

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant

v.

Daniel Edward Becerril, II
(CRD No. 4489715),

Respondent

DISCIPLINARY PROCEEDING
No. 2009018944001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. This matter involves registered representative Becerril, who fraudulently misrepresented to a prospective customer that he was going to invest her funds in a mutual fund. Instead, Becerril placed the customer's funds into a bank account that he controlled. When the customer inquired about the status of her funds, Becerril misrepresented to her that her funds had been invested in a mutual fund through his employer member firm. Becerril also provided the customer with a fictitious document which falsely represented that the customer's funds had been received by the New Business department of Becerril's employer member firm.

2. Becerril also failed to produce bank records, which had been requested pursuant to FINRA Rule 8210, for the account into which he had deposited the prospective customer's funds.

FACTUAL BACKGROUND

3. On or about December 3, 2008, prospective customer CB gave Becerril \$11,500 to invest in a mutual fund on behalf of her minor daughter.
4. Although Becerril gave CB a mutual fund prospectus and had her complete his employer member firm's new account documents, Becerril never actually invested CB's funds in a mutual fund through his employer member firm.
5. Instead, Becerril deposited the customer's funds into a bank account owned by A.P. Financial Group, Inc., a third party entity that he controlled.
6. When CB inquired about the status of her funds, Becerril attempted to assuage her concerns by making misrepresentations to CB and by failing to disclose certain material facts to her.
7. Becerril also provided CB with a document which falsely represented that her funds had been received by the New Business department of his employer member firm and were going to be invested within a short timeframe.
8. CB was not satisfied with Becerril's explanations and documentation. In April 2009, she requested that Becerril return her funds.
9. Becerril did not return CB's funds until August 2009, after CB had made a regulatory complaint against him.

RESPONDENT AND JURISDICTION

10. Daniel Edward Becerril, II, entered the securities industry in December 2001, when he associated with a FINRA member firm. He subsequently obtained a Series 6 securities license in March 2002, and a Series 63 license in April 2002. Becerril later registered with two other FINRA member firms before registering with member firm Veritrust Financial, LLC in September 2007. His registration with Veritrust was terminated on August 27, 2009. Since then, he has not registered with another FINRA member firm.
11. Although Becerril has not been associated with a FINRA member firm since August 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

(Fraudulent Misrepresentations and Omissions - Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 promulgated thereunder, NASD Conduct Rules 2120 and 2110 and FINRA Rules 2020 and 2010)

12. The Department realleges and incorporates by reference paragraphs 1-11 above.
13. In connection with the purchase or sale of a mutual fund investment, Becerril directly or indirectly, by the use of means or instrumentalities of interstate commerce, or of the mails, knowingly, willfully or recklessly: (i) employed devices, schemes, or artifices to defraud, (ii) made untrue statements of a material fact or omitted to state a material fact

necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading or (iii) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon a prospective customer.

14. During the period from December 2008 to August 2009, Becerril knowingly, willfully or recklessly made misrepresentations of material facts, and omitted to disclose material facts in connection with his offer and sale of a mutual fund investment to CB. Becerril's material misrepresentations and omissions included, but were not limited to, the following:

- a. Statements to CB that her funds had been invested when he stated "I made the initial buy-in last week for your account." In reality, Becerril never invested CB's funds.
- b. Providing a document to CB that falsely represented that her funds had been received by his employer member firm, Veritrust, and were going to be invested within 24 to 48 hours. In fact, Veritrust had never received CB's funds and had no record of her as a customer of the firm;
- c. Failing to disclose to CB that, although he had asked her to complete various Veritrust new account documents, he did not actually submit the paperwork to Veritrust and that no account at Veritrust had ever been established for her.

15. As a result of the foregoing misrepresentations and omissions, Becerril willfully violated Section 10(b) of the Exchange Act, Rule 10b-5 thereunder; violated NASD Conduct Rules 2120 and 2110 during the period from December 3, 2008 to December 15, 2008, and FINRA Rules 2020 and 2010 during the period from December 16, 2008 to August 28, 2009.

SECOND CAUSE OF ACTION

(Misuse of Funds – NASD Rule 2110 and FINRA Rule 2010)

16. The Department realleges and incorporates by reference paragraphs 1-15 above.
17. During the period from December 2008 to August 2009, Becerril misused CB's funds by depositing them into a bank account that he controlled instead of investing them in a mutual fund as he had represented to CB.
18. As a result of the foregoing, Becerril violated NASD Conduct Rule 2110 during the period from December 3, 2008 to December 15, 2008, and FINRA Rule 2010 during the period from December 16, 2008 to August 28, 2009.

THIRD CAUSE OF ACTION

(Failure to Produce Documents – FINRA Rules 8210 and 2010)

19. The Department realleges and incorporates by reference paragraphs 1-18 above.
20. By letter dated September 14, 2009, FINRA staff requested, pursuant to FINRA Rule 8210, that Becerril produce, among other things, copies of monthly bank statements for the account into which CB's funds had been deposited. The letter requested that the documents be produced on or before September 25, 2009.
21. On October 7, 2009, Becerril, through his attorney, produced certain other records that had been requested in the September 14th letter, but failed to produce the bank records.
22. During Becerril's on-the-record testimony on October 8, 2009, FINRA staff reminded Becerril that he was under an obligation to produce the bank records because they had been requested pursuant to FINRA rule 8210.
23. Becerril never produced the requested bank records.

24. As a result of the foregoing, Becerril violated FINRA Rules 8210 and 2010.

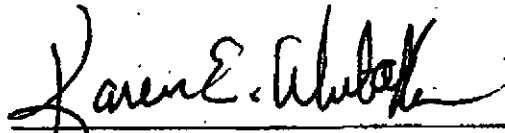
RELIEF REQUESTED

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 the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.
- C. make specific findings that Respondent Becerril willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder.

FINRA DEPARTMENT OF ENFORCEMENT

Date: December 2, 2010


Karen E. Whitaker, Senior Regional Counsel
Andrew A. Favret, Regional Chief Counsel
FINRA Department of Enforcement
12801 North Central Expressway, Suite 1050
Dallas, TX 75243
Phone: 972-716-7610; Fax: 972-716-7612
e-mail: Karen.whitaker@finra.org and
judy.peters@finra.org (legal assistant)