

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Andrew J. Longoria (CRD No. 2299271),

Respondent.

DISCIPLINARY PROCEEDING
No: 2009019969101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Andrew J. Longoria ("Longoria") misused a total of \$17,000 entrusted to him by two clients in February and April 2009 for investment purposes. He never invested the funds as promised and he never returned the funds to his clients. In addition, he failed to respond to a FINRA 8210 request pertaining to the misuse. This conduct violated NASD Conduct Rule 2330 and FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Longoria first became registered as a general securities representative with DC, a FINRA member firm in March 1993. In July 1994, he left DC. He was registered with six other FINRA member firms in this same capacity before joining IMS Securities Inc. ("IMS")

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on August 6, 2007 as a general securities representative. Longoria voluntarily terminated his registration with IMS on September 4, 2009. Although Longoria has not been associated with a FINRA member firm since September 4, 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 of the filing of an amendment to Longoria's Form U5 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 of the filing of an amendment to his Form U5.

FIRST CAUSE OF ACTION

(Misuse of Customer Funds – NASD Conduct Rule 2330 and FINRA Rule 2010)

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. PA opened an account with HMF, a mutual fund company, through Longoria in February 2009. Per Longoria's instructions, PA wrote a check for \$12,000.00 to fund that account on February 4, 2009, payable to "LRS Investments." LRS is an unregistered entity owned and controlled by Longoria. Although an account was opened at HMF for PA, it was never funded. Longoria never returned the \$12,000.00 to PA. When IMS learned of this situation, the firm repaid PA, who was an IMS customer, the \$12,000.00 she had given to Longoria.
5. By failing either to invest PA's \$12,000 as PA intended or to return the funds to PA, Longoria violated NASD Conduct Rule 2330 and FINRA Rule 2010.

SECOND CAUSE OF ACTION
(Misuse of Funds – FINRA Rule 2010)

6. The Department realleges and incorporates by reference paragraphs 1, 2 and 4 and 5 above.
7. KW met Longoria because their children played on the same softball team. On April 6, 2009, KW gave Longoria a check for \$5,000 for Longoria to invest on KW's behalf in what Longoria represented to be an exchange-traded mutual fund tied to the performance of the S&P Index. Longoria instructed KW to make the check payable to LRS Investments. Longoria had KW complete and sign forms to open an account but no account was ever established. Initially, KW made numerous requests for copies of the forms and evidence of the investment; however, Longoria never gave him this information. Between September 2009 and December 2009, KW made numerous requests that Longoria return his funds. Longoria made several promises to repay \$5,000.00 to KW, but has never done so. At one point, Longoria gave KW a check for \$5,820.00, but the check was returned for insufficient funds. KW was never an-IMS customer.
8. By failing either to invest KW's \$5,000.00 as KW intended or to return KW's money, Longoria violated FINRA Rule 2010.

THIRD CAUSE OF ACTION

(Failure to Respond to a Request for Information and Documents
FINRA Rules 8210 and 2010)

9. The Department realleges and incorporates by reference paragraphs 1, 2, 4, 5, 7 and 8.
10. On November 23, 2009, FINRA staff sent Longoria a written request for information pursuant to Rule 8210, via US Postal Service certified and first class mail to Longoria's residential CRD address which is [REDACTED] [REDACTED] ("residential CRD address"). The letter asked for information concerning the misuse of funds belonging to PA, including bank documents reflecting the deposit of PA's \$12,000.00 check. It also asked for, among other things, Longoria's personal bank records and bank records for accounts in the name of LRS Investments. Longoria's response was due by December 4, 2009. The certified mailing was returned marked "unclaimed unable to forward." The first class letter was not returned. Longoria did not provide the information or documents requested in the November 23, 2009, letter.
11. On December 9, 2009, the staff re-sent the same Rule 8210 request referenced in paragraph 10 above to Longoria's residential CRD address via US Postal Service certified and first class mail. The letter requested a response by December 23, 2009. The first class letter was not returned. However, an "A. Longoria" did sign the Domestic Return Receipt for the certified mailing on December 11, 2009. Longoria did not provide the information or documents requested in the letter dated December 9, 2009.

12. FINRA's ability to fully investigate Longoria's apparent violations of FINRA rules was hampered by Longoria's failure to respond. Without the provision of his bank records, FINRA staff could not determine whether Longoria converted PA's funds for his own use. Moreover, the staff was unable to investigate other possible instances of misuse.
13. The failure to provide information and documents to FINRA as requested in its written Rule 8210 requests dated November 23, 2009 and December 9, 2009, constituted separate and distinct violations of FINRA Rules 8210 and 2010 by Longoria.

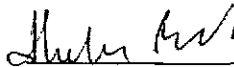
RELIEF REQUESTED

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: March 17, 2011



Helen G. Barnhill
Senior Regional Counsel
FINRA Department of Enforcement
4600 S. Syracuse St., Suite 1400
Denver, CO 80237
(303) 446-3111; Fax: (303) 446-3145
helen.barnhill@finra.org