

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

Department of Enforcement,

Complainant,

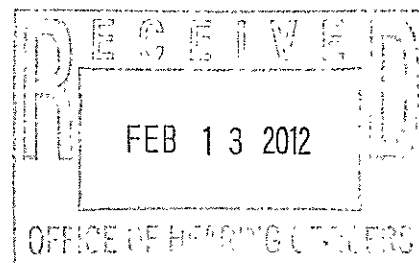
v.

Philip Eckstein (CRD No. 3080212),

Respondent.

Disciplinary Proceeding
No. 2009019288301

Hearing Officer – RSH



**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: February 8, 2012

INTRODUCTION

Disciplinary Proceeding No. 2009019288301 was filed on October 19, 2011, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Philip Eckstein submitted an Offer of Settlement (Offer) to Complainant dated January 13, 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, Respondent has 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 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

Philip Eckstein, CRD # 3080212, was registered with MetLife Securities Inc. as an investment company products/variable contracts limited representative from June 1998 until November 23, 2009, when his registration was terminated by MetLife Securities. From June 1998 until July 2007, Eckstein was also registered in the same capacity with an affiliate of MetLife Securities, Metropolitan Life Insurance Company. Since his 1998 employment with MetLife Securities and Metropolitan Life Insurance, Eckstein has also been licensed to sell insurance in the state of Connecticut. In May 2010, Mr. Eckstein was hired by Park Avenue Securities, which filed a Form U-4 on his behalf reinstating his previous registrations. Mr. Eckstein was subsequently terminated by Park Avenue Securities, which filed a Form U-5 on August 13, 2010. The Form U-5 stated that his termination was due to "allegations . . . made regarding [his] handling of customer funds."

Eckstein is subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, § 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the date upon which he ceased to be associated with a FINRA member and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member and

with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be associated with a FINRA member.

Eckstein has no prior FINRA disciplinary history. On July 21, 2010, Eckstein signed a Complaint, Stipulation and Final Order with the Connecticut Insurance Department, in which he was suspended from the insurance industry for one year, fined \$8,000 and required to pay restitution and legal fees to Rogalle, in connection with the same facts underlying this matter.

FINDINGS AND CONCLUSIONS

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

SUMMARY

After believing for years that Eckstein had purchased an annuity for her with \$10,000 she had provided him in 2004, RR learned in August 2009 that Eckstein had not purchased one of two annuities. Instead, he had misappropriated the funds for one of two annuities. Between 2004 and 2009, Eckstein provided RR with various excuses and false explanations to cover this theft.

By misappropriating funds from RR and providing her with false information to hide that theft, Eckstein violated NASD Rule 2110 and FINRA Rule 2010.

Eckstein failed to appear for testimony as requested pursuant to Rule 8210. By refusing to appear for testimony, Eckstein violated FINRA Rule 8210 and, by virtue of that violation, FINRA Rule 2010.

A. Eckstein Misappropriated \$10,000 from RR

RR, who is 78 years old, hired Eckstein to prepare her tax returns and bought two annuities from him after Eckstein acted as her father's tax preparer for many years. Eckstein prepared RR's tax returns from approximately 1996 through 2007.

In June 2004, RR sought to invest \$30,000 in fixed annuities through Eckstein. Eckstein instructed her to make one check payable to MetLife for \$20,000 and another check payable to Phil Eckstein for \$10,000. RR was a customer of Metropolitan Life Insurance Company, but not MetLife Securities, Inc.

Eckstein informed RR that he had purchased two annuities with the \$30,000. However, he had only purchased one annuity contract: Contract # [REDACTED] issued on June 25, 2004, in the amount of approximately \$20,000.

Instead of purchasing a \$10,000 annuity, Eckstein deposited the \$10,000 check into his personal account and used the money as his own.

RR asked Eckstein on many occasions over the years following for additional information about the \$10,000 annuity she believed she had purchased on June 22, 2004. Eckstein repeatedly told RR that it was difficult for him to get the information because: (1) different computer systems within MetLife did not communicate with each other, and (2) her file was being handled by different MetLife employees at different times.

RR learned in August 2009 that Eckstein had not purchased an annuity for her with the \$10,000, when her attorney was provided with that information by MetLife.

In connection with a Connecticut Department of Insurance investigation of the same events, in 2010 MetLife reimbursed RR for the annuity that was never purchased (\$10,000 plus

\$2,800 interest). Eckstein was also ordered to repay RR \$7,700 for a loan she made to him, as well as pay her legal fees.

B. Eckstein Failed to Appear for On-The-Record Testimony

On or about July 16, 2010, FINRA sent a letter to Eckstein via certified mail and first-class mail at his last known home address according to the Central Registration Depository (CRD). In the letter, FINRA requested that Eckstein appear for testimony on August 5, 2010. FINRA issued this request pursuant to Rule 8210. Eckstein's attorney requested an extension of the date for his testimony, and FINRA staff approved an extension, without a specific date at that time, pending receipt of requested documents and the anticipated resolution of a Connecticut Department of Insurance matter involving the same facts.

On or about March 7, 2011, FINRA staff sent a letter to Eckstein via certified and first-class mail at the same address requesting that Eckstein appear for testimony in Washington, DC, on March 24, 2011. The certified copy was returned to FINRA with Eckstein's signature. A copy of the letter was also sent via electronic mail to Eckstein's attorney. FINRA issued this request pursuant to Rule 8210.

Eckstein did not appear for testimony on March 24, 2011. On or about March 24, 2011, FINRA staff sent a letter to Eckstein via certified and first-class mail at the same address requesting that Eckstein appear for testimony in New York, NY, on April 14, 2011. The certified copy was returned to FINRA with Eckstein's signature. A copy of the letter was also sent via electronic mail to Eckstein's attorney. FINRA issued this request pursuant to Rule 8210.

On April 1, 2011, Eckstein's attorney informed FINRA staff that Eckstein would not appear for testimony on April 14, 2011. On April 11, 2011, FINRA staff sent a letter via certified

U.S. Mail and electronic mail to Eckstein's attorney, with a copy via U.S. Mail to Eckstein, noting that Eckstein's failure to appear for testimony was a violation of FINRA Rule 8210, and requesting that Eckstein appear for testimony in New York, NY on April 21, 2011. The certified copy sent to Eckstein's lawyer was returned to FINRA with a signature. On April 21, 2011, Eckstein's attorney informed FINRA staff that Eckstein was not going to appear for testimony on that date.

Eckstein did not appear for testimony on any of the scheduled dates.

**FIRST CAUSE OF ACTION
MISAPPROPRIATION
VIOLATION OF NASD RULE 2110**

RR sought to purchase a fixed annuity through Eckstein for \$10,000, on June 22, 2004. RR provided Eckstein with a check in the amount of \$10,000. The check was made payable to Eckstein and was subsequently cashed by him. Instead of using the money provided to him by RR to purchase an annuity, Eckstein converted the \$10,000 to his own use.

Between 2004 and 2009, Eckstein provided RR with false statements and false explanations to cover his theft of the \$10,000.

By misappropriating funds from RR and providing her with false information to hide that theft, Eckstein violated NASD Rule 2110 and FINRA Rule 2010.

**SECOND CAUSE OF ACTION
FAILING TO APPEAR FOR ON-THE-RECORD TESTIMONY
VIOLATION OF FINRA RULES 8210 AND 2010**

FINRA staff sent letters on March 7, 2011, March 24, 2011, and April 1, 2011 to Eckstein requesting that he to appear for testimony on March 24, 2011, April 14, 2011, and April 21, 2011, respectively. Each of these letters requested that Eckstein appear for testimony pursuant to FINRA Rule 8210, and each of these letters was sent to Eckstein's last known residential address as reflected in CRD.

Eckstein failed to appear for testimony on any of the requested dates.

FINRA Rule 8210 requires persons associated with members "to testify at a location specified by FINRA staff, under oath or affirmation administered by a court reporter or a notary public if requested, with respect to any matter involved in [an] investigation... ."

By failing to provide testimony requested by FINRA, Eckstein violated FINRA Rule 8210 and FINRA Rule 2010.

Based on the foregoing, Respondent Violated NASD Rule 2110 and FINRA Rules 2010 and 8210.

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

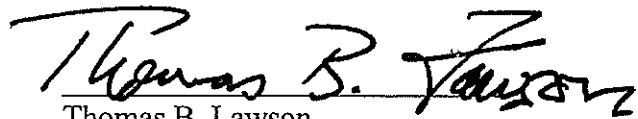
It is ordered that Respondent be barred from association with any FINRA member.

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 "Thomas B. Lawson", is written over a horizontal line.

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