

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

Department of Enforcement,

Complainant,

v.

Joseph Tucciarone (CRD No. 1060717),

Anita Bryant (CRD No. 1688535),

and

Susan Lauletta (CRD No. 2655117),

Respondents.

DISCIPLINARY PROCEEDING

No. 2009016911207

Hearing Officer - LOM

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: December 10, 2012

INTRODUCTION

Disciplinary Proceeding No. 2009016911207 was filed on March 5, 2012, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondents Joseph Tucciarone, Sr., Anita Bryant, and Susan Lauletta submitted an Offer of Settlement (Offer) to Complainant dated December 6, 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.

Under the terms of the Offer, Respondents have each consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any

other 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 understand that this Order will become part of Respondents' permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

SUMMARY

1. Joseph Tucciarone, his wife Anita Bryant, and MF were, at all relevant times herein, partners who jointly owned Innovative Planning Services ("IPS"), a general insurance agency. At all relevant times herein, IPS's home office in Woodbury, New York was an Office of Supervisory Jurisdiction ("OSJ") for Park Avenue Securities LLC ("Park Avenue" or the "firm"), the retail broker-dealer of The Guardian Life Insurance Company of America.

2. Tucciarone, while serving as a General Agent for IPS and registered with Park Avenue, violated NASD Rule 3040 by engaging in private securities transactions without prior approval from his firm and by concealing from the firm the commissions he received for these transactions. He then instructed a subordinate to lie to the firm about these activities and destroy any related documents in violation of FINRA Rule 2010. He also violated FINRA Rule 2010 by providing false information to the firm and FINRA Rule 8210 by providing false testimony to FINRA.

3. Anita Bryant, while serving as a General Agent for IPS and associated with Park Avenue, violated FINRA Rule 8210 by providing false testimony to FINRA.

4. Susan Lauletta, the branch Agency Compliance Officer ("ACO") for Park Avenue, failed to meet the requisite high standards of commercial honor and just and equitable

principles of trade by failing to report, investigate, or take any action regarding known and egregious misconduct by Tucciarone. She learned that Tucciarone had engaged in selling away and participated in a commission-hiding scheme, but did not report it. She participated in a phone call with Tucciarone and FC, and heard Tucciarone tell FC to mislead the firm as to Tucciarone's activities, but did not report it. When asked by the firm to provide information about the selling away, Lauletta did not report Tucciarone's selling away, the commission-hiding scheme, or Tucciarone's attempts to have FC mislead the firm. Such failures constitute a violation of FINRA Rule 2010. Finally, Lauletta violated FINRA Rule 8210 and Rule 2010 by providing false testimony to FINRA regarding her actions.

RESPONDENTS AND JURISDICTION

5. Tucciarone entered the securities industry in 1982. In May 1999, he became registered as an Investment Company Products/Variable Contracts Limited Representative and General Securities Representative with Park Avenue. In March 2010, he was terminated for facilitating the sale of an unapproved securities product, among other things. Although Tucciarone is no longer registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the effective date of termination of Tucciarone's registration with Park Avenue, namely, March 25, 2010; and the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

6. At all relevant times herein, Bryant was associated with Park Avenue. The filings of the Uniform Branch Office Registration Form ("Form BR") for the Woodbury branch office list Bryant as a person either responsible for payment of firm expenses or as one who otherwise

has a financial interest in the branch office. Further, Bryant shared in the firm's securities commissions and recruited employees for IPS who were required to become registered with FINRA within two years of their start date. Bryant's association with Park Avenue ended on March 22, 2010, when IPS ceased being a Park Avenue branch office. Although Bryant is no longer registered or associated with a FINRA member firm, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the effective date of IPS's termination as a branch office of Park Avenue, namely, March 22, 2010; and the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

7. Lauletta entered the securities industry in 1995. In May 1999, she became registered as an Investment Company Products/Variable Contracts Limited Representative with Park Avenue. In February 2001, Lauletta also became registered as a General Securities Principal with the firm. In August 2001, she became an Equity Compliance Supervisor and Principal with the firm. In 2005, Lauletta began to serve as the branch ACO for Park Avenue. Lauletta was also designated in the Form BR as the supervisor-in-charge of the IPS OSJ office of Park Avenue at all relevant times herein. In April 2010, Lauletta resigned from the firm. More recently, she was registered as a General Securities Principal with another member firm from July 2010 until February 2011. Although Lauletta is no longer registered or associated with a FINRA member firm, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the effective date of termination of Lauletta's registration with a

FINRA member, namely, February 8, 2011; and the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

FINDINGS AND CONCLUSIONS

8. In the summer of 2007, Tucciarone became aware that FC, one of his subordinates and a Park Avenue broker, was involved in undisclosed private securities transactions in Agape World, Inc. ("Agape World"), which purportedly used investors' funds to provide commercial real estate developers with bridge loans. After learning about Agape World, Tucciarone considered whether he could establish a captive insurance company for it.

9. In January 2008, Tucciarone and FC met with the head of Agape World, Nicholas Cosmo, to discuss the creation of a captive insurance company. During that meeting, Cosmo described his other company, Agape Merchant Advance, LLC ("Agape Merchant" or "AMA"), which purported to advance cash to retailers in exchange for their future credit card receivables. Tucciarone learned that by selling interests in Agape Merchant, he could earn 1% in commissions.

10. To invest in Agape Merchant, individuals entered into a so called Participation Agreement ("Agreement"). The Agreement constitutes an "investment contract" and, thus, a security under § 3(a)(10) of the Securities Exchange Act. 15 U.S.C. § 78c(a)(10).

11. The Agreement provided that participants, in return for their investments, would receive a "potential" return of "up to" 4% of their investment each month and that the principal would be returned upon written request.

12. The Agreement provided that Agape Merchant would use the funds to enter into a financial transaction in which Agape Merchant "advances" funds to certain merchants that had

been “operational for one year or more” and had a monthly “Visa/MC sales history of greater than ten thousand dollars.”

13. Advances to merchants were to be no larger than \$50,000 at a time. Merchants were to repay the advances with interest, *i.e.*, \$1.38 for every dollar advanced, within six months, amounting to a 76% annual interest rate.

14. Under the Agreement, Agape Merchant had the responsibility to find suitable merchants using certain models, guidelines, and industry averages; to manage, perform, terminate, and enforce the contracts; and to limit the risk on all advances to 1% per annum.

15. The Agreement provided that advances to merchants were not guaranteed, repayment of advances was not guaranteed, and rates on advances to merchants would vary as determined by Agape Merchant.

16. Individuals referring participants to Agape Merchant were to receive commissions paid monthly.

17. Tucciarone informed FC that any such commissions received should go to their wives to avoid the firm’s prohibition against selling away. Accordingly, Tucciarone and FC received their commissions through checks made payable to their wives.

18. In February 2008, Tucciarone sold a \$50,000 interest in Agape Merchant to DF.

19. In March 2008, Tucciarone sold a \$50,000 interest in Agape Merchant to PC.

20. Beginning in March 2008, for each of these investments, Tucciarone received 1%, or \$500, in commissions each month. The checks were made payable to Tucciarone’s wife, Anita Bryant, from an Agape Merchant representative, HA.

21. At some point in 2008, Tucciarone and FC entered into an agreement with FB and JP, who were also Tucciarone's subordinates at IPS and served as Park Avenue brokers, to share in commissions resulting from investments with Agape Merchant.

22. Sometime after March 2008, Tucciarone told FC that the checks made out to Bryant did not identify the investments to which they related and did not indicate the investment period for which the commissions were paid. FC suggested that they create a separate account to receive commissions. In furtherance of this plan, in June 2008, with Tucciarone's knowledge, FC created Clove Lakes Management Co. Inc. ("Clove Lakes"). Again, to avoid detection from Park Avenue, FC's and JP's wives were made the sole shareholders and officers of the company.

23. In September 2008, MM made a \$100,000 investment in Agape Merchant. In return, Agape Merchant paid a 2% commission, or \$2,000. HA wrote a check payable to FC's wife, which was deposited into the Clove Lakes account. Pursuant to the agreement with his subordinates, Tucciarone was to receive \$750 of the \$2,000. Tucciarone instructed FC to make the check payable to Bryant. Accordingly, FC made a \$750 check payable to Bryant from the Clove Lakes account and mailed it to her home. Bryant cashed the check.

24. In December 2008, Tucciarone sold an interest in Agape Merchant to CB for \$10,000.

25. Tucciarone did not provide written notice to, or receive prior approval from, Park Avenue for his participation in the investments made by DF, PC, MM, or CB.

26. On Monday, January 26, 2009, news outlets began to report that Agape Merchant and Agape World (together, "Agape") were a possible Ponzi scheme. Soon thereafter, Tucciarone informed Lauletta that FC had ties to Agape.

27. On Tuesday, January 27, 2009, Lauletta and Tucciarone met in Bryant's office and telephoned FC (the "January 27 call"). During the January 27 call, Tucciarone and Lauletta directed FC to write a letter to Park Avenue about how FC came to know of Agape. Tucciarone directed FC to disclose the fact that he had clients who had invested in Agape World, but also instructed him not to mention investments in Agape Merchant.

28. When FC stated that he intended to disclose to the firm that Tucciarone had also received commissions in Bryant's name for interests sold in Agape Merchant, Tucciarone instructed FC to tell Park Avenue that FC received no commissions and that only FC's wife received commissions. At this point, Lauletta, having just heard this exchange, stated, "I didn't hear that" and "I'm leaving the room," in a transparent attempt to avoid her obligations as ACO to report Tucciarone's purported involvement in the scheme. Subsequently, Lauletta failed to investigate Tucciarone's purported involvement.

29. On January 29, 2009, Tucciarone telephoned FC and instructed him to tell the firm, falsely, that their wives had facilitated the investments in Agape and that their wives had collected the fees. Tucciarone then instructed FC to destroy any files relating to Agape.

30. On January 30, 2009, Tucciarone met with senior management from Park Avenue's compliance department. During that meeting, Tucciarone told the firm that some of his subordinates may have been involved with Agape. Tucciarone also stated he was involved with Agape, but that his involvement was limited to efforts to set up a captive insurance program for Agape.

31. On January 31, 2009, Tucciarone called FC and again instructed him to destroy files relating to Agape and to say that their wives had engaged in the Agape transactions on their own, and remarked that if the "feds" found any documents, it would be "all done."

32. On February 3, 2009, Park Avenue Chief Compliance Officer AD directed Lauletta to distribute questionnaires to registered representatives asking whether, and to what extent, they were involved in Agape. On February 4, Lauletta distributed the representative questionnaires as an attachment to an email. Lauletta forwarded their responses, and her own response to a separate questionnaire, to the home office.

33. In their responses to the questionnaires, registered representatives FC and JP admitted that they were involved in Agape and had received commission payments. FC and JP also indicated, however, that “[n]othing relating to the Agape or AMA contracts was done without the actual or constructive knowledge of Guardian and its supervisory staff.”

34. In her response, Lauletta reported the involvement of FC in selling away interests in Agape World, but failed to disclose the existence of the commission-hiding scheme in which FC participated, Tucciarone’s involvement in selling interests in Agape, his participation in the commission-hiding scheme, and his efforts to have FC mislead the firm.

35. In his response, Tucciarone falsely stated that he had been unaware that FC had solicited any Agape investments. Also, while he indicated he had discussed Agape with other brokers and friends, Tucciarone failed to disclose that he had sold interests in Agape and participated in a commission-hiding scheme.

36. At a meeting with firm management on April 29, 2009, in which he was asked to explain emails that indicated his involvement in selling Agape, Tucciarone again denied any involvement other than efforts to set up a purported captive insurance agency for Agape.

FIRST CAUSE OF ACTION
Failing to Provide Prior Written Notice of a Private Securities Transaction
Violation of NASD Rules 3040 and NASD Rule 2110/FINRA Rule 2010
(Tucciarone)

37. The findings in paragraphs 1–36 above are incorporated herein by reference.
38. The Agreement with Agape Merchant constitutes an “investment contract” and, thus, a “security” under § 3(a)(10) of the Securities Exchange Act. 15 U.S.C. § 78c(a)(10).
39. Tucciarone’s sales of Agape Merchant interests to DF, PC, MM, and CB constitute private securities transactions away from Park Avenue.
40. Also, Tucciarone’s agreement with FC, FB, and JP to share in commissions resulting from investments in Agape Merchant constitutes participation in private securities transactions away from Park Avenue.
41. In exchange for Tucciarone’s participation in these private securities transactions, he received commissions.
42. Tucciarone did not notify Park Avenue in writing and obtain its approval prior to participating in these investments. Further, he concealed from Park Avenue his involvement in DF’s and PC’s investments by arranging for Agape Merchant to pay the commissions he earned to his wife, Bryant. Tucciarone again concealed his participation in the commissions-sharing agreement by arranging for a commission check to be made payable to Bryant from the Clove Lakes account.
43. In so doing, Tucciarone violated NASD Rule 3040 and NASD Rule 2110/FINRA Rule 2010.

SECOND CAUSE OF ACTION
Instructing Subordinate to Provide Firm with
Misleading Information & to Destroy Documents
Violation of FINRA Rule 2010
(Tucciarone)

44. The findings in paragraphs 1–43 above are incorporated herein by reference.

45. As set forth above, on several occasions Tucciarone instructed FC to provide the firm with misleading information and to destroy Agape-related documents.

46. Tucciarone’s instructions to FC constitute a failure to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

THIRD CAUSE OF ACTION
Providing False and Misleading Information to the Firm
Violation of FINRA Rule 2010
(Tucciarone)

47. The findings in paragraphs 1–46 above are incorporated herein by reference.

48. Shortly after the news reports about Agape, in a meeting with Park Avenue, Tucciarone falsely informed the firm that his involvement was limited to setting up a captive insurance agency.

49. Later, in responding to a questionnaire from the firm, Tucciarone falsely stated that he had been unaware that FC had solicited any Agape investments and failed to disclose that he had sold interests in Agape and participated in a commission-hiding scheme.

50. In connection with its internal investigation into whether, and to what extent, its brokers had been involved with Agape, Park Avenue again met with Tucciarone to discuss documents suggesting his participation in arranging investments in Agape.

51. During that meeting, Tucciarone falsely informed Park Avenue that his involvement in Agape was limited to trying to establish a captive insurance company.

52. By lying to Park Avenue, Tucciarone failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

FOURTH CAUSE OF ACTION
Providing False Testimony to FINRA
Violation of FINRA Rules 8210 and 2010
(Tucciarone)

53. The findings in paragraphs 1–52 above are incorporated herein by reference.

54. On January 19, 2010, and February 19, 2010, pursuant to FINRA Rule 8210, Tucciarone appeared for sworn, on-the-record testimony. At the outset of the testimony for both days, the staff reminded Tucciarone of his obligations under Rule 8210 to answer FINRA's questions completely and truthfully. The staff explained that his failure to do so could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry. Tucciarone stated that he understood.

55. Tucciarone falsely testified that before news outlets began reporting that Agape may be a Ponzi scheme, he was unaware that FC had sold an interest in Agape. Tucciarone also falsely testified that he was unaware that anyone in the IPS office, including himself, had received commissions in connection with Agape investments.

56. Tucciarone falsely testified that he never sold interests in Agape to anyone and denied any involvement in DF's and PC's Agape investments.

57. Tucciarone falsely testified that he never suggested to anybody at any time that Agape commissions be made payable to his wife, Bryant, or to FC's wife.

58. Tucciarone falsely testified that he never suggested to FC that he destroy Agape-related documents.

59. As a result of the foregoing conduct, Tucciarone violated FINRA Rules 8210 and 2010.

FIFTH CAUSE OF ACTION
Providing False Testimony to FINRA
Violation of FINRA Rules 8210 and 2010
(Bryant)

60. The findings in paragraphs 1–59 above are incorporated herein by reference.

61. On February 18, 2010, pursuant to FINRA Rule 8210, Bryant appeared for sworn, on-the-record testimony. At the outset of the testimony, the staff reminded Bryant of her obligations under Rule 8210 to answer FINRA’s questions completely and truthfully. The staff explained that her failure to do so could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry. Bryant stated that she understood.

62. Bryant falsely testified that she was unaware of any plan for Agape commissions to be paid to the wives of anyone associated with IPS when in fact checks from Agape representative HA were made payable to her.

63. Bryant falsely testified that the \$750 check made payable to her from the Clove Lakes account was for her assistance in finding office space and recruiting when in fact the check was to compensate Tucciarone for his involvement in MM’s investment in Agape Merchant.

64. As a result of the foregoing conduct, Bryant violated FINRA Rules 8210 and 2010.

SIXTH CAUSE OF ACTION
Failing to Adhere to Just and Equitable Principles of Trade
Violation of FINRA Rule 2010
(Lauletta)

65. The findings in paragraphs 1–64 above are incorporated herein by reference.

66. As an ACO for Park Avenue, Lauletta failed to meet the requisite standards of commercial honor and principles of trade by failing to report, investigate, or take other action when she learned that Tucciarone had engaged in selling away and was involved in the related commission-hiding scheme. Further, Lauletta failed to report, investigate, or take other action upon hearing Tucciarone instruct registered representative FC to mislead the firm about his selling-away activities. Finally, when responding to a firm questionnaire about the selling away, Lauletta omitted material information of which she was aware that a commission-hiding scheme existed, that the selling-away activities involved more than the two representatives she named in her response, and that it involved Tucciarone.

67. As a result of the foregoing conduct, Lauletta violated FINRA Rule 2010.

SEVENTH CAUSE OF ACTION
Providing False Testimony to FINRA
Violation of FINRA Rules 8210 and 2010
(Lauletta)

68. The findings in paragraphs 1–67 above are incorporated herein by reference.

69. On March 4, 2010, pursuant to FINRA Rule 8210, Lauletta appeared for sworn, on-the-record testimony. At the outset of the testimony, the staff reminded Lauletta of her obligations under Rule 8210 to answer FINRA’s questions completely and truthfully. The staff explained that her failure to do so could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry. Lauletta stated that she understood.

70. Lauletta falsely testified that, during the January 27 call with FC, Tucciarone did not make any suggestions to FC about what FC should disclose to Park Avenue about Agape.

71. Lauletta falsely testified that, during the January 27 call with FC, FC did not indicate anyone else from IPS was involved in Agape.

72. Lauletta also falsely testified that she never said, during the January 27 call, that she “didn’t hear” Tucciarone’s directive to FC to mislead Park Avenue, or that she was “leaving the room.”

73. As a result of the foregoing conduct, Lauletta violated FINRA Rules 8210 and 2010.

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

SANCTIONS

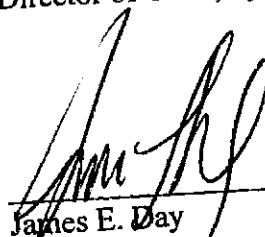
It is ordered that Respondents Joseph Tucciarone, Sr., Anita Bryant, and Susan Lauletta be barred from any association with any member firm.

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

A handwritten signature in black ink, appearing to read "James E. Day", is written over a horizontal line.

James E. Day
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