

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

DEPARTMENT OF ENFORCEMENT,	)	Disciplinary Proceeding
	)	No. 2010021189601
Complainant,	)	
	)	Hearing Officer: SNB
v.	)	
	)	ORDER ACCEPTING OFFER
DAVID J. KLECKA, JR.,	)	OF SETTLEMENT
CRD No. 5036893,	)	
Respondent.	)	Date: July 13, 2011

INTRODUCTION

Disciplinary Proceeding No. 2010021189601 was filed on June 6, 2011, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). On or about July 12, 2011, Respondent David J. Klecka, Jr. (Respondent or Klecka) submitted an Offer of Settlement (Offer) to Complainant dated July 7, 2011. 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

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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

Klecka entered the securities industry in 2005. He was associated with Pruco Securities, LLC (the Firm) from on or about June 30, 2008 through December 21, 2009, where he was registered as an investment company products and variable contracts representative.¹ Following his termination from the Firm, Klecka associated with another member firm, where he was registered as an investment company products and variable contracts representative for the period of February 26, 2010 through June 17, 2010. Klecka is no longer employed in the securities industry. Pursuant to Article V, Section 4 of FINRA's By-Laws, FINRA retains jurisdiction over Klecka through June 16, 2012. As previously noted, the Complaint in this matter was filed on June 6, 2011.

FINDINGS AND CONCLUSIONS

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

1. In or about July 2009, the Firm commenced an internal investigation of Klecka concerning questionable business activities related to his sale of life insurance policies. Specifically, the Firm was looking into policies written on Klecka and his family members that were ultimately not issued because further information was required or the policies were issued and later lapsed for nonpayment of premiums.

¹ Klecka was associated with Farmers Financial Solutions, LLC (Farmers) for the period of September 19, 2005 through June 10, 2008, where he was registered as an investment company products and variable contracts representative.

2. During the course of the Firm's review, it learned that Klecka was the subject of an investigation being conducted by the AZ DOI regarding activities that occurred while Klecka was associated with another member firm. After learning of the AZ DOI's investigation, the Firm placed Klecka on an administrative leave of absence on or about August 14, 2009.

3. Approximately three weeks later, on September 8, 2009, Klecka forwarded an email from his personal email address to his Managing Director at the Firm, GV. The forwarded email, dated August 31, 2009, was purportedly received by Klecka from the AZ DOI and contained a timeline documenting Klecka's contact with the agency. This email bore what appeared to be the typed signature of an investigator with the AZ DOI.

4. The Firm then interviewed Klecka on September 23, 2009. During the interview Klecka explained that on May 27, 2008, he was audited by Farmers but thought it was just a normal audit. Klecka told the Firm that he first heard from the AZ DOI via phone on August 12, 2009, and was ordered to appear before the agency on August 13, 2009. Klecka advised that the AZ DOI investigator told him to sign a consent order but he refused to do so. Klecka then told the Firm that he was then asked to meet with the AZ DOI on August 24, 2009, but he received notification that the appointment was postponed. He indicated that he had not heard from the AZ DOI since August 24, 2009.

5. During this interview, Klecka further advised the Firm that he had asked the AZ DOI to complete the August 31, 2009 timeline that he had emailed to GV on September 8, 2009.

6. Following the September 23, 2009 interview, Klecka provided the Firm with a written statement. Therein Klecka advised the Firm that the above-referenced August 31, 2009 email from the AZ DOI was fictitious. In other words, the email was created by Klecka, not the AZ DOI.

7. Klecka's written statement to the Firm provides, in relevant part: "An email forwarded from [AZ DOI] was sent by me to JR. This email was not real. I wrote the email." Klecka also admitted that "in regards to my timeline to GV and the DOI timeline, I was not truthful on the dates. I misled GV."

8. On information and belief, Klecka fabricated the email in order to lead his Firm to believe that the AZ DOI investigation was more recent than it actually was. In other words, the forged document would provide an explanation for Klecka's failure to disclose the investigation to the Firm earlier than he did.

9. The Firm subsequently terminated Klecka for, among other reasons, creating a non-genuine email purporting to be from the AZ DOI regarding the agency's investigation into Klecka's activities at his former firm.

10. The AZ DOI confirmed to FINRA that the email was a forgery.

11. The acts, practices and conduct described above constitute separate and distinct violations of FINRA Rule 2010 by Klecka.

Second Cause of Action - Failure to Appear for OTR - Violations of FINRA Rules 8210 and 2010

12. On November 18, 2010, FINRA staff sent a letter via first class and certified mail to Klecka at his CRD address – [REDACTED]

[REDACTED] The letter cited FINRA Rule 8210 and provided that Klecka was to appear for an OTR scheduled for 9:00 a.m. on December 14, 2010 at the FINRA Denver District Office

located at 4600 S. Syracuse St., Suite 1400, Denver, CO 80237. Klecka signed for the certified mailing and the receipt was returned to FINRA on December 31, 2010; the first class mailing was not returned to FINRA.

13. FINRA staff telephoned Klecka on December 3, 2010 to confirm his attendance at the upcoming December 14, 2010 OTR. During that call, Klecka confirmed that he had received the Rule 8210 OTR notice and would appear for the scheduled OTR. FINRA staff followed up with Klecka via telephone on Monday, December 13, 2010 to again confirm that Klecka would be at the OTR. Klecka again represented that he would be there.

14. Notwithstanding the above, Klecka failed to appear for his OTR as required. FINRA staff called and left three messages with Klecka the morning of December 14th; Klecka did not return the staff's calls. FINRA staff also delayed opening the record until 10:30 a.m. in order to allow more time for Klecka to appear.

15. The acts, practices and conduct described above constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Klecka.

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 in any capacity. 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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