

NASD OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

**Jack Mace Schwartz
General Securities Representative,
General Securities Principal
and Financial and Operations Principal
(CRD No. 1027281)**

Respondent.

Disciplinary Proceeding No. C04050024

Hearing Officer - _____

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. From June 28, 1993 through May 26, 2004, Respondent Jack Mace Schwartz ("Respondent Schwartz") was associated with NASD member Linsco/Private Ledger Corp. ("LPL") and was registered with NASD as a general securities representative and a general securities principal.

2. Respondent Schwartz is currently associated with another NASD member and is registered with NASD as a general securities representative, a general securities principal and a financial and operations principal.

CAUSE OF COMPLAINT
Suitability
NASD Conduct Rule 2310 and 2110

3. R.L. and M.L. were customers of Respondent Schwartz from on or about April 17, 2001 through on or about June 19, 2003.

4. In February 2001, R.L. met with Respondent Schwartz to discuss investing approximately \$600,000. R.L. was 61 years old, while his wife M.L. was 59 years old. At the

time, R.L. and M.L. were planning for their upcoming retirement. R.L. informed Respondent Schwartz that they would need to withdraw \$6,000 a month to pay for living expenses.

5. On April 17, 2001, R.L. and M.L. opened two accounts through Respondent Schwartz with LPL – a rollover IRA account held by R.L. and a brokerage account held jointly by R.L. and M.L.

6. On April 20, 2001, R.L. and M.L. authorized an automatic withdrawal of \$6,000 a month from their joint brokerage account.

7. Respondent Schwarz recommended to R.L. and M.L. that they use most of the assets in their investment accounts to purchase Class B shares of American Skandia Advisors Total Return Bond Fund. Respondent Schwartz recommended this action even though the prospectus for the American Skandia Advisor Funds stated that, because it is more advantageous to purchase Class A shares for amounts greater than \$500,000, a request to purchase Class B shares for \$500,000 or more would be considered as a purchase request for Class A shares or would be denied. Respondent Schwartz also recommended this action despite the fact that R.L. and M.L. were planning to withdraw \$6,000 a month, which would subject them to contingent deferred sales charges on the sales of their Class B shares.

8. R.L. and M.L. followed Respondent Schwartz's recommendation and purchased \$581,000 of Class B shares of American Skandia Advisors Total Bond Fund in five separate transactions from May 3, 2001 to July 2, 2001:

Date	Amount	Account
5/3/01	\$62,000	R.L. Rollover IRA
5/17/01	\$190,000	R.L. Rollover IRA
5/17/01	\$25,000	Joint Brokerage Account
6/5/01	\$250,000	R.L. Rollover IRA
7/2/01	\$54,000	R.L. Rollover IRA

9. R.L. and M.L. kept only \$16,120 in a money market, which was held in their joint brokerage account.

10. Respondent Schwartz also recommended that R.L. transfer the assets held in his rollover IRA account into a managed account offered through LPL called a Strategic Asset Management ("SAM") account. R.L. would pay a quarterly fee on the assets held in this account. Respondent Schwartz made this recommendation to R.L. even though LPL's advisory compliance manual stated that SAM accounts were to be used only to manage no-load or load-waived mutual funds on a discretionary basis.

11. R.L. followed this recommendation from Respondent Schwartz to transfer his assets to a SAM account. On June 11, 2001, R.L. opened a SAM account through Respondent Schwartz. By August 17, 2001, R.L. had transferred all of the assets in his rollover IRA account to the SAM account and had closed the rollover IRA account.

12. Respondent Schwartz did not have reasonable grounds for believing that his recommendations, which resulted in the purchases and actions by R.L. and M.L., were suitable for these customers based on their financial situation and needs.

13. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2310 and 2110 by Respondent Schwartz.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

Findings of fact and conclusions of law that Respondent Schwartz committed the violations charged and alleged herein;

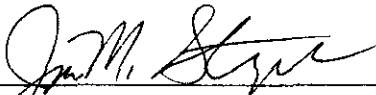
An order imposing sanctions against Respondent Schwartz in accordance with NASD Procedural Rule 8310;

An order requiring Respondent Schwartz to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;

An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Procedural Rule 8330; and

An order imposing any other fitting sanction.

Date: June 13, 2005
Kansas City, Missouri


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