

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

Department of Market Regulation,

Complainant,

v.

Jeffrey Austin Jarrett (CRD 4402927),

Respondent.

Disciplinary Proceeding
No. 20120315996-01

Hearing Officer:

COMPLAINT

The Department of Market Regulation alleges:

Summary

1. Beginning in August 2010 and continuing through April 2011, Jeffrey Austin Jarrett (“Jarrett”), while registered at a FINRA member firm, through fraud and deceit, converted approximately \$375,000 from two customers, one of whom, customer CR, was elderly. Jarrett told one customer, customer JK, that he would invest her funds in a money market account with his company Jarrett Financial Services LLC and told another customer, customer CR, that he would invest her funds in an annuity with a life insurance company. Jarrett, however, did not invest the funds as he had represented to his customers. Instead, he converted the funds for his personal use in violation of FINRA Rules 2010 and 2150.

2. In connection with soliciting the purchase and sale of securities, that is, the purchase of a money market fund and the concomitant sale of mutual fund, Jarrett made fraudulent misrepresentations and omissions of material fact to customer JK concerning the use of her funds and how they would be invested, in willful violation of Section 10(b) of the

Exchange Act of 1934 and SEC Rule 10b-5 thereunder, and in violation FINRA Rules 2010 and 2020.

3. In furtherance of his fraudulent scheme, Jarrett used an outside business entity that he owned and controlled, namely Jarrett Financial Service LLC, to solicit funds from customers. On or around November 14, 2007, Jarrett organized Jarrett Financial Services LLC as a limited liability company in Indiana. Jarrett was the principal, owner and registered agent for Jarrett Financial Services LLC. Jarrett, however, failed to disclose the existence of Jarrett Financial Services LLC, as an outside business activity, to his FINRA member employer firm in violation of NASD Rule 2110 (for conduct prior to December 15, 2008) and FINRA Rule 2010 (for conduct on or after December 15, 2008); and NASD Rule 3030 (for conduct prior to December 15, 2010) and FINRA Rule 3270 (for conduct on or after December 15, 2010).

4. In connection with the investigation into this matter, on March 8, 2012 and March 28, 2012, staff from FINRA's Offices of Fraud Detection and Market Intelligence ("OFDMI") and Market Regulation ("FINRA staff") requested documents from Jarrett pursuant to FINRA Rule 8210. Jarrett failed to respond to the FINRA Rule 8210 requests.

5. On May 1, 2012, FINRA staff requested Jarrett appear on May 15, 2012, in Rockville, Maryland, to provide testimony pursuant to Rule 8210. Jarrett refused to appear for testimony.

6. By failing to provide the requested documents and by failing to appear for testimony, Jarrett violated FINRA Rules 2010 and 8210.

The Respondent and Jurisdiction

7. Jarrett was registered with FINRA member firms from May 2001 until April 2011. Jarrett was registered with his most recent FINRA employer member firm from November 8, 2007 until April 28, 2011, when the firm filed a Form U5 terminating his registration. 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 a FINRA member firm, namely, April 28, 2011; 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 and failing to appear for investigative testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

FIRST CAUSE OF ACTION Manipulative and Deceptive Devices (Section 10(b) of the Securities Exchange Act, Rule 10b-5, and FINRA Rules 2010 and 2020)

8. Market Regulation realleges and incorporates by reference all preceding paragraphs.

9. In March 2011, Jarrett's customer JK, invested \$65,000 to purchase a mutual fund in an IRA held at Jarrett's FINRA member employer firm. In April 2011, Jarrett told JK that her IRA was losing money, and he recommended that she sell the mutual fund, a security, and allow him to use the proceeds to invest in another security, a money market account with Jarrett Financial Services LLC.

10. On April 11, 2011, Jarrett contacted JK by telephone to set up an in-person meeting to complete JK's investment in the money market fund with Jarrett Financial Services LLC.

11. On April 12, 2011, upon Jarrett's recommendation and advice, JK sold her IRA consisting of a \$65,000 mutual fund investment with Jarrett's FINRA member employer firm. That day, Jarrett and JK met as planned, and JK gave Jarrett a check in the amount of \$65,000. JK did not receive any documents evidencing her investment in a money market fund with Jarrett Financial Services LLC.

12. Contrary to his representations to JK, Jarrett did not invest any of her funds in a money market fund. Jarrett misappropriated JK's funds by falsely representing that he would use the money to purchase securities, when instead, Jarrett converted JK's funds for personal use.

13. After repeated requests for the return of her money, Jarrett wired \$10,200 to JK's checking account on December 16, 2011. To date, JK has not received the remaining balance of \$54,800 of her funds.

14. By engaging in the foregoing conduct, Jarrett, in connection with the purchase or sale of a security, directly or indirectly, by use of means or instrumentalities of interstate commerce, or the mails, or a telephone, or the facilities of a national securities exchange, knowingly or recklessly, employed a device, scheme or artifice to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; and engaged in an act, practice, or course of business which operated or would operate as a fraud or

deceit upon any person, in willful violation of Section 10(b) of the Exchange Act of 1934 and SEC Rule 10b-5 thereunder, and in violation of FINRA Rules 2010 and 2020.

**SECOND CAUSE OF ACTION
Conversion of Customer's Funds
(FINRA Rules 2010 and 2150)**

15. Market Regulation re-alleges and incorporates by reference all preceding paragraphs.

16. Customer JK neither knew about nor authorized Jarrett's misappropriation of her funds for Jarrett's own personal use.

17. By engaging in the foregoing conduct, Jarrett unlawfully converted JK's funds for his personal use in violation of FINRA Rules 2010 and 2150.

**THIRD CAUSE OF ACTION
Conversion of Customer's Funds
(FINRA Rules 2010 and 2150)**

18. Market Regulation re-alleges and incorporates by reference all preceding paragraphs.

19. CR, an elderly customer, is related to Jarrett; her son, JR, is married to Jarrett's sister. In 2009, Jarrett solicited CR to invest \$310,000 in two flexible premium indexed annuities with an insurance company, and she purchased the annuities upon Jarrett's recommendation. Jarrett signed both annuities as CR's agent/broker.

20. In late 2010, Jarrett convinced CR to withdraw her money from the two annuities and purchase a single annuity with another insurance company. In August and December, 2010, CR liquidated the two annuities and wrote checks to Jarrett Financial Services, LLC totaling \$310,000.

21. Jarrett represented to CR that he was investing the \$310,000 in a single annuity with a different life insurance company because she would make a better return on her investment.

22. Jarrett misappropriated CR's funds by falsely representing that he would use her money to purchase the annuity, when instead, Jarrett converted CR's funds for his own personal use.

23. Customer CR neither knew about nor authorized Jarrett's misappropriation of her funds for Jarrett's own personal use.

24. To date, CR has not received any information from Jarrett regarding her funds and has not received the return of her \$310,000.

25. By engaging in the foregoing conduct, Jarrett unlawfully converted CR's funds for his personal use in violation of FINRA Rules 2010 and 2150.

FOURTH CAUSE OF ACTION
Failure to Disclose Outside Business Activities
(NASD Rules 2110 and 3030, and FINRA Rules 2010 and 3270)

26. Market Regulation re-alleges and incorporates by reference all preceding paragraphs.

27. On or around November 14, 2007, Jarrett organized Jarrett Financial Services LLC as a limited liability company in Indiana. At all times relevant to this Complaint, Jarrett was the principal and owner of, and was the registered agent for, Jarrett Financial Services LLC. Jarrett utilized Jarrett Financial Services LLC in his scheme to obtain and convert approximately \$375,000 from customers JK and CR.

28. Jarrett, however, did not provide written notice or otherwise disclose his affiliation with, or the money he received through, Jarrett Financial Services LLC to his FINRA member employer firm.

29. By failing to disclose his outside business activities while he was a registered person, Jarrett violated NASD Rule 2110 (for conduct prior to December 15, 2008) and FINRA Rule 2010 (for conduct on or after December 15, 2008); and NASD Rule 3030 (for conduct on or after December 15, 2010), and FINRA Rule 3270 (for conduct on or after December 15, 2010).

FIFTH CAUSE OF ACTION
Failure to Respond to FINRA Rule 8210 Requests
(FINRA Rules 2010 and 8210)

30. Market Regulation re-alleges and incorporates by reference all preceding paragraphs.

31. On March 8, 2012, in furtherance of its investigation into Jarrett's conduct, FINRA staff sent Jarrett a letter pursuant to Rule 8210 requesting documents and other information related to Jarrett Financial Services LLC and Jarrett's receipt of funds from CR and JK. The Rule 8210 letter was sent to Jarrett's CRD address via first class mail and FedEx. According to FedEx records, the Rule 8210 request was delivered to Jarrett's CRD address on March 9, 2012. His response was due on March 23, 2012, but Jarrett did not respond to the request for information and documents.

32. On March 28, 2012, FINRA staff sent Jarrett a second letter pursuant to Rule 8210 again requesting documents and other information related to Jarrett Financial Services LLC and Jarrett's receipt of funds from CR and JK. The second Rule 8210 letter was sent to Jarrett's CRD address via first class mail and FedEx. According to FedEx records, the second Rule 8210

request was delivered to Jarrett's CRD address on April 3, 2012 and was signed for by J. Jarrett. Jarrett, however, did not respond to the request for information and documents.

33. On May 1, 2012, FINRA staff served a written request upon Jarrett, pursuant to Rule 8210, which required him to appear for testimony in Rockville, MD on May 15, 2012, in connection with FINRA's investigation into this matter. The request for testimony was sent to Jarrett's CRD address via first class mail and FedEx.

34. According to FedEx records, the Rule 8210 request was delivered to Jarrett's CRD address on May 2, 2012. The certified mail delivery card indicated that Jarrett received the Rule 8210 request on May 4, 2012.

35. On or about May 3, 2012, Jarrett's attorney contacted FINRA staff via email. The email confirmed that Jarrett had received the Rule 8210 request for testimony, but stated that Jarrett would not attend the testimony.

36. As a result of Jarrett's repeated failure to respond to Rule 8210 requests for documents and information and refusal to appear for testimony, FINRA staff was prevented from pursuing material areas of its investigation into Jarrett's conduct in this matter.

37. By engaging in the foregoing conduct, Jarrett violated FINRA Rules 2010 and 8210.

Prayer for Relief

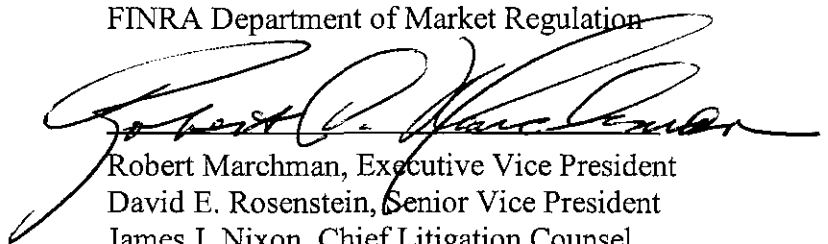
WHEREFORE, the Department of Market Regulation respectfully requests that the

Panel:

- A. make findings of fact and conclusions of law that Respondent Jeffrey Austin Jarrett committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Procedural Rule 8310 be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full restitution, together with interest;
- C. make specific findings that Respondent willfully violated Section 10(b) of the Securities Exchange Act and Rule 10b-5 promulgated thereunder;
- D. order that Respondent bear such costs of any proceeding as are deemed fair and appropriate under the circumstances, in accordance with FINRA Procedural Rule 8330; and
- E. grant all further relief, legal or equitable, that is warranted under the circumstances.

Dated: April 5, 2013

FINRA Department of Market Regulation



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