

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ERIC ANTHONY FOSTER,
CRD No. 3267556,

Respondent.

Disciplinary Proceeding
No. 2008015382001

Hearing Officer - SNB

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: February 9, 2012

INTRODUCTION

Disciplinary Proceeding No. 2008015382001 was filed on December 19, 2011, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Eric Anthony Foster (CRD No. 3267556) submitted an Offer of Settlement (Offer) to Complainant dated January 23, 2012. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.¹

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other

¹ The Complaint charged a Second Cause of Action as an alternative pleading that Foster exercised discretion without written authorization. As noted in the Offer of Settlement, Foster is consenting to findings that he effected unauthorized trades. Accordingly, the Second Cause of Action is withdrawn.

proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Foster first became registered with FINRA as a General Securities Representative ("GSR") through an association with a member firm on. Foster's registration through that firm terminated on April 28, 2000.

During the period from April 2000 until October 2002, Foster was registered as a GSR through four different member firms.

From October 23, 2002 through October 20, 2008, Foster was registered as a GSR through member firm Maxim Group LLC (BD No. 120708) ("Maxim"). Foster's employment with Maxim was terminated on October 10, 2008 and the Uniform Termination Notice of Securities Registration (Form U5) filed with respect to Foster states that he was "discharged" by the firm for the stated reason that he was "terminated for cause after executing a transaction in a client's account without the client's prior consent."

From October 14, 2008 through January 6, 2010, Foster was registered as a GSR through a member firm.

Since July 2, 2010, Foster has been registered with FINRA as a GSR through an association with another member firm.

Foster is subject to FINRA jurisdiction because he is currently registered through a member firm.

On December 21, 2011, the State of Illinois Securities Department entered a Consent Order where Foster consented to findings that he violated sections 12.A, 12.F, 12.G and 12.I of the Illinois Securities Law of 1953. Specifically, the Order contains findings that “Foster took advantage of the age and trading experience of [two customers, a husband and wife] to earn excessive income for himself and Maxim, all the while reducing [the customers’] account balance to zero.”

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

SUMMARY

1. During the period from February 28, 2006 through June 6, 2006, Foster effected six unauthorized purchase and sale transactions in the Maxim Group LLC (BD No. 120708) (“Maxim”) account of deceased customer LS. Customer LS had died on January 12, 2006, prior to the transactions.

CAUSE OF ACTION

(Unauthorized Trading)
(Violation of NASD Conduct Rule 2110)

2. In or around late 2003, Foster solicited customer LS to open a securities account at Maxim.
3. On January 12, 2006, customer LS died at the age of 84 as a result of injuries he sustained in a fall.
4. During the period from February 28, 2006 to June 6, 2006, which was after customer LS had died, Foster effected the following unauthorized transactions in LS’s Maxim account:

- a. On February 28, 2006, Foster effected a purchase of 1,000 Healthcare Acquisition Corp. New ("Healthcare") warrants at a price of \$2.105 per warrant and a total price of \$2,125.00. This purchase was made using available cash in the account.
 - b. On March 13, 2006, Foster effected a purchase of an additional 1,500 Healthcare warrants at a price of \$2.10 per warrant for a total purchase price of \$3,170.00. This purchase was made using available cash in the account.
 - c. On May 3, 2006, Foster effected a purchase of an additional 100 Healthcare warrants at a price of \$1.86 per unit and total purchase price of \$206.00. This purchase was made using available cash in the account.
 - d. On June 6, 2006, Foster effected sale transactions of a total of 7,600 Healthcare warrants. While these warrants were all sold on the same date, the account statements and trade confirmations list seven separate sales transactions on that date with different prices ranging between \$2.00 and \$2.15 per warrant where the total proceeds from the sales were \$15,270.98.
 - e. Also on June 6, 2006, Foster effected the purchase of two securities in the account: 20,000 shares of Harken at \$.728 per share for a total purchase price of \$14,580, and 1,000 IGC warrants at \$.61 per warrant with a total purchase price of \$630. These purchases were made using proceeds from the sale of Healthcare warrants.
5. Foster had no authorization for the foregoing transactions from either LS or from the estate representative of LS.

By reason of the foregoing, Foster violated NASD Conduct Rule 2110.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be

- Suspended from associating with any member firms in any and all capacities for a period of three months;
- Fined in the amount of \$10,000; and
- Required to pay restitution to the executor of customer LS's estate in the total amount of \$2471.00, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from June 6, 2006, until the date this Offer is accepted by the NAC.

Respondent Foster shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Frank M. Weber, Senior Regional Counsel, One World Financial Center, 200 Liberty Street, New York, NY 10281 either by letter that identifies the Respondent and the case number and includes a copy of the check, money order or other method of payment or by e-mail, with pdf copies of the payment documentation, to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 120 days after acceptance of the AWC.

If for any reason Respondent cannot locate the executor of customer LS's estate after reasonable and documented efforts within 120 days from the date the Offer is accepted, or such additional period agreed to by a FINRA staff member in writing, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. Respondent shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Respondent has agreed to pay the monetary sanctions upon notice that this Offer has been accepted and that such payments are due and payable. Respondent has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

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