

**FINANCIAL INDUSTRY REGULATORY AUTHORITY**

**OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Charles Duane Lewis  
(CRD No. 3236086),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2010023492301

Hearing Officer - SNB

**ORDER ACCEPTING OFFER OF  
SETTLEMENT**

**Date: September 12, 2013**

**INTRODUCTION**

Disciplinary Proceeding No. 2010023492301 was filed on June 25, 2012, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Charles Duane Lewis submitted an Offer of Settlement (Offer) to Complainant, dated August 31, 2012. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of

findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

### **BACKGROUND**

Respondent was associated with FINRA member H.D. Vest Investment Services from May 25, 1999 to July 7, 2010; beginning in September 1999, Respondent became registered as an Investment Company Products/Variable Contracts Representative. Respondent has no prior disciplinary history.

Although Respondent is no longer registered or associated with a FINRA member, 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 effective date of termination of Respondent's registration with the Firm, that is, July 7, 2010, and (2) the Complaint charges him with misconduct committed while he was registered or 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 registered or associated with a FINRA member.

### **FINDINGS AND CONCLUSIONS**

It has been determined that the Offer be accepted and that findings be made as follows:

## **FIRST CAUSE OF ACTION**

### **Misappropriation of Customer Funds (Violation of NASD Conduct Rules 2330(a) and 2110, and FINRA Rules 2150 and 2010)**

During the period between December 21, 2007 and May 1, 2010, Respondent provided accounting and financial services through his company, Fletcher Hills Tax Service, to DS, a Firm customer who, at the time of misconduct, was in her mid to late 80s.

Between December 21, 2007 and May 1, 2010, Respondent obtained a power of attorney from DS. Using the power of attorney, Respondent, without DS's knowledge or consent, wrote 61 checks from DS's bank account to himself or Fletcher Hills Tax Service, in the total approximate amount of \$467,177.00, and four checks to a personal friend of Respondent's, in the approximate amount of \$83,318.74, for a combined total of \$550,495.74. Respondent, without authority, used DS's funds for his own uses and purposes.

On or about August 3, 2010, in the Superior Court of the County of San Diego, California, in the matter of The People of the State of California v. Charles Duane Lewis, Court No. SCE303319, Respondent was charged with fifty-eight felony counts, including one count of theft from an elder over \$950, in violation of California Penal Code Section 368(d); one count of fraudulent appropriation by clerk, agent or employee, in violation of California Penal Code Section 508; one count of use of personal identifying information of another, in violation of California Penal Code Section 530.5(a); and fifty-five (55) counts of forgery of checks, money order, traveler's check, etc., in violation of California Penal Code Section 470(d).

On or about November 3, 2010, in the foregoing action, Respondent pleaded guilty and was convicted of theft from an elder, in violation of California Penal Code § 368(d), and

fraudulent appropriation of funds, in violation of California Penal Code § 508, and judgment was entered thereon. In consideration of his plea, the Court dismissed the remaining felony counts.

Based on the foregoing, Respondent violated NASD Rules 2330(a) and 2110 and FINRA Rules 2150 and 2010.

**SECOND CAUSE OF ACTION**  
**Failure to Respond**  
**(Violation of FINRA Rules 8210 and 2010)**

In connection with an investigation concerning Respondent's conduct as alleged above, on or about July 16, 2010, FINRA issued to Respondent, pursuant to Rule 8210, a request for documents and information (First Rule 8210 Letter) seeking information concerning the alleged misappropriation of DS's funds, with a requested response date of July 30, 2010. The First Rule 8210 Letter was sent by first class and certified mail to Lewis's address of record as reflected in FINRA's Central Registration Depository (CRD Address). The letters sent by first class mail and certified mail were not returned. The United States Postal Service (USPS) returned the certified mailing receipt, which reflects a signature of an individual, not Respondent, as agent, signed and dated July 19, 2010. Respondent has not provided a response to the First Rule 8210 Letter.

On or about August 6, 2010, FINRA issued to Respondent, pursuant to Rule 8210, a second request for the documents and information earlier requested (Second Rule 8210 Letter), with a response due date of August 20, 2010. The Second Rule 8210 Letter was sent by first class and certified mail to Respondent's CRD address of record. The letters sent by first class mail and certified mail were not returned. The United States Postal Service (USPS) returned the certified mailing receipt, which reflects a signature of an individual, not Respondent, as agent,

signed and dated August 9, 2010. To date, Respondent has not provided a response to the Second Rule 8210 Letter.

Based on the foregoing, Respondent violated FINRA Rules 8210 and 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

### **SANCTIONS**

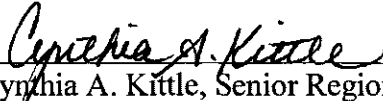
It is ordered that Respondent be barred from association with any FINRA member in any capacity.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the  
Director of ODA, by delegated authority

  
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