

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

LEVINSKI DEALEXIS BARNES,
(CRD No. 2292179)

Respondent.

Disciplinary Proceeding
No. 2010024271001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. During the period of August 15, 2007 through September 19, 2007, Levinski Dealexis Barnes (Barnes) received a total of \$50,000 from customer H.S., which was intended for the purchase of an interest in an accounting business. The purchase of the accounting business did not occur, and instead of returning H.S.'s \$50,000 as promised, Barnes repaid H.S. only a portion of the \$50,000. Barnes thereby improperly used the remaining portion of H.S.'s funds, in violation of NASD Conduct Rules 2330(a) and 2110. Furthermore, Barnes failed to respond timely and completely to FINRA's requests for information, in violation of FINRA Rule 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Barnes entered the securities industry in August 1992, when he was employed by a FINRA member firm. Barnes was first registered as a general securities representative in December 1992. Barnes was then employed by two other FINRA member firms from

- August 1996 through August 2006. Barnes was employed by J.P. Turner & Company, L.L.C. (J.P. Turner) in August 2006, and remained with J.P. Turner until July 2009.
3. On October 28, 2010, J.P. Turner filed an amended Uniform Termination Notice for Securities Industry Registration (Form U5) on behalf of Barnes. The amended Form U5 disclosed that a customer had filed a complaint against Barnes alleging "theft and fraud." The amended Form U5 filed by J.P. Turner on behalf of Barnes was filed within the two-year period after it filed the original Form U5. As a result, the amended Form U5 extended FINRA's jurisdiction over Barnes, pursuant to Article V, Section 4 of FINRA's By-Laws, until October 28, 2012.
 4. Although Respondent Barnes is no longer registered or associated with a FINRA member firm, 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 an amended Form U5 was filed on behalf of Barnes, and (2) the Complaint charges Barnes with misconduct committed while he was registered with a FINRA member firm and with failing to respond timely and completely to FINRA's requests for information during the two-year period after the amended Form U5 was filed by J.P. Turner.

**FIRST CAUSE OF ACTION
NASD CONDUCT RULES 2330(A) AND 2110
(IMPROPER USE OF CUSTOMER FUNDS)**

5. The Department realleges and incorporates by reference paragraphs 1 through 4 above.
6. H.S. was a customer of Barnes at J.P. Turner.
7. In or about 2007, Barnes discussed with customer H.S. an investment in an accounting business that Barnes and other individuals were contemplating purchasing.

8. The proposed purchase involved an offer of \$150,000 for the accounting business with customer H.S. to furnish \$50,000, and Barnes and others to furnish the remaining \$100,000.
9. Barnes told customer H.S. that if the offer for the accounting business was not accepted, then his funds would be returned to him in full.
10. Customer H.S. agreed to purchase an interest in the accounting business, and on or about August 15, 2007, H.S. wired \$8,000 from his bank account to the bank account of MBA Group, LLC (MBA), an entity owned and controlled by Barnes.
11. On or about September 17, 2007, H.S. wired an additional \$30,000 from his bank account to MBA.
12. On or about September 19, 2007, H.S. wired the remaining \$12,000 from his bank account to MBA.
13. H.S. wired, in aggregate, \$50,000 to MBA for the purchase of an interest in the accounting business.
14. In or about December 2007, Barnes informed customer H.S. that they did not win the bid to purchase the accounting business.
15. Customer H.S. requested the return of his \$50,000 from Barnes, but Barnes told customer H.S. that the \$50,000 could not be returned immediately.
16. On or about January 11, 2008, Barnes wired \$10,000 into customer H.S.'s bank account. Barnes subsequently paid customer H.S. another \$3,300.
17. Barnes has not repaid the balance of \$36,700 to customer H.S.
18. By failing to return the entire amount of customer H.S.'s funds as promised, and as requested by customer H.S., Barnes exercised unauthorized control over H.S.'s funds to

which Barnes was not entitled. By retaining funds that Barnes should have remitted to customer H.S., Barnes made improper use of H.S.'s funds.

19. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2330(a) and 2110 by Respondent Barnes.

**SECOND CAUSE OF ACTION
FINRA RULE 8210 AND 2010
(FAILURE TO RESPOND TIMELY AND COMPLETELY)**

20. The Department realleges and incorporates by reference paragraphs 1 through 19 above.

21. In late August 2010, FINRA received a complaint submitted by H.S. regarding Barnes.

In the complaint, H.S. alleges that, among other things, he provided Barnes with \$50,000 to purchase an accounting business, the purchase did not occur and Barnes failed to return \$36,700 of the funds customer H.S. had provided. In September 2010, FINRA initiated an investigation into H.S.'s allegations.

22. During the course of its investigation, FINRA determined that it needed information from Barnes regarding the bank account of MBA.

23. On March 23, 2012, FINRA sent a letter to Barnes via first class mail addressed to his residential address as listed in the Central Registration Depository (CRD). The March 23, 2012 letter requested that, pursuant to FINRA Rule 8210, Barnes submit for the period of August 2007 through January 2008: (i) copies of the monthly bank account statements for MBA, (ii) copies of deposit and withdrawal slips, (iii) any wire notifications received, and (iv) copies of checks written against the MBA account.

24. The March 23, 2012 letter requested that Barnes provide the information to FINRA no later than April 9, 2012. The March 23, 2012 letter sent by first class mail was not returned.

25. On or about March 27, 2012, Barnes responded to FINRA's requests, indicating that he would not provide the information because he was not willing to pay fees that he claimed his bank would charge to retrieve records. On April 11, 2012, FINRA sent Barnes a second letter, via first class and certified mail, addressed to his residential CRD address. The April 11, 2012 letter requested that, pursuant to FINRA Rule 8210, Barnes provide the information requested in the March 23, 2012 letter. The April 11, 2012 letter further requested that Barnes provide the information no later than April 25, 2012.
26. The April 11, 2012 letter sent by first class mail to Barnes's residential CRD address was not returned. The April 11, 2012 letter sent by certified mail to Barnes's residential CRD was returned stating "return to sender, unclaimed and unable to forward." Barnes failed to provide the requested information by the April 25, 2012 deadline.
27. However, on May 1, 2012, Barnes contacted FINRA stating that he was waiting on the requested information, and that he did not know when the information would be received. FINRA requested that Barnes provide documentation to support his claim that he had requested the information from his bank. Barnes indicated that he should be able to provide this information by May 4, 2012. FINRA confirmed the conversation with Barnes via e-mail. Yet Barnes failed to provide the documentation of his contacts with his bank as requested by FINRA.
28. On June 19, 2012, Barnes submitted the December 2007 MBA bank account statement along with copies of the checks that cleared that month. No additional documents were provided by Barnes.
29. As of the date hereon, Barnes has not provided (i) copies of the monthly bank account statements for MBA, (ii) copies of deposit and withdrawal slips, (iii) any wire

notifications received, and (iv) copies of checks written against the MBA account for the period of August 2007 through January 2008 (with the exception of December 2007), as requested by FINRA pursuant to FINRA Rule 8210..

30. Barnes's failure to submit the requested information impeded FINRA's investigation, and prevented FINRA from completing its regulatory responsibility to fully investigate potential rule violations.

31. Such acts, practices and conduct constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Respondent Barnes.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein; and
- B. Order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed.

FINRA DEPARTMENT OF ENFORCEMENT

Date:

8/29/12


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
and teresa.reich@finra.org (senior paralegal)

David B. Klafter, Regional Chief Counsel
FINRA - Enforcement Department
Crystal Corporate Center
2500 N. Military Trail, Suite 302
Boca Raton, Florida 33431-6324
Phone: (561) 443-8110; Fax: (561) 443-7998
E-Mail: david.klafter@finra.org

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