

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

J. MICHAEL CASAS (CRD # 4422064),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2013036799501

HEARING OFFICER: _____

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From January 2012 through September 2012 (the “Relevant Time Period”), Respondent J. Michael Casas intentionally made material misrepresentations to induce two individuals to invest a total of \$83,066.41 as “seed capital” to help fund the development and execution of a planned reverse merger transaction that was ultimately never consummated. Casas misappropriated more than \$48,000 of the invested funds and converted them to his own personal use, using these funds to pay his own personal expenses including, among other things, his mortgage payments, family cellphone bills, and restaurant, retail, grocery, and gas expenses. Casas has never repaid the misappropriated funds.

2. In the subscription agreement for these investments, as well as related email communications, Casas represented that the intended purpose of the funds was for accounting fees, legal fees, and operational expenses of MCB Capital Partners, LLC (“MCBCP”), the entity that was purportedly facilitating the reverse merger transaction. Casas knew at the time that

these representations were false since he intended to use the funds for his own personal use.

3. By virtue of the foregoing, Casas willfully violated Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5, and also violated FINRA Rules 2010 and 2020.

RESPONDENT

4. Casas first became associated with a FINRA or NASD member firm in 2001, and he received his Series 7 registration in July 2001. This association terminated in July 2004. In June 2011, Casas became associated with a second FINRA member firm, RiverStone Wealth Management, Inc. (“RiverStone”), and he received his Series 79 registration in July 2011. From July 29, 2011, through November 1, 2012, Casas was registered with FINRA through RiverStone as a Limited Representative – Investment Banking. On October 31, 2012, Casas voluntarily terminated his employment with RiverStone. During the course of his career in the securities industry, Casas also obtained his Series 63 license.

5. Although Casas 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 (1) the Complaint was filed within two years after the effective date of termination of Casas’ registration with Riverstone, namely November 1, 2012; and (2) the Complaint charges him with misconduct committed while he was registered with a FINRA member.

STATEMENT OF FACTS

6. Casas is the owner and controlling member of MCBPC, which was a disclosed outside business activity of Casas that was not affiliated with RiverStone. Beginning in late 2011, Casas and his business partner, BN, began seeking investors to provide “seed capital” in

connection with a potential business transaction that would involve MCBCP's acquisition of SLC, a closely-held oilfield services company, and the combined entity's simultaneous merger with a publicly-traded company (the "Transaction"). The Transaction, which is commonly referred to as a "reverse merger," was intended to allow SLC to become a publicly-traded company without going through the time and expense associated with an initial public offering. Casas sought to raise a total of \$40 million from investors to finance the Transaction.

A. Casas Solicits "Seed Capital" Investments to Facilitate the Execution of the Transaction.

7. In or about January 2012, Casas was referred to MB, a potential investor in the Transaction. In a January 10, 2012 email, Casas represented to MB that MCBCP was seeking to raise \$150,000 in "seed capital," in order to finance the costs associated with structuring the Transaction and conducting due diligence. Casas further represented that to raise these funds, he intended to sell six \$25,000 "membership units" in MCBCP, each of which would represent a 1.67% ownership in his company. Casas indicated that the "anticipated return" for each such membership unit, which would be paid upon consummation of the Transaction, would be \$50,000 in cash and \$102,000 in stock, for a total return of more than 600% of the original investment.

8. In the email, Casas represented to MB that "[t]he seed capital will be used to fund (i) accounting fees anticipated to be \$100,000, (ii) legal fees anticipated to be \$30,000, and (iii) operating expenses for the balance of \$20,000." Casas did not advise MB in this email that any of the solicited "seed capital" investment would be utilized for Casas' own personal expenses.

9. On January 27, 2012, MB executed a Subscription Agreement, pursuant to which he agreed to invest \$50,000 in exchange for a 2.5% ownership interest in MCBCP. The Agreement stated that "[t]he Investor understands that the proceeds of this offering and the funds

subscribed herewith will be used to fund the transactional and operational expenses of [MCBCP], to include the payment of accounting fees, legal fees, operational expenses and to provide working capital to [MCBCP].” The Subscription Agreement did not state or imply that the invested funds could be spent on Casas’ personal expenses. MB believed that the funds would be used solely for the expenses enumerated in the Subscription Agreement; MB never agreed that it would be acceptable for Casas to use the invested funds to pay for personal expenses.

10. On January 30, 2012, MB deposited \$50,000 in MCBCP’s bank account via wire transfer. The very next day, Casas misappropriated \$364.38 of these funds in order to purchase a new water heater for his home. Approximately two weeks later, Casas misappropriated an additional \$1,325 to pay for a dental procedure.

11. By the beginning of April 2012, the account balance in the MCBCP bank account had diminished to less than \$10,000. Moreover, no additional investors had committed to invest in the Transaction. Notwithstanding this lack of success, Casas solicited an additional \$50,000 “seed capital” investment from MB, which MB declined to provide. Casas then attempted to restructure the deal as a “cashless close,” so that potential investors would be solicited by a third-party financial advisor after the execution of the Transaction, rather than before it.

12. By June 2012, MB had become completely dissatisfied with Casas’ efforts to consummate the Transaction, and was demanding rescission of his \$50,000. Casas, however, had already spent the vast majority of the money that MB had invested, and lacked the financial ability to rescind the transaction.

13. As a result of the deterioration of the relationship between Casas and MB, Casas sought other “seed capital” investors to replenish MCBCP’s bank account. On May 29, 2012,

JPG, the owner of SLC (the oilfield services company that was the subject of the Transaction) executed a Subscription Agreement pursuant to which he agreed to invest a total of \$33,000 in exchange for a 5% ownership interest in MCBCP. This Subscription Agreement also represented that the invested funds would be utilized for accounting fees, legal fees, and operational expenses of MCBCP. Like MB, JPG never agreed that the invested funds could be utilized for Casas' personal expenses.

14. JPG made his investment in two payments of \$15,000 and \$18,000. The funds were deposited into the MCBCP bank account on May 29, 2012, and July 23, 2012, respectively. As he had with MB, Casas immediately began diverting JPG's invested funds to pay for personal expenses. For instance, on June 13, Casas spent \$165.97 on grooming services for his dog at "Pet Adventures," and on July 22, Casas used MCBCP funds to pay for a trip to the movies. By October 2012, Casas had once again spent virtually all of the funds in MCBCP's bank account.

15. Ultimately, JPG, on behalf of SLC, elected not to go forward with the restructured Transaction. JPG nonetheless agreed to reimburse the accounting firm that had provided audit work on behalf of the Transaction because Casas had already depleted MCBCP's bank account. Thus, in addition to the \$33,000 he invested in MCBCP, JPG also paid an additional \$83,066.41 in accounting fees.

B. Casas Misappropriates Most of the Invested Funds for Personal Use.

16. During the Relevant Time Period, Casas misappropriated funds from the MCBCP bank account to pay for a variety of personal expenses. He also spent large sums on expenses that he claimed were business-related, such as gas, travel expenses, and restaurant expenditures, but preserved no receipts and made no effort to document the purported business purpose for any of the expenses.

17. During the Relevant Time Period, Casas used MCBCP funds to make the monthly

mortgage payment on his house. Although Casas claims that MCBCP operated out of his home, he failed to allocate his mortgage payment between personal and business use, and instead paid each month's mortgage payment with MCBCP funds. Over the Relevant Time Period, Casas misappropriated \$15,752.95 from the MCBCP account for mortgage payments.

18. During the Relevant Time Period, Casas also converted \$15,000 from the MCBCP account in order to re-pay a loan that his business partner, BN, had made to MCBCP. Casas had used the proceeds of BN's loan predominantly to pay for his own personal living expenses.

19. During the Relevant Time Period, Casas withdrew \$2,265.78 in ATM and cash withdrawals from the MCBCP account, and misappropriated these cash withdrawals to personal use. Casas did not maintain any documentation or receipts establishing how this cash was spent.

20. During the Relevant Time Period, Casas misappropriated \$2,263.00 from the MCBCP account to pay for his own medical expenses.

21. During the Relevant Time Period, Casas misappropriated \$1,724.60 to pay various personal retail expenses, including a new water heater for his home, dog grooming services, a trip to the spa, a trip to the movies, groceries, and numerous purchases at department stores.

22. During the Relevant Time Period, Casas misappropriated \$1,714.61 from the MCBCP account to pay his family's monthly cell phone bill. He did not attempt to allocate any portion of this expense for his family's personal use.

23. During the Relevant Time Period, Casas also misappropriated the following from the MCBCP account: (1) \$3,063.92 in payments to gas stations for fuel for his personal vehicles; (2) \$2,581.57 to pay for 86 visits to restaurants and coffee shops; and (3) \$3,159.97 in travel

expenses for airfare and hotel rooms. Casas did not retain receipts for any of these expenses or maintain any system for documenting whether any of these expenditures had a legitimate business purpose.

24. On March 12, 2012, Casas spent \$750 to acquire box seats to a Houston Astros baseball game, ostensibly for the various participants in the Transaction to celebrate the closing of the deal, which was anticipated for July. When the closing failed to occur as planned, Casas misappropriated the tickets for personal use, and attended the game with his family.

25. In total, Casas misappropriated for his own personal use more than \$48,000 of the \$83,000 in funds invested by MB and JPG.

FIRST CAUSE OF ACTION

**CONVERSION OF FUNDS
(FINRA RULE 2010)**

26. The Department realleges and incorporates by reference paragraphs 1-25 above.

27. FINRA Rule 2010 requires a registered person to observe high standards of commercial honor and just and equitable principles of trade.

28. Conversion of funds, which is defined as the “unauthorized, improper, or unlawful use of funds or other property for a purpose other than that for which it is intended,” constitutes a violation of FINRA Rule 2010.

29. The intended purpose of the funds invested by MB and JPG in MCBCP was for the payment of accounting fees, legal fees, and operational expenses of MCBCP in connection with the structuring and due diligence on the Transaction.

30. Casas converted more than \$48,000 of the funds invested by MB and JPG and utilized the funds for a purpose other than specified in the Subscription Agreements; namely his own personal expenses, including, among other things, his own mortgage, personal loan, cell

phone, medical, and recreational expenses. Casas' personal use of these funds was not authorized by MB or JPG.

31. Casas' improper personal use of these funds constitutes a conversion of MB's and JPG's invested funds in MCBCP, in violation of FINRA Rule 2010.

SECOND CAUSE OF ACTION

FRAUDULENT MISREPRESENTATIONS (WILLFUL VIOLATIONS OF SECTION 10(B) OF THE EXCHANGE ACT AND RULE 10B-5 AND VIOLATIONS OF FINRA RULES 2020 AND 2010)

32. The Department realleges and incorporates by reference paragraphs 1-31 above.

33. MB and JPG, by virtue of their investments pursuant to their respective Subscription Agreements, each invested in a security; namely an equity interest in MCBCP.

34. In connection with the sale of these securities, Casas intentionally or, at the least, recklessly made untrue statements of material fact to MB and JPG about how the funds being invested by them would be used and about the purpose of the investment. Specifically, he misrepresented to both of them that these funds would be utilized for the accounting fees, legal fees, and operational expenses of MCBCP associated with the Transaction, when instead he intended to divert the invested funds to his own personal use.

35. Casas employed the means of transportation or communication in interstate commerce, including phone calls, electronic mail, and wire transfers, in connection with the sale of securities to MB and JPG.

36. By virtue of the foregoing, Casas induced the purchase of securities by the means of a manipulative, deceptive or other fraudulent device or contrivance, in willful violation of Section 10(b) of the Exchange Act and Rule 10b-5 and also violated FINRA Rules 2020 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondent bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;
- D. make specific findings that Respondent Casas willfully violated Section 10(b) and Rule 10b-5 of the Exchange Act.

FINRA DEPARTMENT OF ENFORCEMENT

October 6, 2014



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