

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Nicholas Apodiakos
(CRD No. 1595927)



Respondent.

Disciplinary Proceeding
No. C11050002

Hearing Officer _____

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. On February 25, 1998, Respondent Nicholas Apodiakos ("Apodiakos") (CRD No. 1595927) first became registered with NASD as a General Securities Representative through a member firm.
2. From June 1, 1998, through March 3, 2003, Apodiakos was registered with NASD as a General Securities Representative through member firm Hawthorne Securities Corp. ("Hawthorne") (BD No. 7278).
3. On or about March 4, 2003, Hawthorne filed a Form U5 on behalf of Apodiakos terminating his employment as of March 3, 2003.
4. Pursuant to Article V, Section 4, of NASD's By-Laws, NASD retains jurisdiction over Apodiakos through at least March 2, 2005, which is two years after the date that he was last associated with a member firm.

CAUSE OF COMPLAINT

NASD Conduct Rules 2330 and 2110 – Misuse of Customer Funds

5. Paragraphs 1 through 4, above, are realleged and incorporated herein by reference.
6. In or about August 2002, Apodiakos induced customer VS to withdraw \$60,000 from her brokerage account by recommending that she purchase a “private investment” offering a 10% tax-free return over a one-year period (the “tax-free investment”). Apodiakos described the purported tax-free investment to customer VS as being “very safe,” and noted that his church had previously done well with this investment. Customer VS subsequently determined to follow Apodiakos’ advice.
7. On or about August 28, 2002, Customer VS gave Apodiakos two bank checks, totaling \$60,000, in order to purchase the tax-free investment. In accordance with Apodiakos’ instructions, customer VS made the checks payable to PS, a third party. Unbeknownst to customer VS, however, her funds were not used to purchase the tax-free investment. Instead, PS cashed the checks and split the proceeds with Apodiakos.
8. On or about January 21, 2003, Apodiakos induced customer VS to sell her shares in a mutual fund in order to make an additional purchase of the tax-free investment. Customer VS again followed Apodiakos’ advice. On or about January 24, 2003, Customer VS gave Apodiakos a \$19,000 personal check, payable to PS, in order to purchase the tax-free investment. Once again, however, her funds were not used to purchase the tax-free investment as she intended. Instead, PS cashed the check and gave at least some of the proceeds to Apodiakos.

9. Apodiakos has not repaid the \$79,000 to customer VS.
10. Such acts, practices and conduct constitute violations of NASD Conduct Rules 2330 and 2110 by Apodiakos.

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 requiring Respondent to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- D. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and

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E. An order imposing any other fitting sanction.

Date: March 2, 2005



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