

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Jeffrey Alan Stewart

CRD No. 4178470,

Respondent.

DISCIPLINARY PROCEEDING

No. 2012035316101

COMPLAINT

The Department of Enforcement (“Enforcement”) alleges:

SUMMARY

1. Between February 2012 and May 2012 (the “Relevant Period”), while associated with a FINRA-regulated entity, Jeffrey Alan Stewart (“Respondent”) converted \$54,000 from customers of his FINRA-regulated employer in violation of FINRA Rules 2150(a) and 2010. During three telephone calls with another FINRA-regulated entity, Respondent also impersonated a customer and withdrew funds from the customers’ account in violation of FINRA Rule 2010. In addition, Respondent failed to comply with requests for information and testimony in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Respondent entered the securities industry in April 2000 with a FINRA-regulated entity and became registered in August 2000. Respondent remained employed with that entity until September 2000. Between September 2000 and July 2009, Respondent was registered with two different FINRA-regulated entities. In July 2009, Respondent became registered with Valic

Financial Advisors, Inc. (“Valic”), a FINRA-regulated entity, where he remained until May 2011. In August 2011, Respondent became registered with MML Investors Services L.L.C. (“MML”), a FINRA-regulated entity, where he remained until November 29, 2012. Respondent is not currently associated with any FINRA-regulated entity.

3. On January 28, 2013, MML filed a Form U5 Amendment reporting, for the first time, a customer complaint filed on December 19, 2012, alleging that Respondent converted customer funds.

4. On February 11, 2013, MML filed a Form U5 Amendment reporting for the first time, a customer complaint filed on January 18, 2013, alleging that Respondent misrepresented facts regarding variable annuity investments and that signatures on the annuity applications were not authentic.

5. Although Respondent is no longer registered or associated with a FINRA member, he remains subject to FINRA’s jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA’s By-Laws, because the Complaint was filed within two years of the filing of Form U5 Amendments which reported that Respondent may have engaged in conduct actionable under applicable statutes, rules, or regulations, and the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member,

6. In addition, the Complaint charges Respondent with failing to respond to FINRA requests for information and testimony, during the two-year period after the date upon which Respondent ceased to be registered or associated with a FINRA-regulated entity and within two years of the filing of Form U5 Amendments which reported that Respondent may have engaged in conduct actionable under applicable statutes, rules, or regulations.

STATEMENT OF FACTS

Respondent Impersonates a Customer

7. Customer BR and his wife, CR, opened securities accounts with Respondent at a FINRA-regulated entity. In or about July 2009, BR and CR transferred their securities accounts to Valic when Respondent became associated with Valic.

8. On or about February 15, 2012, CR called Respondent and requested a \$30,000 withdrawal from the joint securities account she maintained with BR at Valic. CR instructed Respondent to have a check mailed to her home address, which was the address in the Firm's records for the joint account.

9. On February 15, 2012, at approximately 11:21 a.m., Respondent called Valic and requested a \$30,000 check withdrawal from BR and CR's joint account at Valic.

10. During the call, Respondent identified himself as BR and used BR's personal information (including BR's birthdate and the last four digits of BR's social security number) to impersonate BR.

11. While impersonating BR, Respondent instructed the Valic representative to sell a specific security ("FIF"), without BR or CR's knowledge or authorization. Respondent requested that a \$30,000 check be issued and sent to the address in the Firm's records for the joint account.

12. Later that day, Valic sold the FIF investment for \$83,917.49.

13. On February 22, 2012, Valic mailed a \$30,000 check payable to BR and CR to the address listed on the account. CR received and cashed the check.

Respondent Converts Customer Funds and Impersonates a Customer

14. On February 22, 2012, at approximately 11:40 a.m., without BR or CR's knowledge or authorization, Respondent called Valic to request a second \$30,000 withdrawal from BR and CR's account.

15. During the call, Respondent identified himself as BR and used BR's personal information (including BR's birthdate and the last four digits of BR's social security number) to impersonate BR.

16. On February 22, 2012, Valic mailed a \$30,000 check payable to BR and CR to the address listed on the account.

17. On or about the same day, Respondent called CR and told her that Valic had erroneously issued another \$30,000 check as a result of an error. Respondent asked CR to call him when she received the check and that he would pick the check up and redeposit it into her securities account.

18. When Respondent met with CR to retrieve the check, Respondent asked CR to endorse the check with both her name and BR's name. CR endorsed the check and gave Respondent the check to deposit back into her joint securities account.

19. Respondent then altered or caused CR's endorsement on the check to be altered, without CR's knowledge or authorization. Specifically, above CR's endorsement, Respondent added or caused to be added, "Pay to order of [LS]."

20. The cancelled check reflects that on or about March 2, 2012, the check was endorsed and cashed by LS, Respondent's wife. Respondent did not deposit any of the funds into BR and CR's securities account.

Respondent's May 2012 Conversion and Impersonation of a Customer

21. On May 18, 2012, at approximately 2:17 p.m., without BR or CR's knowledge or authorization, Respondent called Valic to request a third check withdrawal of \$24,000 from BR and CR's account.

22. During the call, Respondent identified himself as BR and used BR's personal information (including birthdate and the last four digits of BR's his social security number) to impersonate BR.

23. On May 21, 2012, Valic processed the withdrawal request and mailed a \$24,000 check payable to BR and CR to the address of record for the account.

24. On or about May 18, 2012, Respondent called CR and stated that he initiated a \$24,000 withdrawal transaction in order to invest BR and CR's funds in an investment away from Valic. Respondent asked CR to let him know when she received the check so that he could meet her and retrieve the check.

25. When Respondent met with CR, he asked her to endorse the check with her name and BR's name. CR endorsed the check and requested that Respondent redeposit the check in her securities account.

26. Thereafter, Respondent altered or caused the endorsement on the check to be altered, without CR's knowledge or authorization. Specifically, above the endorsement, Respondent added "Pay to order of [LS]."

27. The cancelled check reflects that on or about May 31, 2012, the check was cashed by LS. The funds were never invested for BR and CR or deposited into their securities account.

Respondent's Failure to Fully Respond to Requests for Information

28. On March 14, 2013, as part of the investigation of Respondent's conduct, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent provide written statements, information, and certain financial records to Enforcement by March 28, 2013. The letter was sent by certified mail with return receipt requested and first class mail to Respondent at his last known residential address as reflected in the Central Registration Depository (the "CRD Address"). Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

29. The letter sent by certified mail and return receipt requested and the copy of the letter sent by first class mail to the CRD address were not returned to Enforcement.

30. Respondent failed to provide the requested written statements, information, and financial records to Enforcement by March 28, 2013.

31. On April 2, 2013, Enforcement sent another letter requesting, pursuant to FINRA Rule 8210, that Respondent provide written statements, information, and certain financial records by April 12, 2013. The letter was sent by Federal Express, certified mail and return receipt requested, and first class mail to Respondent at the CRD address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

32. Enforcement obtained a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on April 3, 2013. Enforcement received a signed Domestic Return Receipt from the United States Postal Service ("USPS") indicating that the copy of the letter sent by certified mail and return receipt requested was delivered to the CRD Address on April 8, 2013. The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

33. On April 11, 2013, Enforcement received an undated 2-page letter from Respondent responding to certain, but not all, requests in a written statement. Respondent failed to provide information and documents relating to an alleged outside investment; information regarding LS; failed to identify all bank, brokerage and financial accounts that Respondent and his wife maintained during the Relevant Period; and failed to provide account statements for all bank, brokerage and financial accounts that he and his wife maintained during the Relevant Period. The information and records were material to Enforcement's investigation.

34. Respondent substantially hindered Enforcement's investigation by failing to provide the requested information and documents.

35. On May 9, 2013, Enforcement sent another letter requesting, pursuant to FINRA Rule 8210, that Respondent provide the outstanding information and financial records by May 17, 2013. The letter was sent by Federal Express, certified mail with return receipt requested and first class mail to Respondent at the CRD address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

36. Enforcement received a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on May 10, 2013. Enforcement received a USPS Domestic Return Receipt signed, "JS," indicating that the copy of the letter sent by certified mail with return receipt requested was delivered to the CRD Address on May 13, 2013. The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

37. Respondent failed to provide the requested and outstanding information, and financial records to Enforcement by May 17, 2013.

Respondent Failed to Respond to Requests for Testimony

38. On April 3, 2013, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent appear and provide testimony on May 8, 2013 at Enforcement's office in New York, New York. The letter and a copy of the letter were sent by certified mail with return receipt requested and first class mail to Respondent at the CRD Address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

39. The letter sent by certified mail with return receipt requested to the CRD Address was returned to Enforcement marked "Unclaimed." The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

40. Respondent failed to appear and testify on May 8, 2013.

41. On May 9, 2013, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent appear and provide testimony on May 22, 2013 at Enforcement's office in New York, New York. The letter and a copy of the letter were sent by Federal Express, certified mail with return receipt requested and first class mail to Respondent at the CRD Address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

42. Enforcement obtained a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on May 10, 2013. Enforcement received a USPS Domestic Return Receipt signed, "Jared Stewart," indicating that the copy of the letter sent by certified mail and return receipt requested was delivered to the CRD Address on May 13, 2013. The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

43. Respondent failed to appear and testify on May 22, 2013.

44. On June 14, 2013, Enforcement sent a letter requesting, pursuant to FINRA Rule 8210, that Respondent appear and provide testimony on July 3, 2013 at Enforcement's office located in Chicago, Illinois. The letter and a copy of the letter were sent by Federal Express, certified mail with return receipt requested and first class mail to Respondent at the CRD Address. Enforcement also sent a copy of the letter to Respondent at an email address known to Enforcement.

45. Enforcement obtained a confirmation from Federal Express indicating that the letter was delivered to the CRD Address on June 17, 2013. The copy of the letter sent by certified mail with return receipt requested was returned to Enforcement marked "Unclaimed." The copy of the letter sent by first class mail to the CRD Address was not returned to Enforcement.

46. Respondent failed to appear and testify on July 3, 2013.

FIRST CAUSE OF ACTION
Conversion
(FINRA Rules 2150 and 2010)

47. The Department realleges and incorporates by reference paragraphs 1 through 46, above.

48. FINRA Rule 2150(a) states that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds."

49. FINRA Rule 2010 states that, "A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade."

50. Between February 2012 and May 2012, Respondent caused two checks to be issued from BR and CR's account for \$30,000 and \$24,000, without the customers' knowledge or authorization.

51. Respondent caused CR to endorse each check, which CR provided to Respondent to redeposit into BR and CR's securities account.

52. Respondent altered or caused the checks to be altered and payable to LS, Respondent's wife. LS cashed the checks and Respondent did not return the funds to BR or CR.

53. Respondent did not have permission or authority from BR or CR to use the funds for Respondent's personal benefit

54. Based on the foregoing, Respondent violated FINRA Rules 2150(a) and 2010 by converting funds from customers of his FINRA member firm employer.

SECOND CAUSE OF ACTION
Impersonation of a Customer
(FINRA RULE 2010)

55. The Department realleges and incorporates by reference paragraphs 1 through 54, above.

56. On February 15, 2012, February 22, 2012, and May 18, 2012, Respondent falsely represented that he was customer BR during telephone conversations with representatives of Valic.

57. During each call, Respondent identified himself as BR and used BR's personal information (including BR's birthdate and the last four digits of BR's social security number) to impersonate BR.

58. Respondent's conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade and constitutes violations of FINRA Rule 2010.

THIRD CAUSE OF ACTION
Failure to Fully Comply with Requests for Information
(FINRA Rules 8210 and 2010)

59. The Department realleges and incorporates by reference paragraphs 1 through 58, above.

60. FINRA Rule 8210 provides that FINRA staff has the right to require a person subject to FINRA's jurisdiction to provide information with respect to any matter involved in a FINRA investigation, complaint, examination, or proceeding.

61. FINRA Rule 8210 required Respondent to respond to requests for documents and information and required Respondent to provide testimony. Respondent failed to provide the requested information and documents in connection with a FINRA investigation.

62. By letters dated March 24, 2013, April 2, 2013, and May 9, 2013, Enforcement requested, pursuant to FINRA Rule 8210, that Respondent provide written statements, information, and financial records by specified dates.

63. On April 11, 2013 Respondent provided a written statement responding to some but not all requests. Respondent failed to provide all requested written statements, information and financial records in connection with FINRA's investigation. Respondent failed to respond to requests for the following: (1) information and documents relating to an alleged outside investment he claims that he assisted BR and CR with; information regarding LS; (2) failed to identify all bank, brokerage and financial accounts that respondent and LS maintained during the Relevant Period; and (3) failed to provide account statements for all bank, brokerage and financial accounts that he and LS maintained during the Relevant Period.

64. By failing to provide all requested written statements, information and financial records, Respondent violated FINRA Rules 8210 and 2010.

FOURTH CAUSE OF ACTION
Failure to Comply with Requests for Testimony
(FINRA Rules 8210 and 2010)

65. The Department realleges and incorporates by reference paragraphs 1 through 64, above.
66. By letters dated April 3, 2013, May 9, 2013 and June 14, 2013, Enforcement requested, pursuant to FINRA Rule 8210 that Respondent appear and testify on specified dates.
67. Respondent failed to appear and testify as requested.
68. By failing to appear and provide testify, Respondent violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

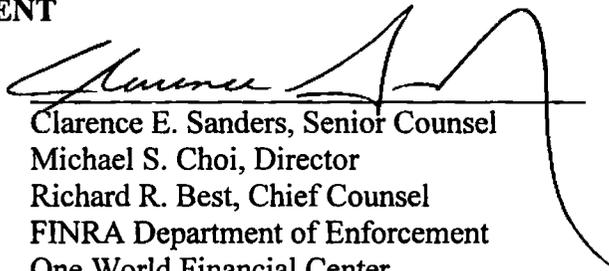
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. order that Respondent(s) bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date:

November 19, 2014


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