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Magistrate Judge Donohue

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

RHONDA L. BREARD,

Defendant.

CASE NO.

ME 10-101

COMPLAINT for VIOLATION

Title 18, United States Code,
Sections 1341 and 2

BEFORE the Honorable James P. Donohue, United States Magistrate Judge,
Seattle, Washington.

COUNT 1
(Mail Fraud)

A. INTRODUCTION

1. At all material times, RHONDA L. BREARD, was a licensed securities sales representative and a licensed insurance agent in Washington State doing business through Breard & Associates, in Kirkland, Washington.

B. THE SCHEME AND ARTIFICE TO DEFRAUD

2. Beginning at a date uncertain, but no later than 2008, and continuing through in or about February 2010, within the Western District of Washington and elsewhere, the defendant, RHONDA L. BREARD, knowingly devised a scheme and artifice to defraud investors and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

1 3. The essence of the scheme and artifice to defraud was that RHONDA L.
2 BREARD acted as an investment adviser and financial planner for a number of
3 individuals. She induced these individuals to provide her with significant sums of money,
4 which RHONDA L. BREARD represented would then be invested in a variety of
5 financial and insurance products. Instead of investing these funds as promised,
6 RHONDA L. BREARD diverted the funds to her personal benefit and use. Thereafter,
7 RHONDA L. BREARD provided the victim investors with statements which falsely
8 reflected that the investors' funds had actually been invested as promised. During the
9 course of the scheme, RHONDA L. BREARD defrauded at least 20 investors of millions
10 of dollars.

11 4. It was a part of the scheme and artifice to defraud that in 2004, RHONDA L.
12 BREARD induced M.F. to provide her with approximately \$300,000 in cash and other
13 assets, which RHONDA L. BREARD represented would be transferred into various other
14 investments. Over time, RHONDA L. BREARD diverted M.F.'s investments to her own
15 personal benefit and use.

16 5. It was a further part of the scheme and artifice to defraud that RHONDA L.
17 BREARD mailed false account statements to M.F. which reflected that M.F.'s funds had
18 actually been invested as promised. These account statements would contain M.F.'s name
19 and address but the account numbers on the statements, showing ownership of various
20 mutual funds, belonged to other individuals, who also invested their money with
21 RHONDA L. BREARD.

22 6. It was a further part of the scheme and artifice to defraud that RHONDA L.
23 BREARD induced P.F. to provide her with funds which RHONDA L. BREARD
24 promised would be used to purchase a retirement annuity from Jackson National Life
25 Insurance Company. RHONDA L. BREARD did not use these funds to buy a retirement
26 annuity for P.F. but instead diverted the funds to her personal use and benefit.

27 7. It was a further part of the scheme and artifice to defraud that in or about
28 January 2009, RHONDA L. BREARD provided P.F. with an account statement

1 purportedly from Jackson National Life Insurance Company which falsely reflected that
2 P.F. owned a retirement annuity with a current balance of \$427,802, when in reality P.F.
3 owned no such annuity.

4 **C. EXECUTION OF THE SCHEME AND ARTIFICE TO DEFRAUD**

5 8. In or about January 2010, within the Western District of Washington and
6 elsewhere, RHONDA L. BREARD, for the purpose of executing this scheme and artifice
7 to defraud investors and for obtaining money and property by false and fraudulent
8 pretenses, representations, and promises and attempting to do so, did knowingly cause to
9 be sent and delivered by the United States Postal Service, according to the directions
10 thereon, two false account statements to M.F. in Issaquah, Washington. One statement
11 was for an Individual Retirement Account ("IRA") which falsely reflected that M.F.
12 owned an IRA with an account value of \$76,181.02 and the other statement was for a Roth
13 Individual Retirement Account which falsely reflected that M.F. owned a Roth IRA with
14 an account value of \$9,847.89.

15 All in violation of Title 18, United States Code, Sections 1341 and 2.
16

17 The undersigned complainant, being duly sworn, states:

18 1. I, Steven W. Rausch, am a special agent for the Federal Bureau of
19 Investigation. I have been a special agent since October 2002. My experience includes
20 investigating allegations of mail fraud and wire fraud. The information in this affidavit is
21 based on my personal knowledge, interviews with witnesses, and review of documents and
22 other evidence.

23 **SUMMARY OF INVESTIGATION**

24 2. I believe that the investigation leading to the filing of this affidavit has
25 established probable cause to believe that RHONDA L. BREARD has engaged in mail
26 fraud by stealing significant amounts of money from her clients based on false promises
27 and representations that her clients' funds were going to be invested in various financial
28 products. Instead of investing the funds as promised, RHONDA L. BREARD diverted

1 these funds for her own benefit and use and sent false account statements to the victim
2 investors to lull the victims into believing that their funds had been invested as promised.

3 **DETAILS OF INVESTIGATION**

4 3. On March 2, 2010, I met with lawyers representing ING Financial Partners
5 (“IFP”) and I learned the following:

6 a. RHONDA L. BREARD was a registered securities broker/dealer who
7 had worked as an independent contractor for IFP since 2004. RHONDA L. BREARD did
8 business under the name of Breard & Associates. From approximately September 2008
9 until February 2010, RHONDA L. BREARD operated her business at an office located in
10 Kirkland, Washington. RHONDA L. BREARD represented a number of clients who had
11 provided her with funds to be invested in various financial products.

12 b. On February 8, 2010, a representative of IFP conducted an
13 unannounced audit of RHONDA L. BREARD’s books and records at her Kirkland office.
14 During the surprise audit, the auditor discovered a locked filing cabinet. Ms. BREARD
15 was not present in the office at this time. Members of her staff told the auditor that the
16 locked cabinet contained only BREARD’s personal tax records. The auditor insisted that
17 the cabinet be opened and he left a voice mail message for Ms. BREARD to provide him
18 with a key to the locked cabinet. The auditor ultimately did obtain a key to the cabinet.
19 Upon opening the cabinet the auditor discovered a number of client files. The files and
20 records in the cabinet were secured and shipped to IFP headquarters for analysis.

21 c. That analysis, which is still ongoing, has revealed that RHONDA L.
22 BREARD had defrauded a number of her clients. It appears that RHONDA L. BREARD
23 had instructed her clients to provide funds directly to Breard & Associates, which Ms.
24 BREARD falsely claimed would then be invested in various financial products. Instead of
25 investing the funds as promised, Ms. BREARD diverted a significant amount of the money
26 to her personal benefit and use. Ms. BREARD would then provide the clients with false
27 account statements. IFP believes that the scheme began no later than 2008.

28

1 d. The IFP lawyers provided me with various documents relating to four
2 of Ms. BREARD's clients. The initials for the four clients are P.F., M.F, L.H. and D.L.
3 The records provided included records recovered from Ms. BREARD's locked cabinet and
4 records maintained by IFP. Additionally, IFP lawyers or investigators have interviewed
5 each of the four victims. This evidence established that each of the victims had provided
6 significant funds to Breard & Associates based on BREARD's promise that the funds
7 would be invested in various financial products. However, virtually none of these funds
8 had been invested as promised.

9 e. For instance, although M.F. provided significant assets funds to
10 BREARD, IFP has been unable to verify that M.F. had any accounts with IFP. Despite
11 this fact, RHONDA L. BREARD sent IFP statements to M.F. which falsely reflected that
12 her funds had been invested in various mutual funds. The IFP lawyers gave me three IFP
13 monthly statements for the month of January 2010. Each statement contained M.F.'s name
14 with an address in Issaquah, Washington. One statement was for a brokerage account
15 (account # xxxxx6004) reflecting that M.F. had an account value of \$193,457.41, the
16 second statement was for an Individual Retirement Account (account #xxxxx2230)
17 reflecting that M.F. had an account value of \$73,570.11 and the third statement was for a
18 Roth Individual Retirement Account (account # xxxxx6469) reflecting that M.F. had an
19 account value of \$9,684.21. The cumulative value of these three accounts was
20 \$276,711.73. IFP has determined that these three accounts do not belong to M.F. and that
21 funds in these three accounts do not belong to M.F. Each of these three accounts belongs
22 to a different IFP customer, who had invested money with RHONDA L. BREARD, and
23 the account value associated with each account was the true value of that customer's
24 account. It appears that for each of the three statements RHONDA L. BREARD had
25 substituted M.F.'s name and address for that of the true account holder.

26 f. The IFP lawyers advised me that the company's preliminary analysis
27 of records has revealed that as many as 36 customers may have been defrauded by
28

1 RHONDA L. BREARD. IFP estimated that the loss at this stage was approximately \$4
2 million but that figure may increase once the analysis is completed.

3 4. On March 4, 2010, I met with representatives of the Washington State
4 Department of Financial Institutions ("DFI") and the Washington State Office of
5 Insurance Commissioner. During the meeting I learned the following:

6 a. At all relevant times RHONDA L. BREARD was a licensed
7 securities sales representative, a licensed investment advisor and a licensed insurance
8 agent in Washington State.

9 b. DFI had received complaints from approximately 25 individuals who
10 had invested funds with BREARD and believed that they had been defrauded by her.
11 Based on these complaint calls, DFI has estimated that BREARD may have stolen between
12 \$7 and \$8 million in client funds. DFI has provided me with a written summary of these
13 complaint calls and I will highlight a few of those calls below.

14 (1) On February 24, 2010, D.L. called DFI and said that
15 approximately 10 years ago he attended a financial seminar that BREARD conducted at a
16 local community college. After that seminar he invested funds with BREARD. D.L. said
17 that he had six accounts with BREARD. He recently called ING and learned that he had
18 only three small IRA accounts open at IFP. IFP had no record of his three other accounts,
19 which D.L. believed to contain approximately \$370,000. When D.L. provided IFP with
20 the account numbers for these three missing accounts, the IFP representative said that D.L.
21 could not access those accounts.

22 (2) The lawyers for IFP had previously provided me with three
23 account statements for D.L. These three statements are for the month of January 2010.
24 One of the accounts was in the name of D.L.'s spouse. Although two of the statements
25 contained D.L.'s name, the account numbers did not belong to D.L. Instead, each account
26 number belonged to a different IFP customer. The cumulative total of these three accounts
27 as reflected on the account statements was \$366,568.

1 (3) On February 24, 2010, G.O. called DFI and left a voice
2 message stating that he believed he had \$844,000 in accounts that IFP and Ameritrade said
3 do not exist. On February 25, 2010, a DFI lawyer talked to G.O. During that conversation
4 G.O. said that he had been a client of BREARD's for over 20 years. G.O. said that he
5 thought he currently had four accounts with BREARD. He thought that two of the
6 accounts were with IFP and two were with Ameritrade. G.O. called IFP and was told that
7 they had no record of him as a customer. IFP said that the account numbers provided by
8 G.O. were active accounts but that the accounts were not in his name. IFP advised G.O. to
9 contact the police. G.O. said that he had received all of his account statements directly
10 from BREARD.

11 (4) On February 25, 2010, P.F. called DFI. P.F. said that she had
12 invested approximately \$900,000 with BREARD. She had been one of BREARD's
13 customers. P.F. said that she believed she had three accounts with BREARD. One
14 account was at IFP, another account was a retirement annuity issued by Jackson National
15 Life Insurance Company ("Jackson") and the third account was at Ameritrade. P.F. said
16 that she believed she had \$475,000 in her annuity account with Jackson. However, when
17 P.F. called Jackson she was advised that Jackson had no record of P.F. or her account
18 number. P.F. said she may have provided the funds directly to BREARD to be invested in
19 the annuity. P.F. also said that in August 2009, she provided \$20,000 to BREARD to be
20 invested into an ING CD Growth Fund. P.F. made the check payable to BREARD. P.F.
21 has contacted IFP and was told that her account did not exist.

22 (5) The IFP lawyers had previously provided me with various
23 records they received from P.F. One of the documents provided was an account statement
24 from Jackson National Life Insurance Company. This statement was sent from RHONDA
25 BREARD to P.F. The statement reflects that P.F.'s annuity had a current balance of
26 \$427,802 as of January 19, 2009.

27 5. On March 8, 2010, FBI Special Agent Joe Quinn interviewed M.F. Agent
28 Quinn has advised me that M.F. provided the following information during that interview:

1 a. M. F. met RHONDA L. BREARD in August 2004 for the purpose of
2 determining if Ms. BREARD would be able to manage M.F.'s assets. During this initial
3 meeting BREARD assured M.F. that her money would be safe with BREARD because
4 BREARD claimed that she was audited annually by IFP and was also regulated by various
5 federal and state agencies.

6 b. Shortly after this initial meeting, M.F. decided to transfer her assets to
7 BREARD. M.F. believes that she transferred approximately \$300,000 to BREARD. This
8 consisted of two annuities and approximately \$90,000 in cash. BREARD then invested
9 these funds and assets into other investments.

10 c. For several years thereafter, M.F. would receive account statements
11 directly from the various companies with whom BREARD had placed her funds. Then, in
12 October 2006, BREARD directed M.F. to liquidate several of these accounts and transfer
13 the funds to Breard & Associates to be invested in new investments. For instance, in
14 October 2006, M.F. wrote a check to Breard & Associates in the amount of \$90,467.
15 According to M.F. this check represented the proceeds of an annuity she had liquidated.
16 BREARD assured M.F. that she would invest these funds into another investment. Then,
17 in November 2007, M.F. wrote a check to Breard & Associates in the amount of
18 \$130,429. These funds represented the proceeds from an account that BREARD had
19 previously opened for M.F. BREARD told M.F. that the funds would be transferred to
20 another investment. In August 2009 M.F. wrote a check to Breard & Associates and ING
21 in the amount of \$10,000. BREARD had told M.F. that these funds would be invested in
22 an ING Certificate of Deposit which paid a 7% return for one year.

23 d. Beginning in approximately February 2007, BREARD told M.F. that
24 BREARD would be providing the account statements directly to M.F. M.F. also believed
25 that all of her accounts were now with IFP. From February 2007 until January 2010, M.F.
26 received all of her statements directly from BREARD via United States Mail. The
27 statements were sent to M.F. at a post office box in Issaquah, Washington. M.F. believed
28 that she had eight accounts at IFP.

1 e. Sometime in January 2010, M.F received two IFP account statements
2 from BREARD. One statement purported to be an Individual Retirement Account
3 (“IRA”) (account # xxxxx2230) for the period October 1, 2009, through December 31,
4 2009. The statement, which contained M.F.’s name and address, reflected an account
5 value of \$76,181.02. The other statement purported to be a Roth Individual Retirement
6 account (account # xxxxx6469) for the period October 1, 2009 through December 31,
7 2009. The statement, which contained M.F.’s name and address, reflected an account
8 value of \$9,847.89. M.F. said that she received both of these statements via United States
9 mail at her Issaquah post office box.

10 f. In late January 2010, M.F. met with BREARD to review her
11 accounts. During that meeting BREARD told M.F. that the total value of all of her IFP
12 accounts was approximately \$550,000

13 g. On approximately February 25, 2010, M.F. called IFP. She provided
14 the IFP representative with all of her account numbers, including the account numbers for
15 the IRA and Roth IRA mentioned in paragraph e above. IFP told M.F. that the accounts
16 did not exist and M.F. had no money with IFP.

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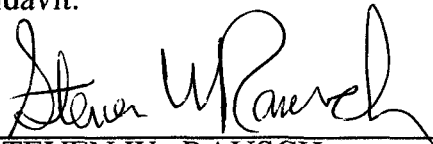
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1 **CONCLUSION**

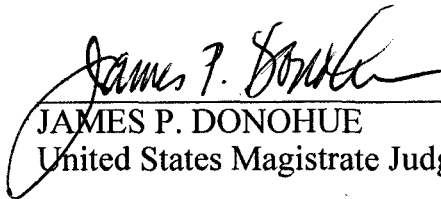
2 6. The above facts are true and correct to the best of my knowledge and belief.
3 Based on the above, I believe there is probable cause to believe that RHONDA L.
4 BREARD has committed acts in violation of Title 18, United States Code, Sections 1341
5 and 2 as alleged in this Complaint and Affidavit.

6 

7
8 STEVEN W. RAUSCH
9 Special Agent
Federal Bureau of Investigation

10 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
11 presence, the Court hereby finds that there is probable cause to believe the defendant
12 committed the offense set forth in the Complaint.

13 Dated this 9th day of March, 2010.

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17 JAMES P. DONOHUE
18 United States Magistrate Judge