

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Michael Wayne Gibson
(CRD No. 1501602)

Respondent.

Disciplinary Proceeding
No. C01050006

Hearing Officer

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. During the approximate period from July 25, 2002, to October 24, 2003, Respondent Michael Wayne Gibson was associated with Round Hill Securities, Inc., a member of NASD. During the approximate period from May 9, 2003, to August 20, 2003, Gibson was also associated with Avisen Securities, Inc. (Avisen), another member of NASD. On February 4, 2004, Avisen filed an amended Form U-5 with NASD disclosing that Gibson was the subject of felony charges. Pursuant to Article V, Section 4 of NASD's By-Laws, Gibson remains subject to NASD's jurisdiction for purposes of this Complaint.

FIRST CAUSE OF COMPLAINT
**(Embezzlement from an Elder –
Violation of Rule 2110 by Respondent Gibson)**

2. On or about and between May 15, 2003, through September 29, 2003, at and in the County of Sacramento, State of California, Respondent Michael Wayne Gibson did commit a felony, namely: a violation of Section 368(d) of the Penal Code of the State of

California, in that said Respondent committed theft and embezzlement with respect to the property of an elder and dependent adult, said property having a value in excess of \$400, to wit, \$30,000, and knew and reasonably should have known that said person, JB, was an elder and dependent adult, age 89 years old.

3. The foregoing conduct constitutes a violation of Rule 2110 by Respondent Gibson.

SECOND CAUSE OF COMPLAINT
**(Failure to Respond to Requests for Information –
Violations of Rules 8210 and 2110 by Respondent Gibson)**

4. On March 24, 2004, pursuant to and in accordance with Rule 8210, NASD requested that Respondent Michael Wayne Gibson provide NASD with information and documentation concerning allegations that he had misappropriated funds from JB.
5. A response to the request was required no later than April 8, 2004.
6. The request was sent by regular first class and certified mail to Gibson at [REDACTED]
[REDACTED] which is Gibson's last known residential address as reflected in the Central Registration Depository (CRD address).
7. The copy of the request sent by regular first class mail was not returned.
8. The copy of the request sent by certified mail was returned marked "Unclaimed."
9. NASD received no response to the request.
10. On April 12, 2004, pursuant to and in accordance with Rule 8210, NASD requested that Respondent Michael Wayne Gibson provide NASD with information and documentation concerning allegations that he had misappropriated funds from JB.
11. A response to the request was required no later than April 8, 2004.
12. The request was sent by regular first class and certified mail to Gibson at his CRD address.

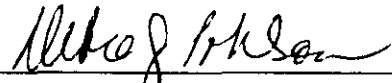
13. The copy of the request sent by regular first class mail was not returned.
14. The copy of the request sent by certified mail was returned marked "Unclaimed."
15. NASD received no response to the request.
16. The foregoing acts, practices and conduct constitute separate and distinct violations of Rules 8210 and 2110 by Respondent Gibson.

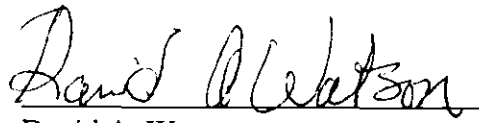
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. An order imposing sanctions upon the Respondent in accordance with NASD Rule 8310;
- C. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- D. An order imposing any other fitting sanction.

Date: April 25, 2005

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