

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Edward A. Martin, Respondent
General Securities Principal and
General Securities Representative
[CRD No. 2193457],

Respondent.

Disciplinary Proceeding
No. C05040084

Hearing Officer: DRP

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: February 25, 2005

INTRODUCTION

Disciplinary Proceeding No. C05040084 was filed on November 22, 2004, by the Department of Enforcement of NASD ("Complainant"). Respondent Edward A. Martin submitted an Offer of Settlement ("Offer") to Complainant on February 22, 2005. Pursuant to Code of Procedure Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC") Review Subcommittee or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to Code of Procedure 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 NAC.

Under the terms of the Offer, Respondent has consented for the purpose of this proceeding only, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding in which NASD is a party, to the entry of findings of facts 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 NASD.

BACKGROUND

Edward A. Martin entered the securities industry on January 9, 1992 as a General Securities Representative of IDS Life Insurance Company, a member of NASD. Edward A. Martin, during all periods mentioned herein, was associated with member firm American Express Financial Advisors Inc., and was registered with NASD under Article V of the By-Laws as a General Securities Principal and General Securities Representative. Martin is not currently associated with any member firm and has not previously been the subject of a formal disciplinary action by any regulatory body.

FINDINGS AND CONCLUSIONS

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

1. On June 14, 2000, public customer RD entered into an agreement with American Express to have investment advisory services provided to her by Respondent Martin.
2. According to the terms of the agreement, RD was to pay an annual fee of \$40,000.00 for these services.
3. RD also maintained a securities account with American Express. Martin was the designated registered representative for RD's account.

4. American Express' compliance procedures at that time prohibited commingling of a client's money with personal money of a registered representative. The procedures further prohibited client funds from being deposited into any personal account under the registered representative's control. Additionally, all client checks were required to be made payable to American Express and then submitted directly to American Express' corporate office.
5. On or about April 11, 2003, Edward A. Martin received an investment advisory fee renewal check from public customer RD made payable to him in the amount of \$40,000.00.
6. Martin had instructed RD to make the check payable to him.
7. RD intended that the check cover investment advisory services to be rendered from June 14, 2003 through June 13, 2004.
8. Martin failed and neglected to remit these funds to American Express.
9. Instead, on April 14, 2003, Martin deposited the check onto a checking account maintained at Franklin National Bank, titled "Edward Alan Martin or {Martin's spouse}" (hereinafter, the "Personal Account"), without the knowledge or consent of either RD or American Express. The Personal Account was used by Martin and his wife for various business and personal purposes.

10. Martin's wife is neither a registered investment advisor nor an associated person of any member firm.
11. The Personal Account had a balance of approximately \$3,879.85 before the subject \$40,000.00 deposit.
12. On April 16, 2003, two business days after RD's funds were deposited, Martin's wife transferred \$13,226.45 from the Personal Account to another checking account titled in her name.
13. The April 16 transfer was done without the knowledge or consent of RD.
14. After April 14, 2003, the funds in the Personal Account were used by Martin and his wife for a variety of business and personal expenses not involving RD, and the balance continually declined. By July 15, 2003, the account was overdrawn. During the period from April 15, 2003, through December 21, 2003, the balance in the Personal Account never reached or exceeded \$40,000.00.
15. During a compliance interview held on August 20, 2003, Martin was asked by his supervisor when RD had last paid a renewal fee. Martin told his supervisor that RD had last paid in June 2002 and that she had not renewed the agreement after June 2003.
16. In October 2003, American Express learned from RD that she had paid \$40,000.00 to Martin in April 2003.

17. *Thereafter, American Express confronted Martin with this information, and he remitted \$40,000.00 to the firm on or about January 16, 2004.*

18. *Martin converted RD's funds to his own use and benefit by spending the funds rather than forwarding them to American Express for renewal of the investment advisory service agreement.*

19. *Such acts, practices, and conduct described in paragraphs 1 through 18 hereinabove constitute separate and distinct violations of NASD Conduct Rules 2110 and 2330(a) by Respondent Martin, as alleged in the Cause of Complaint.*

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 NASD, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that the following sanctions be imposed:

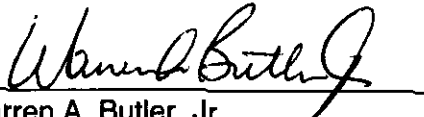
*A bar of Edward A. Martin from association with any NASD member in any capacity.*¹

¹ Although no monetary sanctions have been imposed in this disciplinary action, this does not preclude the customers from pursuing their own actions to effect such remedies.

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), A bar or expulsion shall become effective upon approval or acceptance of this Order by the NAC.

SO ORDERED.

NASD

By: 
Warren A. Butler, Jr.
Senior Vice President/Regional Director
on behalf of the Director of ODA,
pursuant to delegated authority