

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Philip Leonard Grasso (CRD No.1164783)

Respondent.

DISCIPLINARY PROCEEDING
No. 20140409066-01

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Beginning in or around February 2013, while on a medical leave of absence from FINRA regulated broker-dealer Allstate Financial Services, LLC (the Firm), Respondent Philip Leonard Grasso inserted himself into the lives of 91 and 89 year-old customers PG and AG in order to defraud them of their funds. Between December 2013 and January 2014 (the Relevant Period), after convincing the Customers to liquidate the various life insurance policies and annuities they held and to invest approximately \$227,150 of their funds through a brokerage account in the Customers' names, Grasso deposited \$227,150 of the Customers' funds into his own bank and brokerage accounts and used the funds for his own personal expenses such as mortgage payments and stock purchases.

2. During the Relevant Period, in an attempt to conceal his misconduct, Grasso provided the Customers with false account documents listing an investment account in Customer PG's name when no such account existed.
3. By engaging in that misconduct, Grasso willfully violated Section 10(b) of the Securities Exchange Act of 1934 (the Exchange Act) and Rule 10b-5 thereunder, and FINRA Rules 2020, 2150(a), and 2010.
4. Grasso also failed to respond fully to FINRA's requests for information by refusing to complete an on-the-record interview (OTR). Grasso's refusal to continue the OTR and his refusal to respond to FINRA staff's multitude of remaining questions violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

5. Grasso entered the securities industry in August of 1988 when he became registered with FINRA as an Investment Company and Variable Contracts Products Representative (IR) through an association with a FINRA regulated broker-dealer. Between August 1988 and April 2002, Grasso was registered with FINRA as an IR through consecutive associations with eight different FINRA regulated broker-dealer firms.
6. In August 2010, Grasso became registered with FINRA as an IR through his association with the Firm. Grasso remained at Allstate until his registration with the Firm was terminated on May 30, 2014. On May 30, 2014, the Firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) reporting that Grasso's employment was terminated due to allegations that he commingled the Customers' funds.

7. Although Grasso is no longer registered or associated with a FINRA regulated broker-dealer 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 of the effective date of termination of Grasso's registration with a FINRA regulated broker-dealer firm, namely, May 30, 2014; and (2) the Complaint charges him with misconduct committed while he was registered with a FINRA regulated broker-dealer and with failing to continue his OTR testimony while he was registered with FINRA and during the two year period after the date upon which he ceased to be registered or associated with a FINRA regulated broker-dealer.

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

8. The Department re-alleges and incorporates by reference paragraphs 1 through 7 above.
9. FINRA Rule 2150(a) provides that "no member or person associated with a member shall make improper use of a customer's securities or funds."
10. FINRA Rule 2010 requires members and associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade."
11. A violation of FINRA Rule 2150(a) constitutes a violation of FINRA Rule 2010.
12. During the Relevant Period, the Customers were customers of the Firm's parent property and casualty insurance company.
13. AG and PG first met Grasso in or around February 2013. At the time that the Customers met Grasso, AG was 89 years old and her husband PG was 91 years old.

14. On April 17, 2013, Grasso executed a Power of Attorney and a Healthcare Proxy for each of the Customers. Each proxy designated Grasso as successor agent.
15. In or around December 2013, the Customers followed Grasso's recommendation that Grasso invest approximately \$227,150 of the Customers' funds through a brokerage account in the Customers' names. In order to make \$227,150 in funds available for investment, Grasso recommended that the Customers surrender and/or liquidate the various annuities and life insurance policies they held.
16. On or about December 20, 2013, the Customers deposited the \$14,327.96 they received from the surrender of a life insurance policy into their checking account.
17. On or about December 27, 2013, pursuant to Grasso's recommendation, the Customers provided a check to Grasso from their checking account. Grasso filled out the check in the Customers' presence. He made the check payable to "Cash" and wrote in the amount of \$35,000. Grasso also wrote "for Inv/Stock Acct." in the memo section of the check. AG signed the check, and Grasso wrote in the Customers' check register that the check was made out to a name commonly understood as that of a broker-dealer.
18. On or about December 27, 2013, contrary to Grasso's representations to the Customers and the Customers' instructions to Grasso, Grasso endorsed the Customers' \$35,000 check and deposited it into his personal bank account.
19. On or about January 2, 2014, Grasso presented the Customers with a document dated January 2, 2014 that falsely stated that the Customers owned "stock" worth \$32,300 in a brokerage account at a broker-dealer in PG's name. At the time that Grasso presented this document to the Customers, Grasso had not opened a brokerage account in either of

the Customers' names and had already deposited the \$35,000 check into his personal bank account.

20. On or about January 8, 2014, pursuant to Grasso's recommendation, the Customers surrendered an annuity contract they held for a payout of \$192,148.79, which was wired to the Customers' checking account on January 9, 2013.
21. On or about January 13, 2014, pursuant to Grasso's recommendation, the Customers provided Grasso with a check from their checking account. In the Customers' presence, Grasso filled out the check. He made the check payable to "Cash" and wrote in the amount of \$192,150. Grasso also wrote "Investment" in the memo section of the check. PG signed the check, and Grasso again wrote in the Customers' check register that the check was made out to a name commonly understood as that of a broker-dealer.
22. Again, contrary to Grasso's representations to the Customers and the Customers' instructions to Grasso, Grasso endorsed the \$192,150 check and deposited it into his personal bank account on January 14, 2014.
23. From December 27, 2013, subsequent to Grasso's deposit of the Customers' \$35,000 check, to January 14, 2013, prior to Grasso's deposit of the Customers' \$192,150 check, Grasso used approximately \$5,823.56 of the Customers' funds to pay personal expenses such as mortgage payments, life insurance premiums, and credit card bills.
24. On January 15, 2014, Grasso wired \$180,000 from his personal bank account to his own brokerage account held at a broker-dealer.
25. On or about January 16, 2014, Grasso presented the Customers with a document dated January 16, 2014 that falsely stated that the Customers owned "stock" worth \$224,450 in a brokerage account at a broker-dealer in PG's name. At the time that Grasso presented

this document to the Customers, Grasso had not opened a brokerage account in either of the Customers' names and had already deposited the entire \$227,150 he received from the Customers into accounts in his name, under his control, and to which the Customers did not have access.

26. As of February 19, 2014, Grasso used \$24,196.62 of the Customers' funds to pay personal expenses. While Grasso used the bulk of the Customers' funds to make mortgage, life insurance and credit card payments, he also used them for expenses such as groceries, physical therapy, gasoline, cable bills, and landscaping. Combined with the \$180,000 Grasso transferred into his brokerage account on January 15, 2014, as of February 19, 2014, Grasso used \$204,196.62 of the Customers' \$227,150 for his own personal benefit. The remainder of the Customers' funds sat in Grasso's personal bank account and was available for his personal expenditures.

27. Based upon the foregoing misconduct, Grasso misused and converted the \$227,150 that the Customers gave him to invest through a brokerage account in the Customers' names to his own personal use in violation of FINRA Rules 2150(a) and 2010.

SECOND CAUSE OF ACTION
(Willful Misrepresentations and Omissions of Material Facts in Connection with the Sale of
Securities to the Customers)
Section 10(b) of the Exchange Act and Rule 10b-5 thereunder;
FINRA Rules 2020 and 2010

28. The Department re-alleges and incorporates by reference paragraphs 1 through 27 above.

29. Section 10(b) of the Exchange Act prohibits "any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national security exchange ... [t]o use or employ, in connection with the

purchase or sale of any security ... any manipulative or deceptive device or contrivance.”

30. Rule 10b-5 of the Exchange Act prohibits “any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, (a) to employ any device, scheme or artifice to defraud, (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.”

31. FINRA Rule 2020 provides that “[n]o member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.”

32. A violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and FINRA Rule 2020, constitutes a violation of FINRA Rule 2010.

33. During the Relevant Period, Grasso provided the Customers with two documents that falsely stated that the Customers maintained a brokerage account in PG’s name located at a FINRA regulated broker-dealer firm and that the account contained assets. The document dated January 2, 2014 falsely stated that the account contained “stock” worth \$32,300. The document dated January 16, 2014 falsely stated that the account contained “stock” worth \$224,450. At the time that Grasso presented those fictitious documents to the Customers, Grasso had not opened any brokerage account for the customers or made any investments for the Customers.

34. During the Relevant Period, contrary the Customers' instructions to Grasso and without informing the Customers, Grasso endorsed two of the Customers' checks totaling \$227,150, deposited the entirety of the \$227,150 in funds that the Customers provided to him into accounts in his name, under his control, and to which the Customers did not have access, and used the majority of the Customers' funds to pay personal expenses and to purchase securities in his own name.
35. By depositing the Customers' checks into his personal bank account, and transferring the Customers' funds into his personal brokerage account thereafter, Grasso used means of interstate commerce, including electronic transfers and checks drawn on United States banks.
36. Based upon the foregoing conduct, Grasso made material misrepresentations and omitted material facts in connection with the sale of securities to the Customers.
37. Based upon the foregoing conduct, Grasso knew, or was reckless in not knowing, that he made these material misrepresentations and omissions of material facts.
38. Based upon the foregoing conduct, Grasso willfully violated of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010.

**THIRD CAUSE OF ACTION
(Failure to Provide Testimony)
FINRA Rules 8210 and 2010**

39. The Department re-alleges and incorporates by reference paragraphs 1 through 38 above.
40. FINRA Rule 8210 authorizes FINRA, in the course of its investigations, to require persons associated with a FINRA member to "provide information orally, in writing, or electronically ... and to testify at a location specified by FINRA staff, under oath or

affirmation ... with respect to any matter involved in the investigation.” Failing to provide testimony requested by FINRA pursuant to FINRA Rule 8210 violates FINRA Rule 2010.

41. On May 19, 2014, FINRA Staff served a written request upon Grasso, pursuant to FINRA Rule 8210, which required him to appear for testimony on May 22, 2014 in connection with FINRA’s investigation into this matter.
42. On May 22, 2014, Grasso appeared with his attorney at FINRA’s New York office, to provide sworn testimony. The Grasso OTR commenced at approximately 10:08 a.m. and Grasso began providing testimony at that time.
43. At approximately 2:55 p.m., Grasso’s attorney asked for a break to speak with Grasso.
44. When Grasso returned from the break, Grasso’s attorney advised the Staff that Grasso would not continue his testimony. The Staff then informed Grasso that the Staff still had additional questions, had not concluded the OTR and that Grasso’s refusal to answer additional questions could result in disciplinary action. At that point, Grasso reiterated that he would not answer any further questions.
45. On June 9, 2014, the Staff contacted Grasso’s attorney by telephone in order to provide Grasso with another opportunity to complete his OTR. On that date, Grasso’s attorney confirmed once again that Grasso would not appear and would not provide any additional testimony on any future date.
46. Based on the foregoing misconduct, Grasso 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 Grasso 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. make specific findings that Grasso willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder; and
- D. order that Grasso bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;

FINRA DEPARTMENT OF ENFORCEMENT

Date: December 3, 2014

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