

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Ezra Demetrius Suber (CRD No. 2494135),

Respondent.

DISCIPLINARY PROCEEDING
No. 2010025041602

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Ezra Demetrius Suber converted for his personal use \$2,000 that SS, a brokerage customer with whom he was in a romantic relationship, had given him to invest. Suber's conversion of SS's funds violated FINRA Rules 2150(a) and 2010.

2. Suber also willfully failed to timely disclose 7 judgments or liens on his Uniform Application for Securities Industry Registration or Transfer ("Form U4"), in violation of Article V, Section 2(c) of the FINRA and NASD By-Laws of the Corporation, NASD Rule 2110, and NASD Rule IM 1000-1.

RESPONDENT AND JURISDICTION

3. Suber was registered with PFS Investments Inc. ("PFS") from June 20, 1994 until December 13, 2010, when he was permitted to resign. Suber first became registered as an Investment Company and Variable Contracts Products Representative in June 1994, and he became registered an Investment Company and Variable Contracts Principal in June 1999. By

2010, Suber was working part-time at PFS selling insurance, variable annuities and mutual funds.

4. Although Suber 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) this Complaint was filed within two years after the effective date of termination of Suber's registration with PFS, namely, December 14, 2010 and (2) this Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

FIRST CAUSE OF ACTION
Conversion of Customer Funds
(FINRA Rules 2150(a) and 2010)

5. The Department realleges and incorporates by reference paragraphs 1-4 above.

6. FINRA Rule 2150(a) provides that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds." In addition, FINRA Rule 2010 requires all FINRA associated persons to "observe high standards of commercial honor and just and equitable principles of trade" in conducting their business. Conversion of customer funds violates 2150(a), and it independently violates FINRA Rule 2010.

7. SS was Suber's brokerage customer at PFS. In May 2010, SS purchased a MetLife variable annuity from Suber through PFS.

8. After SS purchased the variable annuity from Suber, SS and Suber began a romantic relationship.

9. In June 2010, SS gave Suber \$2,000 in cash to invest on her behalf. Suber and SS discussed a number of potential investment options for SS's \$2,000.

10. Suber told SS that he would invest the funds on her behalf.
11. Instead of investing the \$2,000, Suber deposited the funds to his personal bank account.
12. Before the end of June 2010, Suber withdrew the funds that SS had given him from his bank account and used them to pay personal expenses.
13. Suber never invested any portion of the \$2,000 that SS had given him.
14. Suber did not tell SS that he had used the \$2,000 that she had given him to pay his personal expenses.
15. As a result of the foregoing conduct, Suber violated FINRA Rule 2150(a). Suber also violated FINRA Rule 2010 by virtue of the FINRA Rule 2150(a) violation and, separately and distinctly, as a result of the foregoing conduct.

SECOND CAUSE OF ACTION

Willfully Failing to Amend Form U4 to Disclose Liens and Judgments (Article V, Section 2(c) of the NASD and FINRA By-Laws of the Corporation, NASD IM-1000-1, and NASD Rule 2110)

16. The Department realleges and incorporates by reference paragraphs 1-15 above.
17. Article V, Section 2(c) of the By-Laws¹ require that associated persons keep their Forms U4 “current at all times by supplementary amendments . . . not later than 30 days after learning of the facts or circumstances giving rise to the amendment.” Pursuant to NASD IM-1000-1, the filing by a registered representative of a Form U4 that “is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or the failure to correct such filing after notice thereof, may be deemed to be conduct inconsistent with just and equitable

¹ As of July 30, 2007, the NASD By-Laws of the Corporation became the FINRA By-Laws of the Corporation.

principles of trade and when discovered may be sufficient cause for appropriate disciplinary action.” Failing to file prompt, accurate amendments to a Form U4 thus violates Article V, Section 2(c) of the NASD and FINRA By-Laws of the Corporation as well as NASD Rule 2110 and IM-1000-1.

18. Effective June 2003, Question 14M on Form U4 asked “Do you have any unsatisfied judgments or liens against you?” If an affirmative answer was given to Question 14M, the registered person is required to provide details about the lien or judgment.

19. As reflected on the following chart, from at least July 20, 2005 through August 5, 2008, Suber failed to timely report seven liens or judgments on his Form U4. Suber reported these liens or judgments between 40 and 3,520 days late.

Event	Entered in Favor of	Amount	Date Filed	Date Reported	Days Late
Civil Judgment	Individual	\$5,248.97	3/7/2005	7/20/2005	105
Civil Judgment	Dentist	\$493.57	9/8/2005	11/17/2005	40
Tax Judgment/Lien	IRS	\$49,728	4/1/2004	1/3/2008	1,342
Tax Judgment/Lien	IRS	\$18,281	4/15/1998	1/3/2008	3,520
Civil Judgment	Company	\$10,577	8/5/2006	1/3/2008	486
Civil Judgment	Financial Company	\$522	11/12/2001	1/3/2008	2,213
Default Judgment	Financial Company	\$722.42	6/7/2004	8/6/2008	1,491

20. Although Suber was aware of his obligation to update his Form U4 to reflect the liens or judgments described in paragraph 19, he willfully failed to do so in a timely manner.

21. As a result of the foregoing conduct, Suber willfully violated Article V, Section 2(c) of the NASD and FINRA By-Laws of the Corporation. In addition, Suber violated NASD IM-1000-1 and Rule 2110. By virtue of his violations of Article V, Section 2(c) of the NASD and FINRA By-Laws of the Corporation, Suber also violated NASD Rule 2110.

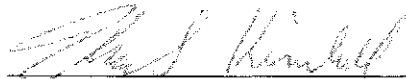
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent Ezra Demetrius Suber committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and,
- D. make specific findings that Respondent's conduct, as alleged in the second Cause of Action, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: November 20, 2012



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