

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Devin Lamarr Wicker (CRD No. 4228250),

Respondent.

DISCIPLINARY PROCEEDING
No. 2016052104101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between March 2016 and November 2016, while he was associated with, and a 60% owner of, former member firm Bonwick Capital Partners, LLC (CRD No. 156469), Respondent Devin Lamarr Wicker used a customer's funds to pay Bonwick's business expenses without the customer's authorization or approval. Specifically, on March 17, 2016, Bonwick received \$50,000 from an investment-banking customer for the purpose of paying a retainer to a law firm hired in connection with a prospective public offering. However, rather than pay that law firm, Wicker used the money to pay Bonwick's business expenses, including Bonwick's own legal bills. To date, Wicker has not returned the customer's funds. Wicker thereby improperly used and converted customer funds in violation of FINRA Rules 2150(a) and 2010.

RESPONDENT AND JURISDICTION

2. Wicker first became registered with FINRA as a General Securities Representative (“GSR”) on or about October 24, 2000. Since then, Wicker has been registered as a GSR, and held various other registrations, through his association with five current and former FINRA member firms.

3. In or about 2010, while he was still registered through another FINRA member firm, Wicker founded Bonwick. Wicker owned approximately 60% of Bonwick and served as its Chief Executive Officer, Chief Compliance Officer and Chief Financial Officer. Before Bonwick ceased operations in June 2016, it had approximately 30 Registered Representatives in its five offices, located in New York City, Santa Monica, Chicago, Dallas and Houston.

4. On June 14, 2012, Wicker became registered through Bonwick in the following capacities: GSR, Equity Trader (“ET”), General Securities Principal (“GP”), Investment Banking Representative (“IB”), and Municipal Securities Principal (“MP”). On August 27, 2013, Wicker became registered through Bonwick as an Operations Professional (“OS”). On October 21, 2013, Wicker became registered through Bonwick as a Research Principal (“RP”). On January 4 and 5, 2016, Wicker became registered through Bonwick as a Securities Trader (“TD”) and Proprietary Trader Principal (“TP”) respectively.

5. On or about June 30, 2016, Bonwick ceased operations, but did not terminate Wicker’s registrations until almost six months later, on December 22, 2016.

6. Between July 1, 2016 and May 30, 2017, Wicker was registered through another FINRA member firm as a GSR, GP, IB, MP, OS, RP, TD, Financial and Operations Principal (“FINOP”), Options Principal (“OP”), and Municipal Securities Representative (“MR”).

7. From December 13, 2017 through the present, Wicker has been registered with another FINRA member firm in the following capacities: GSR, FINOP, OP, MR, GP, IB, MP, OS, RP and TD.

FACTS

Bonwick Receives \$50,000 from Customer A for Payment to Underwriter's Counsel

8. In February 2016, a company based in California ("Customer A") retained Bonwick as underwriter for a planned public offering.

9. On or about March 16, 2016, in anticipation of retaining "Law Firm A" to act as underwriter's counsel in connection with the Customer A offering, Bonwick sent an invoice to Customer A for \$50,000 ("Underwriter's Counsel Retainer"), directing that Customer A wire those funds to Bonwick so that Bonwick could pay Law Firm A.

10. On or about March 17, 2016, Customer A transferred \$50,000 to Bonwick's bank account solely for the purpose of paying the Underwriter's Counsel Retainer. Wicker was notified by email that Customer A had sent the funds to Bonwick.

11. On or about March 18, 2016, Wicker signed an agreement (on Bonwick's behalf) formally retaining Law Firm A as underwriter's counsel.

Wicker Uses Customer A's Funds to Pay Bonwick's Expenses

12. At all times, Wicker had sole control over Bonwick's bank account, and was the only person at Bonwick with authority to authorize wire transfers or withdrawals from Bonwick's bank account.

13. Wicker knew that the \$50,000 received from Customer A was to be used solely for the purpose of paying Law Firm A.

14. At no time did Wicker request or receive authorization from Customer A to use the \$50,000 for any purpose other than for payment to Law Firm A.

15. Nevertheless, Wicker used Customer A's funds to pay Bonwick's expenses.

16. Specifically, between March 17 (the date Customer A transferred \$50,000 to Bonwick's bank account) and March 30, 2016, Bonwick's bank account dropped below \$50,000, down to approximately \$12,500.

17. Accordingly, by March 30, 2016, Wicker had spent at least \$37,500 of Customer A's funds to pay Bonwick's expenses, including \$20,000 to pay Bonwick's own outstanding legal bills.

Wicker Fails to Pay Underwriter's Counsel or Return Customer A's Funds

18. Law Firm A did work in connection with the Customer A offering. For example, by August 24, 2016, Law Firm A had incurred over \$32,000 in legal fees, which would have been covered by the Underwriter's Counsel Retainer.

19. On April 4, 2016, Law Firm A sent Bonwick an invoice (which was forwarded to Wicker) requesting payment of the \$50,000 retainer fee.

20. Beginning in April 2016 and continuing through November 2016, Law Firm A and Customer A sent at least seven written requests to Wicker (or which were forwarded to Wicker by Bonwick employees) asking that Bonwick either pay the \$50,000 Underwriter's Counsel Retainer to Law Firm A or return the funds to Customer A.

21. In response to these requests, Wicker failed to forward the \$50,000 to Law Firm A or to return that amount to Customer A.

22. Instead, Wicker gave excuses for his failure to return Customer A's funds, including that there was an "issue with the banker."

23. In testimony, Wicker admitted that he purposefully decided to use Customer A's funds to pay Bonwick's expenses, but claimed that it was "just a delaying of payment" until other funds were received by Bonwick.

24. However, between April 4, 2016 and November 30, 2016, approximately \$2,345,000 in funds were received in the Bonwick bank account.

25. Wicker did not use any of those funds to pay the \$50,000 to Law Firm A or to return that amount to Customer A.

26. Rather, between April 4, 2016 and November 30, 2016, Wicker transferred or withdrew approximately \$440,500 out of Bonwick's bank account and deposited those funds into his own personal bank account.

27. Bonwick ceased operations in June 2016 and its FINRA registration was canceled in February 2017.

28. To date, Wicker has neither paid the \$50,000 to Law Firm A nor returned Customer A's funds.

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

29. The allegations in paragraphs 1 through 28 are repeated and incorporated herein.

30. FINRA Rule 2150(a) requires that, "[n]o member or person associated with a member shall make improper use of a customer's securities or funds."

31. 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.

32. Wicker had control over funds received from Customer A, a Bonwick customer. Customer A directed Bonwick (and Wicker) to use those funds to pay Law Firm A.

33. Wicker intentionally and without authorization used Customer A's funds to pay Bonwick's business expenses.

34. Wicker never paid Law Firm A or returned Customer A's funds.

35. As a result of Wicker's misconduct, Customer A was permanently deprived of its \$50,000.

36. By reason of the foregoing, Wicker violated FINRA Rules 2150(a) and 2010. Wicker also violated FINRA Rule 2010, separately and distinctly, as a result of the foregoing conduct.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Wicker 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 Wicker be barred from associating with any FINRA member firm in any capacity, and that Wicker be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest; and

- C. order that Wicker 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: August 8, 2018

Kerry J. Land

Kerry J. Land, Principal Counsel
Jessica Brach, Director
Christopher Kelly, S.V.P., Sales Practice Enforcement
FINRA, Department of Enforcement
Brookfield Place, 200 Liberty Street
New York, New York 10281-1003
(646) 315-7386; (202) 721-6575
E-mail: Kerry.Land@finra.org