

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

EMIL BRIAN PANZARINO
(CRD No. 2540399).

Respondent.

**Disciplinary Proceeding
No. EL120040386-01**

Hearing Officer _____

COMPLAINT

Upon information and belief, the Department of Enforcement ("Complainant") alleges as follows:

JURISDICTION

1. From in or about July 1995 through in or about March 2000, Respondent Emil Brian Panzarino ("Respondent") was registered with NASD as a General Securities Representative ("GSR") and Investment Company Products/Variable Contracts Representative ("IR") through his association with four NASD member firms.
2. On or about July 8, 2000, Respondent became registered as an IR through his association with NASD member firm Allstate Financial Services, LLC (BD No. 18272) ("Allstate"). On or about October 22, 2003, Respondent also became registered as a GSR through his association with Allstate.
3. On or about October 20, 2004, Allstate filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") stating that Respondent was terminated for "misappropriation of customer funds."

4. Although Respondent is not currently registered with NASD, he remains subject to the jurisdiction of NASD pursuant to Article V, Section 4, of the Association's By-Laws.

FIRST CAUSE OF COMPLAINT
Violation of NASD Conduct Rule 2110
(Misuse of Customer Funds)

5. Paragraphs one through four above are realleged and incorporated herein by reference.
6. On or about January 22, 2004, customer JG remitted \$437 to Respondent for the purpose of paying the premium on JG's Allstate automobile insurance policy. Rather than apply those funds to JG's Allstate insurance policy, Respondent kept and used the funds for his personal use and benefit without JG's knowledge or authorization.
7. On or about February 2, 2004, JG remitted an additional \$440 to Respondent for the purpose of paying the premium on his Allstate automobile insurance policy. Again, rather than apply those funds to JG's Allstate insurance policy, Respondent kept and used the funds for his personal use and benefit without JG's knowledge or authorization.

By reason of the foregoing, Respondent violated NASD Rule 2110.

SECOND CAUSE OF COMPLAINT
Violation of NASD Procedural Rule 8210 and Conduct Rule 2110
(Failure to Appear for an On-The-Record Interview ("OTR"))

8. Paragraphs one through seven above are realleged and incorporated herein by reference.

First Request for an OTR

9. By letter dated January 19, 2005, sent to Respondent, pursuant to and in accordance with NASD Procedural Rule 8210, at his last known residential address as reflected on the NASD Central Registration Depository [REDACTED]

- █████ ("CRD Address"), the staff of NASD's District No. 10 office (the "Staff") requested that Respondent appear for an OTR on February 15, 2005.
10. From January 27, 2005, through March 21, 2005, the Staff engaged in several telephone conversations with Respondent's counsel regarding the rescheduling of this OTR.
 11. During a telephone call on March 21, 2005, the Staff and Respondent's counsel agreed to conduct the originally scheduled OTR on April 5, 2005 ("April 5th OTR").
 12. On April 4, 2005, after regular business hours, Respondent's counsel left a telephone message for the Staff that stated Respondent would not appear for the next day's OTR, because he had not been provided with a copy of an interview he had given to Allstate investigators.
 13. No adjournment had been granted for the April 5th OTR, and Respondent did not appear.

Second Request for an OTR

14. By letter dated April 6, 2005, sent to Respondent pursuant to and in accordance with NASD Procedural Rule 8210 at his CRD Address, the Staff again requested that Respondent appear for an on-the-record interview on April 8, 2005 ("April 8th OTR"). This letter further advised that Respondent's appearance at the April 8th OTR was requested pursuant to Rule 8210, and his failure to appear could result in disciplinary action being taken against him.
15. On April 7, 2005, the Staff received a telephone call from Respondent's counsel, again asking the Staff for a copy of the interview Respondent gave to Allstate investigators. The Staff advised Respondent's counsel that due to the on-going nature of the investigation, the Staff was unable to provide Respondent's counsel with a copy of Respondent's interview with Allstate.

16. At approximately 12:00 p.m., on Thursday, April 7, 2005, the Staff received a facsimile of a hand-written letter from Respondent's counsel stating, in substance, that Respondent's counsel would be out of the country and unable to attend the April 8th OTR.

17. No adjournment was granted for the April 8th OTR, and Respondent failed to appear.

Third Request for an OTR

18. By letter dated April 13, 2005, Respondent's counsel advised the Staff that Respondent would be available for an OTR on May 10, 2005, or May 11, 2005.

19. By letter dated April 14, 2005, sent to Respondent pursuant to and in accordance with NASD Procedural Rule 8210 at his CRD Address, the Staff requested that Respondent appear for an on-the-record interview on May 10, 2005 ("May 10th OTR"). This letter further advised that Respondent's appearance at the May 10th OTR was requested pursuant to Rule 8210, and his failure to appear could result in disciplinary action against him.

20. On May 10, 2005, at 10:00 a.m., the Staff was prepared to proceed with the scheduled OTR, but Respondent failed to appear.

21. On May 10, 2005, at approximately 10:30 a.m., the Staff placed a telephone call to Respondent's counsel. During this telephone call, Respondent's counsel told the Staff that Respondent's daughter had been hospitalized in Arizona, and Respondent would not be appearing for May 10th OTR.

22. No adjournment was granted for the May 10th OTR, and Respondent failed to appear.

Fourth Request for an OTR

23. By letter dated July 8, 2005, sent to Respondent pursuant to and in accordance with

NASD Procedural Rule 8210 at his CRD Address, the Staff requested that Respondent appear for an on-the-record interview on Monday, July 25, 2005 ("July 25th OTR"). This letter further stated that Respondent's appearance was requested pursuant to Rule 8210, and that failure to appear could result in disciplinary action being taken against him.

24. On Friday, July 22, 2005, at approximately 4:15 p.m., Respondent's counsel transmitted an electronic mail message to the Staff stating, in substance, that Respondent could not attend the July 25th OTR.

25. No adjournment was granted for the July 25th OTR, and Respondent failed to appear.

Fifth Request for an OTR

26. By letter dated January 23, 2006, sent to Respondent pursuant to and in accordance with NASD Procedural Rule 8210 at his CRD Address, the Staff requested that Respondent appear for an on-the-record interview on February 15, 2006. This letter further advised that Respondent's appearance was requested pursuant to NASD Procedural Rule 8210, and that failure to appear could result in disciplinary action being taken against him.

27. No adjournment was granted for the OTR on February 15, 2006, and Respondent failed to appear.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations alleged within this Complaint;
- 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.

Dated: April 7, 2006

DEPARTMENT OF ENFORCEMENT



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