

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

Department of Enforcement,

Complainant,

v.

Tommy Roy Hester (CRD No. 5611899),

Respondent.

Disciplinary Proceeding
No. 2011025944001

Hearing Officer MC

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: August 15, 2012

INTRODUCTION

Disciplinary Proceeding No. 2011025944001 was filed on June 26, 2012, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Tommy Roy Hester (Respondent or Hester) submitted an Offer of Settlement (Offer) to Complainant dated August 3, 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

During the period October 2008 to December 2010, Hester was registered with a FINRA registrant, Farmers Financial, as an Investment Company Products/Variable Contracts Representative (Series 6), and was an insurance agent for FIG. Hester was terminated in December 2010 for the matters in this Complaint. He did not have any other prior employment in the securities industry. Hester is not currently employed in the securities industry.

Although Hester is no longer registered or associated with a FINRA registrant, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Hester's registration with Farmers Financial, namely, January 5, 2011, the date that Farmers Financial filed the Form U-5 giving notice of Hester's termination; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

Hester has no prior disciplinary history.

FINDINGS AND CONCLUSIONS

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

1. In January and April 2010, Hester violated FINRA Rule 2010 by misappropriating a total of \$578.49 from four customers of his insurance company employer, Farmers

Insurance Group ("FIG"). At the time, he was an independent contractor registered representative employed by Farmers Financial Solutions LLC ("Farmers Financial"), a FINRA registrant. Hester was also an insurance agent for FIG, an affiliate of Farmers Financial, at all times relevant herein. Hester misappropriated insurance premiums by failing to deposit four customers' insurance premium payments into the insurance company's account, and instead deposited the insurance premiums into his own account or took the cash, and used the funds to pay his own expenses. In addition, Hester violated FINRA Rules 8210 and 2010 by failing to comply with requests for testimony in connection with FINRA's investigation of his conduct during employment with Farmers Financial.

FIRST CAUSE OF ACTION

Misappropriation of Funds [Violation of FINRA Rule 2010]

FINRA Rule 2010 requires an associated person, in the conduct of his or her business, to "observe high standards of commercial honor and just and equitable principles of trade."

As an FIG agent, Hester was required to collect and promptly remit monies due to FIG from its insurance customers.

Under FIG procedures, when an agent collects a premium for insurance business, he is supposed to make an entry into FIG's automated premium receipt system to reflect that payment was made, place the business with one of FIG's insurance companies, and deposit the premium payment into a FIG bank account to which the agent has deposit access only.

Hester misappropriated customer insurance premiums by not making the requisite deposits remitting the premiums to FIG and instead using the funds for his personal business expenses.

On January 19, 2010, Hester accepted \$90 in cash from SG for a new business policy and gave SG a receipt once he entered the insurance request into FIG's automated system.

On January 19, 2010, Hester accepted \$124.58 in cash from AV for payment to Foremost Group Insurance – an affiliate of FIG – and gave AV a receipt once he entered the insurance request into FIG's automated system.

Also on January 19, 2010, Hester accepted \$35.81 in cash from AA for a simple term insurance policy and gave AA a receipt once he entered the insurance request into FIG's automated system.

Hester did not deposit the cash from SG, AV and AA into the FIG bank account for payment of their insurance policies.

Instead, on January 19, 2010, Hester deposited those three customers' cash premium payments into his personal business bank account at Legend Bank and then made withdrawals for personal expenses such that Hester's bank account ended with a negative \$397.73 balance as of January 20, 2010.

On April 13, 2010, Hester accepted a total of \$328.00 in cash from DA for two automobile insurance policies and gave DA receipts once he entered the insurance request into FIG's automated system.

Hester did not deposit DA's cash premiums payments. Instead, he used the cash for his own personal expenses.

FIG discovered Hester's misappropriation in July 2010 when an internal accounting report indicated that Hester had a pattern of making late remittances of premiums due to FIG. FIG conducted a special internal audit and discovered that two checks remitted by Hester as payments to FIG of the four premium payments had been returned for insufficient funds.

During the audit, Hester remitted the premiums a second time. In an interview in August 2010 and in a written statement dated August 20, 2010, Hester admitted to using customers' insurance premium payments to keep his business running by paying his expenses.

The special internal audit concluded in late December 2010 and FIG continued the customers' insurance policies without interruption. FIG then informed Farmers Financial of Hester's termination and Farmers Financial thereafter filed the Form U-5 reporting the misconduct.

By virtue of the foregoing conduct, Hester engaged in misappropriation, and thus failed to adhere to high standards of commercial honor and just and equitable principles of trade in violation of FINRA Rule 2010.

FAILURE TO APPEAR TO GIVE TESTIMONY (FINRA RULES 8210 AND 2010)

In connection with FINRA's investigation, FINRA requested that Hester provide information and appear and testify, pursuant to FINRA Rule 8210, as follows:

By letter dated May 31, 2011, FINRA requested information concerning the matters reported in the Form U-5 and that Hester appear to testify on June 30, 2011. The May 31 letter was sent to Hester's CRD address and via e-mail.

Hester did not respond to the May 31 letter and did not appear or testify on June 30.

FINRA sent a second request dated July 12, 2011 to his CRD address and e-mail address that attached the May 31, 2011 letter requesting information and testimony by July 26, 2011.

Hester received and responded to the July 12 letter via an e-mail dated July 21, 2011.

By e-mail dated July 22, 2011, FINRA requested Hester's telephone numbers. By e-mail dated July 22, 2011, Hester provided his work and cellular telephone numbers.

Thereafter, FINRA staff and Hester had a conversation about the investigation and possible resolution of this matter.

Subsequently, Hester did not respond to correspondence, telephone calls, and e-mails from FINRA on October 13, 2011, November 10, 2011, November 16, 2011, and December 30, 2011. In a call by FINRA to Hester's work telephone, his employer informed FINRA staff that he was no longer employed there.

By letter dated February 15, 2012, FINRA requested that Hester appear and testify pursuant to FINRA Rule 8210 on February 29, 2012 at FINRA's offices at One World Financial Center, 12th Floor, New York, NY 10281. The February 15th letter was sent to Hester's CRD address via certified mail, return receipt requested, by first class mail, and via e-mail.

Hester did not appear to testify on February 29, 2012.

By letter dated February 29, 2012, FINRA sent a FINRA Rule 8210 letter requesting that Hester appear to testify on March 7, 2012. The February 29th letter was sent via certified mail, return receipt requested, and first class mail to Hester's CRD address. The February 29th letter was also sent via e-mail.

Hester did not appear to testify on March 7, 2012.

To date, Hester has failed to appear for testimony as requested by FINRA.

By virtue of the acts, practices and conduct described above, during the period February 2012 to the present, Hester violated and is continuing to violate FINRA Rule 8210, and has failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 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 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 a FINRA firm.

The sanction 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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