

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PAUL DOUGLAS PARATORE
(CRD No. 2054004),

Respondent.

Disciplinary Proceeding
No. 2005002570601

Hearing Officer – AWH

HEARING PANEL DECISION

April 20, 2007

Registered representative converted customer funds and used them to settle other customers' complaints away from his firm, in violation of Conduct Rule 2110. Respondent barred from association with any member firm in any capacity.

Appearances:

Jonathan M. Prytherch, Esq., for the Department of Enforcement.

Paul Douglas Paratore, *pro se*.

DECISION

Introduction

On October 10, 2006, the Department of Enforcement filed the Complaint in this proceeding, alleging that Paul Douglas Paratore (“Respondent” or “Paratore”) converted a customer’s funds and used them to settle other customers’ complaints about insurance policies and annuities. On November 9, 2006, Respondent filed an Answer, admitting that, on approximately 26 different occasions, he diverted approximately \$3,804.24 of a customer’s insurance premiums to approximately 22 of his other customers, and, with those funds, settled at least four customer complaints by paying the premiums and

charges on their insurance policies and annuities. In his Answer, Respondent stated that he would like to waive a hearing on the allegations.

In order to determine how the parties would like to resolve this matter, and to determine whether Respondent was aware of his full procedural rights, a pre-hearing conference was held on December 19, 2006. As a result, the parties agreed to have the matter decided on a written record. Accordingly, their written submissions were received by March 20, 2007, and were submitted to a hearing panel consisting of the Hearing Officer and two current members of the District 9 Committee.

Findings and Conclusions¹

Respondent

Paul Douglas Paratore first became registered with NASD in 1991 as a Limited Representative-Investment Company and Variable Contracts Products, through member firms MetLife Securities, Inc., and Metropolitan Life Insurance Company (collectively “MetLife”). On September 13, 2005, MetLife filed a Form U-5 on Paratore’s behalf, stating that he had been discharged for admitting to “diverting funds from one customer to apply to the contracts of other, unrelated customers.” Paratore subsequently became registered through member firm Preferred Financial Group on December 6, 2005, where he is currently registered. His only disciplinary history consists of a Letter of Caution, issued on September 24, 2004, for falsely signing his name to an insurance application as a witness to the owner’s signing, when he had not in fact witnessed that signing, in violation of NASD Conduct Rule 2110.

¹ All findings of fact are based on the Complaint, Answer, and the seven exhibits submitted by the Department of Enforcement in support of its Complaint.

Conversion of Customer Funds

Paratore serviced the disability and life insurance policies of the employees of ____, a manufacturer of dental appliances, such as bridges, caps, and false teeth. ____ paid for these insurance policies. Each month, Paratore would go to ____'s office and pick up its monthly insurance check. He would then return to MetLife and fill out a deposit slip, specifying the policies to which ____'s payment was to be applied.

Paratore admits that, on approximately 26 occasions from April 2002 through June 2005, he allocated approximately \$3,804.24 of ____'s insurance premiums to his other, unrelated customers, without the knowledge, authorization, or consent of _____. He stated to MetLife and NASD staff that he diverted ____'s premiums to his other customers to keep them happy in response to complaints they made to him about, among other things, surrender charges. When MetLife eventually discovered the diversion of payments, Paratore admitted his misconduct and made restitution to ____ through MetLife.

Settling Away from MetLife

During testimony at an on-the-record interview, Paratore admitted that four customers, unrelated to ____, complained to him about their policies. He diverted portions of ____'s premiums to those customers, reimbursing them for surrender charges or by paying their premiums to reinstate lapsed policies. He also admitted that he did not ask anyone at MetLife for permission to settle their complaints by doing so.

Violations of Conduct Rule 2110

Conversion generally, is “an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled

to possess it.”² Taking funds from a customer, without that customer’s knowledge, authorization, or consent, and giving those funds to another, unrelated, customer is conversion, and violates Conduct Rule 2110’s requirement of “high standards of commercial honor and just and equitable principles of trade.”³ Here, Paratore’s misconduct squarely meets the definition of “conversion,” and, therefore, violates Conduct Rule 2110.

It is also a violation of Conduct Rule 2110 for a registered representative to settle a customer complaint without his firm’s knowledge or approval.⁴ Paratore settled customer complaints without any notice to, or acquiescence by, MetLife that he was doing so. Accordingly, by that misconduct he violated Conduct Rule 2110.

Sanctions

NASD Sanction Guidelines provide that a bar is the standard sanction for conversion, regardless of the amount of money converted.⁵ Here, the fact that the misconduct was repeated 26 times over a three-year period underscores the appropriateness of a bar as the sanction.

For settling customer complaints away from the firm, the Sanction Guidelines recommend a fine of \$2,500 to \$50,000, and consideration of a suspension for up to two years, or a bar for egregious cases.⁶ The applicable principle consideration is whether the respondent provided the firm with verbal notice of settlement and the employer acquiesced, or whether the respondent deceived his employer. Here, as noted above,

² NASD SANCTION GUIDELINES, p. 38, n.2 (2006 ed.).

³ *Dist. Bus. Conduct Comm. v. Klein*, No. CO2940041, 1995 NASD Discip. LEXIS 229 (NBCC 1995), *aff’d.*, Exchange Act Release No. 36,595, 1995 SEC LEXIS 3418 (1995).

⁴ *Dist. Bus. Conduct Comm. v. DiAngelo*, No. C100960003, 1996 NASD Discip. LEXIS 34 (NBCC 1996).

⁵ SANCTION GUIDELINES, p. 38.

⁶ *Id.*, p. 36.

Paratore gave no notice to the firm, and did not inform the firm of his misconduct until after the firm discovered it.

In his hearing submission, Paratore asserts that he was only helping other clients and “never took a dollar and put it into my own pocket.”⁷ However, that defense is meritless because he stood to gain future benefits by placating his clients with converted funds.⁸

In view of his pattern of conduct that spanned a three-year period, the Hearing Panel finds his settling away from his firm to be egregious. Accordingly, he will be barred for that misconduct.

Conclusion

Paul Douglas Paratore is barred from associating with any member firm in any capacity for converting customer funds, and settling customer complaints away from his firm, in violation of NASD Conduct Rule 2110. The bars shall become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.

Alan W. Heifetz
Hearing Officer
For the Hearing Panel

Copies to:

Paul Douglas Paratore (*Via First Class Mail & Overnight Courier*)

Jonathan M. Prytherch, Esq. (*Via First Class & Electronic Mail*)

Mark P. Dauer, Esq. (*Via First Class & Electronic Mail*)

Rory C. Flynn, Esq. (*Via First Class & Electronic Mail*)

⁷ Enforcement filed a motion to strike the portion of Respondent’s hearing submission that refers to purported settlement discussions between the parties. Enforcement contends that the facts alleged are erroneous, and that references to settlement discussions are inadmissible as evidence. The motion is granted, and the references to settlement discussions are stricken as inadmissible.

⁸ *Klein, supra.*