

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ELLIOT NADEL
(CRD No. 812711),

Respondent.

**Disciplinary Proceeding
No. ELI2004039602**

Hearing Officer -

Upon information and belief, the Department of Enforcement alleges that:

JURISDICTION

1. Respondent Elliot Nadel ("Respondent") first became registered with NASD, as a General Securities Representative ("GSR"), on approximately September 20, 1975.
2. From on or about December 21, 2000 through on or about December 19, 2003, Respondent was last registered with NASD as a GSR through an NASD member firm. On December 19, 2003, the member firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5").
3. Respondent is not currently associated with an NASD member firm. However, NASD retains jurisdiction pursuant to Article V, Section 4 of the NASD's By-Laws.

FIRST CAUSE OF COMPLAINT

**Misuse and/or Conversion of Customer Funds
(Violation of NASD Conduct Rules 2330(a) and 2110)**

4. Paragraphs 1 through 3 are re-alleged and incorporated herein by reference.
5. On or about December 3, 2002, customer RK's balance of approximately \$80,071.31 was transferred from his existing account to Account [REDACTED] at

member firm Delta Asset Management Company, LLC (BD No. 39923)

("Delta").

6. On or about January 17, 2003, a transfer of \$46,760.08 was made from Account [REDACTED] to Account [REDACTED] at Delta, without RK's knowledge, authorization or consent.
7. Respondent managed and controlled Account [REDACTED]. The general partner of Account [REDACTED] was Respondent and the address on the account statements was Respondent's Central Registration Depository ("CRD") address.
8. On or about March 20, 2003, a check for \$59,500.00 was drawn on Account [REDACTED]. The check was made payable to Respondent, without RK's knowledge, authorization or consent. At the time, the balance in the account was approximately \$70,000.00, of which \$46,760.08 was RK's funds.

By reason of the foregoing, Respondent violated NASD Conduct Rules 2330(a) and 2110.

SECOND CAUSE OF COMPLAINT

Failure to Respond

(Violations of NASD Procedural Rule 8210 and NASD Conduct Rule 2110)

9. Paragraphs 1 through 8 are re-alleged and incorporated herein by reference.

The First Request

10. On or about January 3, 2005, NASD staff in District 10 (the "Staff") forwarded to Respondent, a request pursuant to NASD Procedural Rule 8210, that Respondent provide documents and information to the Staff with respect to matters relating to RK's complaint (the "First Request").

11. The request was sent by certified and regular first class mail to [REDACTED]
[REDACTED] which is Respondent's current residential address as reflected on the Central Registration Depository ("CRD") (the "Bayside Address"). The return receipt for the certified mailing was returned to the Staff with an illegible signature. The first class mailing was not returned to the Staff.
12. A second address was listed for Respondent on CRD at [REDACTED]
[REDACTED] (the "Whitestone Address"). The Staff sent the First Request via certified and regular first class mail to the Whitestone Address. The certified mailing was returned to the Staff marked "Return to Sender." The first class mailing was not returned to the Staff.
13. The Staff found, through an Equifax search, a third address for Respondent at [REDACTED] (the "Equifax Address"). The Staff sent the First Request via certified and regular first class mail to the Equifax Address. The return receipt for the certified mailing was returned to the Staff with an illegible signature, similar to the signature on the return receipt for the Bayside Address. The first class mailing was not returned to the Staff.
14. While a response to the First Request was due on or before January 12, 2005. Respondent failed to respond.

The Second Request

15. On or about January 19, 2005, the Staff forwarded, pursuant to NASD Procedural Rule 8210, a second request that Respondent provide documents and information (the "Second Request").
16. The Staff sent the Second Request by certified and regular first class mail to the Bayside Address. The first class mailing was not returned to the Staff. The return receipt was returned to the Staff with an illegible signature.
17. The Staff sent the Second Request by certified and regular first class mail to the Whitestone Address. The first class mailing was returned to the Staff, marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward." The certified mailing was returned to the Staff, marked "Return to Sender, Unclaimed, Unable to Forward."
18. The Staff sent the Second Request by certified and regular first class mail to the Equifax Address. The first class mailing was not returned to the Staff. The return receipt was returned to the Staff with an illegible signature.
19. While a response to the Second Request was due on or before January 31, 2005. Respondent failed to respond.

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

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.

NASD DEPARTMENT OF ENFORCEMENT

Dated: September 26, 2005


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