



All that's hot in the mutual fund industry

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Fund Hustlers Busted, Banished from Industry

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Continuing its get-tough crusade against wrongdoers, the NASD has barred three registered reps from the industry for life. Two are accused of fleecing a mutual fund customer of \$40,000; the third is accused of excessive trading in a fund customer's account.

The first two, former **PFS Investments** reps Jack Allen Marble and Jennifer Lea Connolly, allegedly arranged for mutual fund shares in a customer's IRA to be redeemed and a check issued to the customer without the customer's consent.

Then, says the NASD, Marble convinced the customer to write him a check for \$40,000. He allegedly lied about what he would use the money for and instead converted it for his own use.

Further, the NASD says that when it inquired about the incident, its three letters to Marble and Connolly went unanswered.

The third case involves former **Securian Financial Services** rep Leonard Savitt. He allegedly executed more than five dozen unauthorized trades in mutual fund customers' accounts.

None of the three have prior disciplinary histories.

Some note that the stiff penalties are similar to earlier NASD actions that involved seemingly greater infractions. In sum, the cases show the NASD is taking a hard-line approach to wrongdoing, especially when it involves mutual funds.

For example, in January, the NASD struck a settlement with former **NYLife Securities** rep John Steven Blount. The broker was ordered to pay over \$1.5 million in restitution plus interest to 10 elderly customers for unsuitable sales of VAs and mutual funds totaling more than \$6 million. The sales had generated about \$220,000 in commissions for Blount. He was also barred from the industry.

The three new actions could mean that the NASD is taking all offenses very seriously.

"The NASD has gotten more enforcement-minded," observes one industry attorney. "Several SEC alumni have ended up at the NASD, so there's more oomph behind their enforcement activities now."

Marble, Connolly and Savitt will probably have a tough time finding another job.

They can't work for another NASD member with the bar in effect.

While NASD spokesman Tom Holloman says it's possible for an individual to petition for re-registration, it doesn't happen often.

"To date, no one around here knows of anyone who has been barred, petitioned the NASD to be reinstated and has successfully done that," he says.

Recruiters say that such individuals are damaged goods.

"We would never put a candidate like that in front of our clients," says Rob Wenning, a recruiter with **Management Recruiters and Sales Consultants of Tampa**. "Companies come to us to find the best possible candidates. I would never deal with someone like this."

He says it's possible that brokers with a disciplinary history could take their skills and move to another industry. But they probably won't find many recruiters eager to work with them, he says, because recruiters typically look for applicants with deep industry experience who want to stay in the same line of work.

Savitt's employment with Securian ended in October 2002, when his activities came to light. He remains unregistered with the NASD.

Marble and Connelly both lost their jobs in September 2003, five months after they allegedly cashed out their customer's account. Neither has been registered with an NASD member since then.

Some in the financial services industry say that such severe punishment can sometimes be appropriate.

"There could be circumstances under which a lifetime ban is appropriate," says **Holch & McGuinness** partner Niels Holch. "Individual investors need to rely on a regulatory and enforcement framework that ensures confidence in the system. This is an industry where trust is the watchword."

It really comes down to the facts and circumstances of each case, he says.

"Stealing clients' money is one example where someone should not continue to operate in an industry where trust is important," says Holch. "So is repeated improper conduct."

He notes that other industries, such as horse training, have provisions for lifetime bans. They typically occur, says Holch, in cases of severe or repetitive misconduct.

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