

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Hugh R. Hunsinger, Jr. (CRD No. 2179745),

Respondent.

DISCIPLINARY PROCEEDING
No. 2011030045101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From about December 2002 to about July 2011, Hugh R. Hunsinger, Jr. ("Respondent") misappropriated a total of \$1,452,503.57 from the accounts of two customers, HRH and MLH, his elderly and unsophisticated parents. To hide his misappropriation, Respondent told his parents that he was selling securities they owned to invest in new insurance or securities products; in fact, he deposited the funds into bank accounts he controlled. Respondent's conduct violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, as well as NASD Rules 2330(a), 2120 and 2110, and FINRA Rules 2020, 2150, and 2010.

2. On November 23, 2011 and December 12, 2011, FINRA staff sent Respondent a written request for information pursuant to FINRA Rule 8210. Respondent failed to respond. This conduct violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Respondent first became registered with FINRA as an Investment Company and Variable Contracts Products Representative in 1991, and first became registered as a General Securities Representative in 1994. From January 2002 to November 3, 2011, Respondent was registered as both an Investment Company and Variable Contracts Products Representative and as a General Securities Representative through FINRA member Lincoln Financial Advisors Corporation ("LFA").

4. Respondent is not currently associated with a FINRA member firm. He remains subject to FINRA's jurisdiction pursuant to Article V, Section 4, of the FINRA By-Laws, in that: a) this Complaint was filed within two years after a December 2, 2011 amendment to the notice of termination (which in turn was filed within two years of his termination) that discloses possible misconduct actionable under applicable statutes, rules, and regulations; and b) this Complaint charges Respondent with misconduct committed while he was registered or associated with a FINRA member, and with failing to respond to FINRA requests for information sent during the two-year period after he ceased to be registered or associated with a FINRA member.

BACKGROUND

5. In or around spring 2002, at Respondent's recommendation, HRH and MLH established four accounts at LFA – an Individual Retirement Account ("IRA") for each, a joint account, and an individual account for MLH. In or around August and September 2002, Respondent arranged for a third party (the "Investment Advisor") to provide investment management and evaluation services for the assets HRH and MLH held in their IRA accounts. Respondent, however, remained the Financial Advisor for the accounts.

6. In September 2002, in connection with the investment management and evaluation arrangement, Respondent caused six IRA accounts to be established at Fidelity for HRH and/or MLH and caused most of the assets in HRH's and MLH's IRA accounts at LFA to be transferred to the Fidelity accounts.

7. Respondent was responsible for all communications with the Investment Advisor, who directed trading in the Fidelity accounts, and Respondent had the authority to request that the Investment Advisor periodically transfer funds from the Fidelity accounts.

FIRST CAUSE OF ACTION
(Misappropriation and Conversion of funds in violation of
NASD Rules 2330 and 2110 and FINRA Rules 2150 and 2010)

8. The Department realleges and incorporates by reference paragraphs 1 through 7, above.

9. On or around December 3, 2002, Respondent caused \$50,000 to be transferred from HRH's and MLH's joint account at LFA to an account at Lakeland Bank in Fairfield, NJ, for the benefit of Respondent and his wife. Neither HRH nor MLH ever had an account at Lakeland Bank and neither authorized a transfer of \$50,000 to Respondent or his wife, or to the Lakeland Bank account.

10. On 83 occasions, between around January 31, 2005 and around July 8, 2011, Respondent caused \$1,402,503.57 to be transferred from his parents' Fidelity IRA accounts to two accounts in Respondent's name at TD Bank, f/k/a Commerce Bank, in New Jersey, as reflected on the attached schedules in Exhibit A.

11. Neither HRH nor MLH has ever had an account at Commerce Bank or at TD Bank and neither HRH nor MLH ever authorized the transfer of funds from any of their Fidelity accounts to Respondent or to accounts at Commerce Bank or TD Bank.

12. As a result of the foregoing conversion and misappropriation, Respondent violated NASD Rules 2330(a) and 2110, and FINRA Rules 2150 and 2010.

SECOND CAUSE OF ACTION
(Misrepresentations in connection with the purchase or sale of securities
in violation of Section 10(b) of the Exchange Act and
Rule 10b-5 thereunder, NASD Rules 2120 and 2110, and FINRA Rules 2020 and 2010)

13. The Department realleges and incorporates by reference paragraphs 1 through 7, and 9 through 12, above.

14. In or around February 2006, Respondent recommended that HRH and MLH invest in a deferred combination variable and fixed annuity to be issued by ING (the “ING Annuity”). He provided HRH and MLH with documents that purported to be designed for HRH and that contained information, based on an historical illustration, concerning withdrawals, contract values, cash surrender, average annual returns, and standard death benefit. HRH and MLH agreed to Respondent’s recommendation and believed that Respondent was selling securities from their LFA and Fidelity accounts to purchase the ING Annuity.

15. During meetings in 2006 and 2009, Respondent reiterated to HRH and MLH, both orally and in writing, that he had purchased the ING Annuity. In or around 2010, Respondent also provided HRH and MLH with additional documents reflecting the purported initial premium for the ING Annuity. Respondent caused securities to be sold in his parents’ Fidelity accounts, but never purchased an ING Annuity on behalf of HRH or MLH. Instead, he caused some of the proceeds from the sales to be deposited into his Commerce Bank and TD Bank accounts, as alleged above in the First Cause of Action.

16. Respondent acted with scienter in falsely representing that he had purchased the ING Annuity on behalf of HRH and MLH.

17. As a result of the foregoing, Respondent willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, NASD Rules 2120 and 2110 and FINRA Rules 2020 and 2010.

THIRD CAUSE OF ACTION
(Failure to respond in violation of FINRA Rules 8210 and 2010)

18. The Department realleges and incorporates by reference paragraphs 1 through 7, 9 through 12 and 14 through 17, above.

19. On November 23, 2011, pursuant to FINRA Rule 8210, FINRA staff ("staff") requested that Respondent provide information and documents related to its investigation by December 7, 2011 (the "November 23 request"). The November 23 request was mailed by certified mail, return receipt requested, and by first class mail to the last known residential address of Respondent as reflected in the Central Registration Depository ("CRD").

20. A receipt was returned to the staff reflecting that Respondent received the November 23 request on November 26, 2011. Respondent failed to respond to the November 23 request.

21. On December 12, 2011, the staff sent a second request notifying Respondent that he had not responded to the request for the information and documents previously sent on November 23, 2011 (the "December 12 request"). The December 12 request stated that the documents and information should be provided to the staff no later than December 27, 2011. The December 12 request was mailed by certified mail, return receipt requested, and by first class mail to the last known residential address of Respondent as reflected in CRD.

22. A receipt was returned to the staff reflecting that Respondent received the December 12 request on December 15, 2011.

23. Respondent failed to respond and has not yet provided any information or documents to the staff.

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

RELIEF REQUESTED

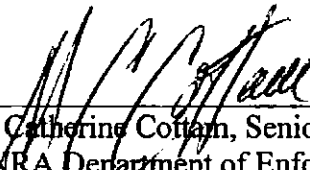
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) committed the Violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;
- D. make specific findings that Respondent Hugh R. Hunsinger, Jr. willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

FINRA DEPARTMENT OF ENFORCEMENT

Date: _____

4/6/13



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Exhibit A

	A	B	C
1	<u>Date</u>	<u>Amt</u>	<u>Destination</u>
2	4/26/2005	\$25,000	Commerce/TD No. *****295
3	6/9/2005	\$25,000	Commerce/TD No. *****295
4	7/19/2005	\$25,000	Commerce/TD No. *****295
5	9/20/2005	\$15,000	Commerce/TD No. *****295
6	10/31/2005	15,000	Commerce/TD No. *****295
7	12/14/2005	\$10,000	Commerce/TD No. *****295
8	1/6/2006	\$10,000	Commerce/TD No. *****295
9	2/15/2006	\$10,000	Commerce/TD No. *****295
10	3/29/2006	\$15,000	Commerce/TD No. *****295
11	4/26/2006	\$18,000	Commerce/TD No. *****295
12	6/2/2006	\$13,500	Commerce/TD No. *****295
13	6/6/2002	\$1,500	Commerce/TD No. *****295
14	6/22/2006	\$15,000	Commerce/TD No. *****295
15	7/26/2006	\$15,000	Commerce/TD No. *****295
16	8/23/2006	\$15,000	Commerce/TD No. *****295

	A	B	C
17	9/15/2006	\$15,000	Commerce/TD No. *****295
18	10/10/2006	\$15,000	Commerce/TD No. *****295
19	11/13/2006	\$15,000	Commerce/TD No. *****295
20	12/8/2006	\$15,000	Commerce/TD No. *****295
21	1/9/2007	\$15,000	Commerce/TD No. *****295
22	2/8/2007	\$15,000	Commerce/TD No. *****295
23	3/6/2007	\$15,000	Commerce/TD No. *****295
24	4/3/2007	\$15,000	Commerce/TD No. *****295
25	4/27/2007	\$15,000	Commerce/TD No. *****295
26	5/17/2007	\$15,000	Commerce/TD No. *****295
27	6/11/2007	\$15,000	Commerce/TD No. *****295
28	9/11/2007	\$15,000	Commerce/TD No. *****295
29	9/28/2007	\$15,000	Commerce/TD No. *****295
30	10/16/2007	\$15,000	Commerce/TD No. *****295
31	11/5/2007	\$15,000	Commerce/TD No. *****295

	A	B	C
32	11/19/2007	\$15,000	Commerce/TD No. *****295
33	12/7/2007	\$15,000	Commerce/TD No. *****295
34	1/3/2008	\$15,000	Commerce/TD No. *****295
35	2/1/2008	\$15,000	Commerce/TD No. *****295
36	2/22/2008	\$15,000	Commerce/TD No. *****295
37	3/13/2008	\$15,000	Commerce/TD No. *****295
38	3/26/2008	\$30,000	Commerce/TD No. *****295
39	4/3/2008	\$15,000	Commerce/TD No. *****295
40	4/23/2008	\$15,000	Commerce/TD No. *****295
41	5/8/2008	\$15,000	Commerce/TD No. *****295
42	5/30/2008	\$15,000	Commerce/TD No. *****295
43	6/20/2008	\$15,000	Commerce/TD No. *****295
44	7/10/2008	\$15,000	Commerce/TD No. *****295
45	8/1/2008	\$15,000	Commerce/TD No. *****295
46	8/21/2008	\$20,000	Commerce/TD No. *****295

	A	B	C
47	9/26/2008	\$19,970	Commerce/TD No. *****295
48	10/17/2008	\$20,000	Commerce/TD No. *****295
49	11/7/2008	\$30,000	Commerce/TD No. *****295
50	12/10/2008	\$20,000	Commerce/TD No. *****295
51	1/5/2009	\$15,000	Commerce/TD No. *****295
52	1/15/2009	\$15,000	Commerce/TD No. *****295
53	2/17/2009	\$15,000	Commerce/TD No. *****295
54	3/12/2009	\$15,000	Commerce/TD No. *****295
55	4/7/2009	\$15,000	Commerce/TD No. *****295
56	5/6/2009	\$18,000	Commerce/TD No. *****295
57	5/7/2009	\$12,000	Commerce/TD No. *****295
58	6/16/2009	\$15,000	Commerce/TD No. *****295
59	7/7/2009	\$15,000	Commerce/TD No. *****295
60	8/3/2009	\$15,000	Commerce/TD No. *****295
61	10/13/2009	\$30,000	Commerce/TD No. *****295

	A	B	C
62	12/3/2009	\$15,000	Commerce/TD No. *****295
63	1/11/2010	\$15,000	Commerce/TD No. *****295
64	2/10/2010	\$15,000	Commerce/TD No. *****295
65	3/12/2010	\$21,000	Commerce/TD No. *****295
66	4/21/2010	\$15,000	Commerce/TD No. *****295
67	5/13/2010	\$15,000	Commerce/TD No. *****295
68	6/22/2010	\$13,000	Commerce/TD No. *****226
69			
70		\$1,076,970	

<u>Date</u>	<u>Amt</u>	<u>Destination</u>
6/29/2007	\$15,000	Commerce/TD No. *****295
7/23/2007	\$15,000	Commerce/TD No. *****295
8/17/2007	\$15,000	Commerce/TD No. *****295
9/3/2009	\$15,000	Commerce/TD No. *****295
	\$60,000	

Date	Amt	Destination
8/6/2010	\$20,000	Commerce/TD No. *****226
9/3/2010	\$20,030	Commerce/TD No. *****226
10/5/2010	\$20,000	Commerce/TD No. *****226
11/4/2010	\$20,000	Commerce/TD No. *****226
12/14/2010	\$20,000	Commerce/TD No. *****226
1/10/2011	\$20,000	Commerce/TD No. *****226
2/18/2011	\$37,000	Commerce/TD No. *****226
4/26/2011	\$15,000	Commerce/TD No. *****295
5/18/2011	\$15,000	Commerce/TD No. *****226
6/14/2011	\$15,000	Commerce/TD No. *****226
7/8/2011	\$13,503.57	Commerce/TD No. *****226
	\$215,533.57	

Disbursements Fidelity Acct No. ***.***310

Lotsoff Capital Mgmt

<u>Date</u>	<u>Amt</u>	<u>Destination</u>
1/31/2005	\$50,000	Commerce/TD No. *****295
	\$50,000	