

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Giovanni L. Acevedo
(CRD No. 2508321),

Respondent.

Disciplinary Proceeding
No. 2014041529001

Hearing Officer -- KBW

ORDER ACCEPTING
OFFER OF SETTLEMENT

INTRODUCTION

Disciplinary Proceeding No. 2014041529001 was filed on April 8, 2015, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA") ("Complainant"). A hearing on the merits began in this matter on January 11, 2016, and continued on January 13 and 14, 2016. Respondent Giovanni L. Acevedo submitted an Offer of Settlement ("Offer") to Complainant on January 15, 2016. Pursuant to FINRA Rule 9270(e), the Complainant and the Extended Hearing Panel have accepted the uncontested offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the National Adjudicatory Council.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the First Amended Complaint ("Complaint"), and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint,

and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent first registered with a FINRA member firm in July 1994 as an Investment Company and Variable Contracts Product Representative (Series 6). Respondent became registered as a General Securities Representative (Series 7) in August 2000. In August 2006, Respondent became registered as both a Series 6 and Series 7 with FINRA member ING Financial Partners, Inc., now known as Voya Financial Advisors, Inc. ("Voya"), and remained registered in those capacities until Voya terminated his registrations on September 9, 2014.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

SUMMARY

1. From January 2009 through March 2014, Respondent Giovanni L. Acevedo converted more than \$160,000 from three people, including two customers of a FINRA member, for his own personal use, thereby violating NASD Rule 2330 and FINRA Rules 2150 and 2010.
2. Respondent also provided false information to FINRA during its investigation of Respondent's conversion of funds, and failed to respond to a request for information after the filing of the Complaint, thereby violating FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Respondent first registered with a FINRA member firm in July 1994 as an Investment Company and Variable Contracts Product Representative (Series 6). Respondent became registered as a General Securities Representative (Series 7) in August 2000.
4. In August 2006, Respondent became registered as both a Series 6 and Series 7 with FINRA member ING Financial Partners, Inc., now known as Voya Financial Advisors, Inc. ("Voya"), and remained registered in those capacities until Voya terminated his registrations on September 9, 2014.
5. No later than December 31, 2008, while registered at Voya, Respondent served as the registered agent, manager and authorized agent for Ace Capital Investments, LLC, a Florida limited liability company. Ace Capital Investments, LLC was renamed Ace Advisory Group, LLC ("Ace Advisory") on January 11, 2010. From January 11, 2010 through at least January 20, 2014, Respondent was the sole owner of Ace Advisory. Respondent used Ace Advisory for his own business purposes.
6. 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) this Complaint was filed within two years after the effective date of termination of Respondent's registration with Voya, namely, September 9, 2014, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and charges Respondent with providing FINRA with false information and with failing to respond in response to requests for information in accordance with FINRA

Rule 8210 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
Conversion of Funds
(Violation of NASD Rule 2330 and FINRA Rules 2150 and 2010)

7. The Department realleges and incorporates by reference paragraphs 1 -6 above.
8. NASD Rule 2330 and FINRA Rule 2150 (which replaced NASD Rule 2330 in December 2009) prohibit a person associated with a FINRA member from making improper use of a customer's securities or funds. A registered representative who converts a customer's funds violates NASD Rule 2330 and FINRA Rule 2150.
9. Any violation of NASD Rule 2330 or FINRA Rule 2150 is also a violation of FINRA Rule 2010, which requires a member, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade.
10. Conversion of funds belonging to a non-customer violates FINRA Rule 2010.
11. Respondent violated NASD Rule 2330, and FINRA Rules 2150 and 2010 by converting more than \$160,000 of funds belonging to three people, ACH, EGC, and KR, as alleged below.

Respondent Converts Funds from Customer ACH

12. From at least January 1, 2009 through March 2013, customer ACH had a securities brokerage account at Voya.
13. Respondent was the financial advisor for ACH's brokerage account at Voya, and made recommendations to ACH regarding investments in financial products.
14. On or about January 9, 2009, based on a recommendation from Respondent, ACH gave Respondent a check from her personal checking account for \$68,000 that she

wrote out to: "ACI Capital Investment." Respondent represented that he would invest the funds on her behalf consistent with ACH's instructions.

15. On or about January 12, 2009, Respondent deposited ACH's check into a bank account at SunTrust Bank. Respondent altered the payee line of the deposited check to read "ACI Capital Investment," by changing the "I" in "ACI" to an "E." Respondent then endorsed the check as "For Deposit Only - Ace Capital Investments LLC," the name of his limited liability company.
16. ACH thereafter received a fake "Account Statement" dated January 31, 2009 on what appeared to be letterhead for "ACI Capital Investments." The bottom of the document read "*Tradition of Solid Performance*" and included a legend stating, "ACI Investments are closed to public investors and may only be purchased through a qualified registered advisor." The Account Statement also showed Respondent as ACH's Financial Advisor.
17. The fake Account Statement falsely reflected an opening balance of \$68,000 in a "Non-Qual/ACI Tax-free" account and that the funds were earning "7% Semi-Annually" for a term of 36 months, ending January 13, 2012.
18. ACH did not receive any additional information about the \$68,000 that she gave to Respondent to invest on her behalf at ACI Capital Investment.
19. ACH did not receive her \$68,000 investment or any interest on her investment at the purported maturity date of the investment, January 13, 2012, or at any time before or after.

20. Respondent did not invest the \$68,000 on ACH's behalf as she instructed but instead converted the funds for his own beneficial use. Respondent never returned any of those funds to her.
21. Between June 2010 and March 2013, Respondent made other recommendations to ACH to invest in other financial products, including certificates of deposits at unidentified financial institutions.
22. Respondent instructed ACH that in order to make the recommended investments, she should provide Respondent with signed checks from her personal checking account that left blank the name of the payee and the dollar amount. Respondent explained that the checks should remain blank because he did not yet know the exact names of the investments or the amounts he could invest and that he would complete the checks once the information was determined.
23. Following Respondent's instructions, ACH gave Respondent signed checks that did not include the name of the payee or the dollar amount of the intended investment.
24. Between June 2010 and March 2013, ACH gave Respondent 21 checks for investment in which she left the payee and dollar amount of the check blank, as detailed in Attachment A to the Complaint.
25. For each of the checks identified in Attachment A, Respondent added his own name or Ace Advisory as the payee.
26. Respondent also added dollar amounts to each of the checks identified in Attachment A.

27. Respondent did not invest any of the funds for ACII that are identified in Attachment A. Instead, Respondent either cashed the checks or deposited the funds into a personal account in which he had beneficial ownership.
28. Using the 21 checks provided by ACII, Respondent converted a total of \$77,848.42 for his own benefit.
29. In total, between January 2009 and March 2013, Respondent converted \$145,848.42 from ACII in violation of NASD Rule 2330 and FINRA Rules 2150 and 2010.

Respondent Converts Funds from Customer EGC

30. From at least January 1, 2012 through April 30, 2014, customer EGC had a securities brokerage account at Voya for which Respondent was the financial advisor.
31. On multiple occasions between February 2012 and August 2013, Respondent recommended that EGC invest in certain financial products, including products that he described as available only to Voya employees.
32. Respondent instructed EGC that in order to make the recommended investments, she should send him funds from her checking account made out to either "Giovanni Acevedo" or "Ace Advisory Group" as the payee, and represented to EGC that he would invest these funds on EGC's behalf.
33. On or about August 22, 2013, EGC followed Respondent's recommendations and instructions and sent Respondent a check for \$5,000 made payable to "Ace Advisory" to invest on her behalf. That check is represented as the fifth entry on Attachment B to this Complaint.
34. Contrary to his representations to EGC, Respondent did not invest the \$5,000 he received from EGC, but instead converted all the funds for his own benefit.

35. Between January 2012 and February 2013, Respondent informed EGC that in order to join a Chamber of Commerce and retain his membership, he needed financial sponsors and requested that EGC appear to sponsor him for the Chamber of Commerce by writing checks to him. Respondent promised to return the funds that EGC gave him for the financial sponsorship.
36. Between January 2012 and February 2013, based on a request from Respondent to lend him funds for financial sponsorship, EGC provided Respondent with four checks totaling \$7,000 made out to either "Giovanni Acevedo" or "Ace Advisory Group LLC." Those checks are represented as the first four entries on Attachment B to this Complaint.
37. Respondent never repaid EGC the \$7,000 he received from EGC but instead converted all the funds for his own benefit.
38. In total, Respondent converted \$12,000 from EGC in violation of FINRA Rules 2150 and 2010.

Respondent Converts Funds from KR

39. From at least January 1, 2014 through April 30, 2014, KR had an investment advisory account at Voya for which Respondent was the financial advisor.
40. On or about March 13, 2014, Respondent recommended that KR invest \$5,000 in a security that he claimed was being underwritten by Voya.
41. Respondent suggested that KR invest in this new opportunity using funds in her Voya account that Respondent had helped her set aside as "emergency funds."
42. KR agreed to invest \$5,000 as recommended by Respondent.

43. Instead of making the investment directly from KR's Voya account, Respondent arranged to have \$5,000 withdrawn from KR's Voya account and sent to KR. Respondent instructed KR to send him a check from her personal bank checking account for \$5,000. Respondent further instructed KR to leave the name of the payee blank, explaining that he was not yet sure of the name of the investment.
44. On or about March 13, 2014, following Respondent's instructions, KR wrote a check for \$5,000 from her personal bank checking account, leaving the payee name blank.
45. On or about March 14, 2014, Voya's clearing firm sent a check for \$5,000 to KR, representing the funds withdrawn from KR's account at Voya.
46. On March 14, 2014, KR sent Respondent the \$5,000 check that she had written the prior day.
47. Respondent received KR's check for \$5,000 on March 17, 2014.
48. On March 18, 2014, Respondent cashed the check, having completed the payee line to read "Giovanni Acevedo."
49. Respondent did not invest the \$5,000 for KR that he received from her. Respondent cashed the check and converted the funds for his own benefit. Respondent thereby violated FINRA Rule 2010.
50. Accordingly, Respondent violated NASD Rule 2330, and FINRA Rules 2150 and 2010 by converting \$162,848.42 in funds belonging to ACH, EGC, and KR.

Second Cause of Action
Providing False Information to FINRA
(Violation of FINRA Rules 8210 and 2010)

51. The Department realleges and incorporates by reference paragraphs 1–50 above.

52. FINRA Rule 8210 requires persons subject to FINRA's jurisdiction to provide information and testimony requested in connection with any investigation or examination. Knowingly providing false information to FINRA in response to a request pursuant to FINRA Rule 8210 violates the rule.
53. Beginning in 2014 and continuing into 2015, FINRA investigated Respondent's possible conversion of customer funds and other potential violations.
54. In connection with its investigation, on July 31, 2014, FINRA staff sent a request for documents and information to Respondent, pursuant to FINRA Rule 8210 (the "July 31 Request"). The July 31 Request was sent to Respondent's CRD Address.
55. On October 2, 2014, FINRA staff sent another request for documents and information to Respondent, pursuant to FINRA Rule 8210 (the "October 2 Request"). The October 2 Request was sent to Respondent's CRD Address.
56. On October 24, 2014, FINRA staff requested, pursuant to FINRA Rule 8210, that Respondent appear on November 21, 2014 to provide on-the-record testimony. Following an email request from Respondent on November 14, 2014, FINRA staff agreed to change the date and sent a request on November 17, 2014, again pursuant to FINRA Rule 8210, that Respondent appear on December 2, 2014 to provide testimony. Both requests for testimony were sent to Respondent's CRD Address.
57. Respondent provided on-the-record testimony pursuant to FINRA Rule 8210 on December 2, 2014 (the "December 2 OTR").
58. As alleged below, Respondent violated FINRA Rules 8210 and 2010 by providing false information to FINRA in response to requests made pursuant to FINRA Rule 8210.

Respondent Lies to FINRA About Customer ACH's Funds

59. The July 31 Request, among other things, asked Respondent to provide information in connection with checks drawn on ACH's personal checking account.
60. In a letter dated August 12, 2014, Respondent provided a response to the July 31 Request that contained the following material false statements regarding ACH's investments:
- a. Respondent claimed that "[ACH] is referring to the payments she made to me to repay the outstanding balance of a loan that she had obtained years before I even met her." In fact, there was no such loan to ACH.
 - b. In response to the question "did you ever sign your name on the payee line on an endorsed blank check," Respondent stated, "No. [ACH] never gave me a blank endorsed check." In fact, ACH gave him blank endorsed checks, he did write his name, ACE Capital Investment, or Ace Advisory Group as the payee, and he filled in the dollar amount on the checks.
61. During the December 2 OTR, Respondent lied in the following instances regarding his conversion of ACH's funds:
- a. When asked "did you ever show [ACH] the [consumer loan agreement]," referring to a loan purportedly given to ACH by BTFC Mortgage Corporation ("BTFC") (and purportedly owed to Respondent), Respondent stated "[o]f course, yeah, she knew, she knew what loan we were talking about. We had the loan note, absolutely. We discussed it. I mean, extensively." In fact, ACH had never heard of the loan or seen any consumer loan agreement from BTFC.

- b. When asked “[w]hat was the purpose of [the \$68,000 check from ACH to Ace Capital Investments,]” Respondent stated “[t]o pay down her loan. This was the first payment I received for her loan.” In fact, there was no BTFC loan, no loan owed to Respondent, and ACH’s intended purpose for the check was as an investment.

Respondent Lies to FINRA About Customer EGC’s Funds

62. The October 2 Request asked, among other things, that Respondent “explain why [he] received funds from [EGC].” The letter also asked him to “include dates, dollar amount and reason for the funds.”
63. Respondent provided a partial response to the October 2 Request on October 9, 2014.
64. On October 24, 2014, FINRA staff sent a letter to Respondent pursuant to FINRA Rule 8210, informing Respondent that his October 9 response “did not state whether and when you received funds from [EGC]” and “also failed to provide the more detailed information about any funds received.”
65. In a letter dated November 12, 2014, Respondent provided a response that contained material false information. Specifically, Respondent stated: “I have not received funds from [EGC],” when in fact, he received five checks from EGC between February 2012 and August 2013 payable either to himself or Ace Advisory.
66. During the December 2 OTR, FINRA staff presented Respondent with his letter dated November 12, 2014. Respondent reiterated that his written response regarding EGC was accurate and truthful.
67. Respondent also repeatedly and falsely denied receiving any funds from EGC during the OTR, answering “No” to the following questions:

- a. [D]id [EGC] ever write a check and give you a check for ... an investment?
- b. Did [EGC] ever give you a check for any reason?
- c. Did you ever accept funds from [EGC] with the understanding that you would invest them in your name, but on her behalf?
- d. Did [EGC] ever give you a check made out to you as payee?
- e. Did [EGC] ever give you a check made out to Ace Advisory Group or Ace Capital or any other Ace entity?

68. During the December 2 OTR, FINRA staff showed Respondent copies of three checks (both front and back) written from EGC's personal checking account in 2013. The payees on the checks were Ace Advisory Group LLC, Giovanni Acevedo, and Ace Advisory, respectively. Acevedo personally endorsed the back of the check made out to him, and the backs of the other two checks were endorsed "For Dep[osit] only Ace Advisory Group LLC" and "Ace Advisory Group LLC." Respondent falsely denied receiving any of the three checks, depositing or cashing any of the three checks, or converting any of the funds represented by the checks.

69. Respondent's sworn testimony during his December 2 OTR was false. In fact, Respondent received at least \$12,000 in the form of five personal checks that EGC wrote to Respondent or Ace Advisory and converted those funds for his own benefit.

Respondent Lies to FINRA About KR's Funds

70. The October 2 Request also asked Respondent, among other things, to "provide an explanation regarding a \$5,000 check [he] received from customer [KR]."

71. Respondent provided a partial response to the October 2 Request on October 9, 2014.

72. On October 24, 2014, FINRA staff informed Respondent that his October 9 response was incomplete in several material respects and, in accordance with FINRA Rule 8210, requested additional information relating to the funds that KR sent to Respondent.

73. In a letter dated November 12, 2014, Respondent provided a response that contained material false information. Specifically, Respondent stated:

- a. Respondent provided KR “with a package that contained all of [the] pertinent information about the investment company and the actual investment.” In fact, Respondent did not send KR a package of information about the investment and never identified the investment to KR.
- b. When Respondent “opened the package ... I obviously noticed that the check [from KR] was incorrectly made out to me.” In fact, KR sent a check with a blank payee line and Respondent filled in the payee line with his own name.
- c. Respondent “went to the bank to have the [KR] check turned into a bank check” to send to the investment company for KR. In fact, Respondent did not send KR’s funds to any investment company but rather converted the funds for his own beneficial use.
- d. “The investment company had alerted [Respondent] that they were unable to accept her application due to the overwhelming demand they had received.” In fact, the investment company Respondent eventually identified to FINRA staff, Firm G, never received an application or check to invest funds for KR and never communicated with Respondent regarding KR.

74. During the December 2 OTR, Respondent provided materially false testimony in connection with the \$5,000 check he received from KR, as follows:
- a. Respondent claimed that KR sent a check “to me payable to me instead of the investment company.” In fact, KR left the payee line blank at Respondent’s direction and Respondent added his own name as payee.
 - b. Respondent claimed that KR “sent [the check] in without an application. I got the application later, the following day, but not the -- but not with the check.... [The] application, which I eventually got the following day ... was sent to the investment company. And a copy of it went to our compliance department through, you know, through, for processing.” In fact, KR never received any application for this investment, never sent any completed application to Respondent and Respondent never submitted the application to Firm G or Voya for this investment.
 - c. Respondent claimed that he “never touched [KR’s] money, that money went from one check to another and then it went to the investment company.” In fact, Respondent cashed the \$5,000 check and converted KR’s \$5,000 for his own benefit.
75. Accordingly, by providing false information to FINRA in response to requests made pursuant to FINRA Rule 8210 regarding ACH, EGC, and KR, Respondent violated FINRA Rules 8210 and 2010.

Third Cause of Action
Failure to Provide Information Requested by FINRA
(Violation of FINRA Rules 8210 and 2010)

76. The Department realleges and incorporates by reference paragraphs 1–75 above.

77. On July 8, 2015, FINRA staff sent Respondent a request for information pursuant to FINRA Rule 8210 ("July 8 Request"), seeking certain documents and information relating to Respondent's Answer filed in this matter on May 7, 2015, and his Amended Statement of Answer filed on June 23, 2015. The July 8 Request set a deadline for Respondent to provide the responsive documents and information no later than July 22, 2015.
78. The July 8 Request was sent to Respondent by first class certified mail and email.
79. On July 9, 2015, Enforcement filed a Notice of Issuance of Post-Complaint Rule 8210 Request For Information and Documents with the Office of Hearing Officers ("OHO") ("July 9 Notice").
80. The July 9 Notice attached the July 8 Request and informed the Hearing Officer and Respondent that Enforcement had issued the July 8 Request. The July 9 Notice was sent to Respondent by first class certified mail and email.
81. Respondent did not provide any documents or information responsive to the July 8 Request by the July 22, 2015 deadline.
82. On July 22, 2015, Respondent filed a motion with OHO entitled Respondent's Motion to Object [sic] Complainant's Request for Additional Information Dated July 8, 2015 ("July 22 Motion"), objecting to complying with the July 8 Request.
83. On August 18, 2015, the Hearing Officer issued an *Order Denying Respondent's Motion Objecting to Complainant's Request for Additional Information Dated July 8, 2015* ("August 18 Order"). The August 18 Order stated that "Acevedo's objections to the Rule 8210 Request [relating to the July 8 Request] are denied."

84. On August 19, 2015, the Hearing Officer issued an *Order Directing Acevedo to Respond to Rule 8210 Request* ("August 19 Order") directing that "Acevedo shall provide the requested information and documents to Enforcement on or before August 26, 2015.
85. Acevedo did not provided any information or documents requested in the July 8 Request by or after the August 26 deadline.
86. Respondent has not complied with either the August 18 Order or the August 19 Order.
87. Accordingly, by failing to respond to the July 8 request pursuant to Rule 8210, Respondent violated FINRA Rules 8210 and 2010.

Based on the foregoing, Respondent violated NASD Rule 2330 and FINRA Rules 2150, 8210 and 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be barred from associating with any FINRA member firm in any capacity.

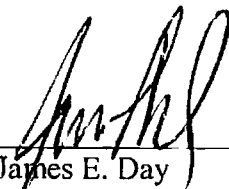
The sanctions imposed herein shall be effective on a date set by FINRA staff. A bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

Dated: February 8, 2016



James E. Day
Vice President and Chief Counsel
Department of Enforcement