.²³

Subsequently, on November 3, 2008, Vannoy opened a sole proprietorship account for his company, called Advantage Marketing, in JMK's name. Both the signature page of the

²⁰ As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD. Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008, including certain conduct rules and procedural rules. See Regulatory Notice 08-57 (Oct. 2008). On that date, NASD Conduct Rule 2110 was replaced by FINRA Conduct Rule 2010. However, NASD Conduct Rule 2330(a), concerning customer funds, remained in effect throughout the period of Vannoy's misappropriations. This decision relies on the NASD and FINRA Conduct Rules in effect at the time of the alleged misconduct. Thus, because Vannoy misappropriated customer funds from November 2008 to February 2009, he violated NASD Conduct Rules 2110 and 2330(a) for the misappropriations prior to December 15, 2008. After December 15, 2008, his misconduct violated FINRA Conduct Rule 2010 and NASD Conduct Rule 2330(a), which was still in effect. The applicable rules are available at www.finra.org/rules.

²¹ Complaint ¶¶ 9, 10.

²² Complaint ¶ 11.

²³ Complaint ¶ 30.

account application and a notarized “Sole Proprietor Affidavit” for the account appeared to have been signed by JMK.²⁴

From November 2008 to February 2009, Vannoy deposited approximately \$20,750 of JMK’s personal funds and funds from JMK’s Firm accounts into the Advantage Marketing account.²⁵ During the same period, Vannoy caused the entire amount to be paid from that account directly to his company. He did so by means of a letter of authorization requesting that the Firm send a check for \$3,200 to Advantage Marketing, and by a series of checks totaling \$17,550 from the Advantage Marketing account checkbook made payable to Vannoy’s company. The letter of authorization and the checks all appeared to have been signed by JMK.²⁶ Vannoy then withdrew the funds from his company’s account and deposited them into his personal checking account,²⁷ without having obtained authorization from JMK before he died, or from the executrix of JMK’s estate.²⁸

In February 2009, an account was opened at the Firm for the estate of JMK.²⁹ In March 2009, the Firm began an investigation into Vannoy’s conduct, and Vannoy ceased making withdrawals from his Advantage Marketing account.³⁰

Subsequently, Vannoy was indicted for mail fraud, bank fraud, aggravated identity theft, and money laundering. In January 2011, he entered a guilty plea to a charge of money laundering in the United States District Court in Corpus Christi, Texas.³¹ At the guilty plea hearing, Vannoy admitted that he opened the Advantage Marketing account without

²⁴ Complaint ¶¶ 12-13.

²⁵ Complaint ¶ 14.

²⁶ Complaint ¶ 15.

²⁷ Complaint ¶ 16.

²⁸ Complaint ¶ 18.

²⁹ Complaint ¶ 11.

³⁰ Complaint ¶ 17.

³¹ Complaint ¶¶ 19, 20.

authorization and transferred into it at least \$20,000 from JMK's accounts.³² On April 7, 2011, Vannoy was sentenced to serve a term of five years in federal prison.³³

By these acts, Vannoy misappropriated approximately \$20,750 in violation of NASD Conduct Rules 2110 and 2330(a), and FINRA Conduct Rule 2010, as charged in the first cause of the Complaint.

2. Vannoy Submitted an Altered Death Certificate to the Firm

On November 18, 2008, Vannoy submitted documentation with false information to the Firm's IRA Processing Department to liquidate an annuity held in JMK's IRA.³⁴ The documentation included a death certificate that was altered to make it appear that JMK's death occurred on October 27, 2008, and that the certificate was issued on October 31, 2008. Actually, JMK died on July 17 and the death certificate was issued on July 29, 2008.³⁵

By submitting the altered, false documents to the Firm, Vannoy violated NASD Conduct Rule 2110, as charged in the second cause of the Complaint.

3. Vannoy Failed to Provide Testimony Pursuant to Rule 8210

To investigate Vannoy's misconduct relating to JMK's funds, on June 22, 2010, Enforcement sent Vannoy a letter by certified and first-class mail to his CRD address, requesting that he provide on-the-record testimony on July 8, 2010, in New York.³⁶ Vannoy signed a receipt for the letter on June 26, 2010.³⁷ Enforcement sent an e-mail to Vannoy on July 7, 2010, to remind him of his scheduled appearance for the interview on the following day. Vannoy replied that he would be unable to appear for the interview at any time prior to October 2010,

³² Complaint ¶ 21.

³³ Complaint ¶ 22.

³⁴ Complaint ¶ 27.

³⁵ Complaint ¶ 29.

³⁶ Complaint ¶ 34.

³⁷ Complaint ¶ 35.

and that he had already provided Enforcement with all information he possessed relating to the case.³⁸ In response, Enforcement sent an e-mail to Vannoy offering to reschedule the interview and to travel to Texas for Vannoy's convenience, but reiterating that until Vannoy agreed to the new date, he was required to appear in New York as scheduled on July 8.³⁹ Vannoy did not appear.⁴⁰

Enforcement sent an e-mail to Vannoy on July 21, 2010, again offering to reschedule the interview and to conduct it in Texas. Vannoy did not respond.⁴¹ As a result, on July 28, 2010, Enforcement sent another letter by certified and first-class mail to Vannoy's CRD address requesting, pursuant to Rule 8210, that Vannoy appear in New York for an on-the-record interview on August 12, 2010. The letter repeated Enforcement's offer to reschedule and conduct the interview in Texas, as long as Vannoy responded by August 12, 2010.⁴² Vannoy signed for the letter on August 5, 2010.⁴³ As before, on the day before the scheduled interview, Enforcement sent an e-mail reminding Vannoy of his obligation to appear on the following day.⁴⁴ Vannoy did not respond, did not request that the interview be rescheduled, and did not appear and provide testimony as required.⁴⁵

By failing to appear and provide testimony, Vannoy violated FINRA Conduct Rule 2010 and Procedural Rule 8210, as charged in the third cause of action of the Complaint.

³⁸ Complaint ¶¶ 36-37.

³⁹ Complaint ¶ 38.

⁴⁰ Complaint ¶ 40.

⁴¹ Complaint ¶¶ 41-42.

⁴² Complaint ¶ 43.

⁴³ Complaint ¶ 44.

⁴⁴ Complaint ¶ 45.

⁴⁵ Complaint ¶¶ 46-48.

III. Sanctions

Enforcement requests that Vannoy be barred for his misconduct.⁴⁶ Because the Firm has made JMK's estate whole, Enforcement does not request a restitution order.⁴⁷

The FINRA Sanction Guidelines support Enforcement's recommendation. The Sanction Guidelines for conversion of customer funds state that a bar is standard, regardless of the amount of money converted.⁴⁸ In this case, the misappropriations occurred over a substantial period, from November 2008 to March 2009, and appear to have stopped only when the Firm began its investigation into the matter. There are no apparent mitigating circumstances.

As the SEC noted in a different context, "[t]he securities business presents a great many opportunities for abuse and overreaching, and depends heavily on the integrity of its participants."⁴⁹ As the Complaint makes clear, Vannoy misappropriated his deceased customer's funds, to which he had access because of his position as JMK's registered representative at the Firm. Vannoy took indefensible advantage of his position and violated the trust reposed in him by willfully and fraudulently converting JMK's funds to his own use, in a manner designed to conceal his misconduct. His wrongful acts "reflect directly on [his] ability both to comply with regulatory requirements fundamental to the securities business and to fulfill his fiduciary responsibilities in handling other people's money."⁵⁰

The Sanction Guidelines for forgery and falsification of records recommend, in egregious cases, consideration of a bar. The Principal Considerations for adjudicators to weigh include the nature of the falsified document.⁵¹ In this instance, the falsified document was a death

⁴⁶ Default Motion, p. 10.

⁴⁷ *Id.* at p. 11-12.

⁴⁸ *FINRA Sanction Guidelines* at 36 (2011).

⁴⁹ *Timothy L. Burkes*, Exch. Act Rel. No. 32142, 1993 SEC LEXIS 949, at *10 (Apr. 14, 1993).

⁵⁰ *Dep't of Enforcement v. Foran*, No. C8A990017, 2000 NASD Discip. LEXIS 8, at *21 (N.A.C. Sept. 1, 2000), quoting *James A. Goetz*, Exch. Act Rel. No. 39796, 1998 SEC LEXIS 499, at *11 (Mar. 25, 1998).

⁵¹ *Sanction Guidelines* at 37.

certificate, and Vannoy altered it apparently in furtherance of his scheme to misappropriate JMK's funds by liquidating JMK's IRA. Falsifying documents is a practice that is inconsistent with just and equitable principles of trade.⁵² In the absence of any mitigating factors in this case, a bar is the appropriate sanction.

The Sanction Guidelines state that a bar should be the standard sanction for failure to respond to a request to provide information made by FINRA staff pursuant to Rule 8210 unless mitigation is present. Here, the facts conclusively demonstrate that Vannoy knew of the staff requests for information, and he acknowledged the staff's offers to accommodate him by rescheduling and relocating the site for taking his testimony. The staff was properly endeavoring to fulfill its responsibility to investigate serious misconduct. As has often been observed, "Conduct Rule 2110 and Procedural Rule 8210 are crucial components of [FINRA's] examinations and investigations ... Procedural Rule 8210 gives [FINRA] the right to require a member or person associated with a member to provide information, orally or in writing, in connection with an examination or investigation. The rule further states that no member or person shall fail to provide such information."⁵³ Concerning sanctions for violating Rule 8210, "[t]he Guidelines treat a failure to respond ... as egregious."⁵⁴ To deter such egregious, repeated refusals to provide on-the-record testimony such as Vannoy engaged in here, a bar is appropriate.

IV. Conclusion

Respondent Douglas Eugene Vannoy is barred for: (i) misappropriating funds from the account of a deceased customer, in violation of NASD Conduct Rules 2110 and 2330(a), and FINRA Conduct Rule 2010, as charged in the first cause of action of the Complaint;

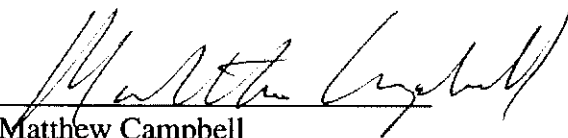
⁵² *Dep't of Enforcement v. Kapara*, No. C10030110, 2005 NASD Discip. LEXIS 41, at *17 (N.A.C. May 25, 2005).

⁵³ *Dep't of Enforcement v. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at *35-36 (N.A.C. Dec. 18, 2006).

⁵⁴ *Id.* at *41.

(ii) submitting an altered death certificate to his employer firm, in violation of NASD Conduct Rule 2110, as charged in the second cause of action of the Complaint; and (iii) failing to comply with requests to appear and provide testimony, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210, as charged in the third cause of action of the Complaint.

If this decision becomes FINRA's final disciplinary action, the bars shall be effective immediately.


Matthew Campbell
Hearing Officer

Copies to:

Douglas E. Vannoy (*via overnight courier and first-class mail*)
Steven F. Korostoff, Esq. (*via e-mail and first-class mail*)
Keith A. Alt, Esq. (*via e-mail and first-class mail*)
David R. Sonnenberg, Esq. (*via e-mail*)

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

Department of Enforcement,

Complainant,

v.

Douglas Eugene Vannoy
(CRD No. 2711538),

Respondent.

DISCIPLINARY PROCEEDING
No. 20090180850

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. While registered with Wachovia Securities, LLC (now, Wells Fargo Advisors, LLC; "Wachovia" or the "Firm"), Douglas Eugene Vannoy ("Vannoy") misappropriated \$20,750 from a deceased customer of his firm employer, in violation of NASD Rule 2330(a), NASD Rule 2110 and, after December 15, 2008, FINRA Rule 2010. In addition, Vannoy violated NASD Rule 2110 in that he submitted an altered version of the customer's death certificate to his firm employer. Furthermore, Vannoy violated FINRA Rules 8210 and 2010 in that he failed to comply with one or more requests to appear and provide testimony in connection with a FINRA investigation.

RESPONDENT AND JURISDICTION

2. Vannoy entered the securities industry in 1996. Prior to entering the securities industry, Vannoy was the Managing Partner of Advantage Marketing in Kingsville, Texas from October 1991 to December 1995, discussed further below.

3. From January 1996 to August 2005, Vannoy was employed with another FINRA-regulated firm ("Firm A") in Corpus Christi, Texas. He became registered at Firm A in April 1996.

4. Vannoy became employed and registered with Wachovia in August 2005.

5. On May 12, 2009, Wachovia filed an initial Form U-5 for Vannoy disclosing that he had been terminated on April 21, 2009 for "open[ing] an account using the name and [social security number] of a deceased client and deposit[ing] withdrawals from that account in his personal bank account."

6. On July 16, 2009, Wachovia filed an amended Form U-5 for Vannoy disclosing a customer complaint that was neither related to his termination from the Firm nor disclosed on his initial Form U-5. However, in connection with its investigation into his termination, FINRA had become aware of the customer complaint as of July 6, 2009.

7. Accordingly, FINRA retains jurisdiction over Vannoy pursuant to Article V, Section 4(a) of the FINRA By-Laws as of the date of this Complaint.

FIRST CAUSE OF ACTION

Misappropriation of Funds from a Deceased Customer of His Firm Employer (NASD Rule 2330(a), NASD Rule 2110 and, after December 15, 2008, FINRA Rule 2010)

8. The Department realleges and incorporates by reference paragraphs 1 to 7 above.

9. While he was employed and registered with Wachovia, Vannoy served as the registered representative for the accounts of customer JMK.

10. JMK had three accounts at Wachovia that were opened by JMK himself.

11. JMK died on July 17, 2008. An estate account appropriately was opened for JMK in February 2009.

12. On November 3, 2008, almost four months after JMK's death, Vannoy opened a sole proprietorship account in JMK's name for Vannoy's company called Advantage Marketing (the "Advantage Marketing Account").

13. The signature page of the Account Application for the Advantage Marketing Account was dated November 3, 2008 and purportedly was signed by JMK. In addition, the new account documentation included a notarized "Sole Proprietor Affidavit," which purportedly was signed by JMK.

14. From November 2008 to February 2009, Vannoy caused approximately \$20,750 to be deposited into the Advantage Marketing Account. All of the deposited funds belonged to JMK's estate, and either were transferred from his other Firm accounts or came from JMK's personal funds.

15. From November 2008 to March 2009, Vannoy caused approximately \$20,750 to be paid from the Advantage Marketing Account directly to Advantage Marketing. This occurred through a letter of authorization requesting that the Firm send a check in the amount of \$3,200 to Advantage Marketing and 11 checks written from the Advantage Marketing Account checkbook totaling \$17,550 made payable to Advantage Marketing. The letter of authorization and the 11 checks purportedly were signed by JMK.

16. Vannoy deposited the funds into his personal checking account that he maintained at a bank.

17. The withdrawals from the Advantage Marketing Account ceased when the Firm commenced an investigation into Vannoy's conduct in early March 2009.

18. Vannoy opened the Advantage Marketing Account, transferred JMK's funds into the account, withdrew funds from the Advantage Marketing Account, and deposited JMK's funds into Vannoy's own personal bank account, all without authorization from JMK or the executrix of JMK's estate.

19. In May 2010, Vannoy was indicted in United States District Court in Corpus Christi, Texas, on 27 counts of mail fraud, bank fraud, aggravated identity theft, and money laundering in relation to the activity discussed above, as well as certain other activity.

20. In January 2011, Vannoy pled guilty to one count involving money laundering. The count alleged that, through a \$3,000 check written from the Advantage Marketing Account in February 2009 (one of the 11 checks referred to above), Vannoy deposited proceeds from some form of unlawful activity into his own bank account, in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i).

21. At the court hearing on his guilty plea, Vannoy admitted that he, and not JMK, opened the Advantage Marketing Account at the Firm in November 2008 and that he did so without authorization. He admitted that he opened the account to transfer money out of JMK's estate and to conceal the source and ownership of the funds transferred into the account. Vannoy also admitted that on six occasions he deposited at least \$20,000 into the Advantage Marketing Account. He further admitted that all of the funds that were transferred out of the Advantage Marketing Account at one time were owned by JMK or his estate.

22. On April 7, 2011, Vannoy was sentenced to serve five years in federal prison in connection with his guilty plea. He currently is incarcerated.

23. NASD Rule 2330(a) states that “[n]o member or person associated with a member shall make improper use of a customer's securities or funds.”

24. NASD Rule 2110 requires that members and associated persons “observe high standards of commercial honor and just and equitable principles of trade.” NASD Rule 2110 was superseded by FINRA Rule 2010 on December 15, 2008.

25. By reason of the conduct described above, Vannoy misappropriated approximately \$20,750 from a deceased customer of his firm employer, in violation of NASD Rule 2330(a), NASD Rule 2110 and, after December 15, 2008, FINRA Rule 2010.

SECOND CAUSE OF ACTION

Submission of an Altered Death Certificate to His Firm Employer (NASD Rule 2110)

26. The Department realleges and incorporates by reference paragraphs 1 to 25 above.

27. On November 18, 2008, Vannoy submitted “death claim” documentation for JMK to Wachovia’s IRA Processing Department to liquidate an annuity held in JMK’s IRA as a result of his death. The documentation that Vannoy submitted to the Firm was inaccurate.

28. The submitted documentation included a cover letter dated November 18, 2008 bearing Vannoy’s signature, an inaccurate Death Claim Statement form, and an altered copy of JMK’s certificate of death (the “Altered Death Certificate”).

29. The Altered Death Certificate was materially altered to identify JMK’s date of death as October 27, 2008 and the date of issuance for the certificate as October 31, 2008. The

certificate should have identified JMK's date of death as July 17, 2008 and the date of issuance for the certificate as July 29, 2008.

30. Vannoy was present at JMK's house shortly after his death in July 2008, served as a pall-bearer at his funeral, and participated in a meeting with JMK's heirs in late August 2008 to discuss the estate. Therefore, Vannoy knew that the date of death on the Altered Death Certificate was inaccurate.

31. By reason of the conduct described above, Vannoy violated NASD Rule 2110 in that he submitted an altered version of a customer's death certificate to his firm employer.

THIRD CAUSE OF ACTION

Failure to Comply with One or More Requests to Appear and Provide Testimony (FINRA Rules 8210 and 2110)

32. The Department realleges and incorporates by reference paragraphs 1 to 31 above.

33. Enforcement made several attempts to conduct an on-the-record interview ("OTR") of Vannoy in connection with FINRA's investigation into the JMK matter.

34. By a letter dated June 22, 2010, Enforcement requested that Vannoy appear and testify at FINRA's office located at 14 Wall Street in New York on July 8, 2010, pursuant to FINRA Rule 8210. The June 22nd Letter was sent by certified first-class mail and regular first-class mail to Vannoy's last known address as reflected in the CRD ("CRD Address").

35. Vannoy signed for the June 22nd Letter on June 26, 2010.

36. On July 7, 2010, Enforcement sent an e-mail to Vannoy, reminding him that he was required to appear and testify at FINRA's 14 Wall Street Office on the following day, as requested in the June 22nd Letter.

37. Vannoy responded to the July 7th e-mail that same day and stated that he would not be able to appear in New York on July 8, 2010 or any other time before October. In addition, he stated the following: "I responded to your previous inquiries with all the information I have pertaining to this case."

38. On July 7, 2010, Enforcement sent Vannoy an e-mail response, which advised him that FINRA had not agreed to reschedule and that he was still obligated to appear on the date and time set forth in the June 22nd Letter. However, Enforcement also offered to accommodate Vannoy and to make alternate arrangements to travel to Texas to conduct his OTR, but cautioned him that until the OTR was rescheduled for a later time and date in Texas, he would remain obligated to appear and testify on July 8, 2010.

39. Vannoy did not respond to Enforcement's second e-mail dated July 7, 2010 or request to reschedule his OTR for a later date in Texas.

40. Vannoy did not appear and provide testimony at FINRA's 14 Wall Street Office on July 8, 2010.

41. On July 21, 2010, Enforcement sent Vannoy an e-mail noting that he had failed to appear and testify on July 8, 2010 or reschedule that OTR for another date and another location. Enforcement advised Vannoy that he was, therefore, in default. Furthermore, Enforcement once again extended an offer to accommodate Vannoy by travelling to Texas to take his testimony.

42. Vannoy did not respond to Enforcement's July 21st e-mail during the week that followed.

43. By a letter dated July 28, 2010, Enforcement requested that Vannoy appear and testify at FINRA's 14 Wall Street Office on August 12, 2010, pursuant to FINRA Rule 8210. This letter also advised Vannoy that Enforcement would reschedule the OTR and travel to Texas to take his testimony, provided that he responded to the letter by August 12, 2010. The July 28th Letter was sent by certified first-class mail and regular first-class mail to Vannoy's CRD Address.

44. Vannoy signed for the July 28th Letter on August 5, 2010.

45. On August 11, 2010, Enforcement sent Vannoy an e-mail, reminding him that he was required to appear and testify at FINRA's 14 Wall Street Office on the following day, as requested in the July 28th Letter.

46. Vannoy did not respond to the August 11th e-mail or request to reschedule his OTR for a later date in Texas.

47. Vannoy did not appear and provide testimony at FINRA's 14 Wall Street Office on August 12, 2010.

48. To date, Vannoy has not appeared and provided testimony as requested by Enforcement.

49. FINRA Rule 8210 provides, in relevant part, that FINRA "shall have the right to require a member, person associated with a member, or person subject to FINRA's jurisdiction to

provide information... and to testify at a location specified by FINRA staff... with respect to any matter involved in the investigation, complaint, examination, or proceeding.”

50. FINRA Rule 8210(c) states that “no member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule.”

51. By reason of the foregoing, Vannoy failed to comply with one or more requests that he appear and provide testimony in connection with a FINRA investigation, in violation of FINRA Rule 8210. His failure to appear and testify also constitutes a violation of FINRA Rule 2010 in that his conduct is not consistent with just and equitable principles of trade.

RELIEF REQUESTED

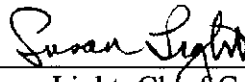
WHEREFORE, the Department respectfully requests that the Panel:

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

Date:

July 1, 2011



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