

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

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**ROBERT EDWARD LEE, JR.
(CRD No. 1824202),**

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2011030145201

Hearing Officer – LOM

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: August 19, 2013

INTRODUCTION

Disciplinary Proceeding No. 2011030145201 was filed on July 12, 2013, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Robert Edward Lee, Jr. submitted an Offer of Settlement (Offer) to Complainant dated August 7, 2013. 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

Lee first became registered as a General Securities Representative ("GSR") on or about April 16, 1988 while employed by a former FINRA member firm. He became registered as a General Securities Principal ("GSP") on or about August 9, 1993 while employed by a different former FINRA member firm. From on or about March 17, 2005 through on or about November 16, 2009, Lee was registered as a GSR and GSP through former FINRA member firm GunnAllen. Since November 16, 2009, Lee has been registered as a GSR and GSP through FINRA member firm Rockwell Global Capital LLC ("Rockwell").

FINDINGS AND CONCLUSIONS

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

1. Between September 25, 2008 and October 31, 2008, while registered with former FINRA member firm, GunnAllen, Respondent Robert Edward Lee, Jr. failed to follow customer LB's instructions regarding the purchase of three securities. By reason of the foregoing, Lee violated NASD Conduct Rule 2110.

2. Between September 2008 and at least December 2009, while registered with FINRA through two member firms, Lee made material misrepresentations and omissions to customer LB regarding the status of certain investments. By reason of the foregoing, Lee violated FINRA Rule 2010 and NASD Conduct Rule 2110.¹

¹ On December 15, 2008, NASD Conduct Rule 2110 was superseded, without substantive changes, by FINRA Rule 2010.

3. On April 20, 2012, at an on-the-record (“OTR”) interview before FINRA staff, Lee provided false testimony. By reason of the foregoing, Lee violated FINRA Rules 8210 and 2010.

FIRST CAUSE OF ACTION

FAILURE TO FOLLOW CUSTOMER INSTRUCTIONS (NASD CONDUCT RULE 2110)

4. FINRA Rule 2010 and NASD Rule 2110 provide that “[a] member, in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade.”

5. In or about September 2008, while registered through member firm GunnAllen, Lee became the broker for the account of customer LB. At that time, LB was 53 years old.

6. In or about October 2008, Lee recommended that LB purchase, on margin, shares of Dow 30SM Enhanced Premium & Income Fund Inc. Com (DPO), Pimco High Income Fund (PHK) and Wells Fargo Advantage Income Opportunities Fund (EAD).

7. On or about October 28, 2008, LB sent Lee a check for \$25,000 to purchase shares of DPO, PHK and EAD on margin.

8. Lee represented to LB that Lee had purchased 10,000 shares each of DPO, PHK and EAD for LB, utilizing margin. Lee represented to LB that those shares were all being held in an outside retirement account not reflected in the GunnAllen or Rockwell account statements. Lee did not purchase PHK, EAD or DPO for any outside retirement account for LB.

9. Lee did not purchase PHK or EAD at any point for LB’s account at GunnAllen, or at Rockwell when the account was moved to that firm in or around February 2010. On September 25, 2008, Lee had purchased 10,000 shares of DPO for LB’s GunnAllen account but sold those

shares on October 14, 2008, for a loss. When questioned by LB about that transaction, Lee stated that he would repurchase DPO. On October 31, 2008, Lee purchased another 10,000 shares of DPO for LB's GunnAllen account but sold those shares on November 10, 2008, again for a loss. After that date, LB's account did not contain any DPO shares.

10. Instead of purchasing the shares of PHK, EAD and DPO on margin for the outside retirement account, as represented to LB, Lee applied the funds sent by LB to other purchases in LB's GunnAllen account.

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

SECOND CAUSE OF ACTION

MISREPRESENTATIONS AND OMISSIONS (FINRA RULE 2010 AND NASD CONDUCT RULE 2110)

12. Between September 2008 and at least December 2009, in connection with the purported purchases of DPO, PHK and EAD, Lee told LB that the dividends generated by the stocks would be used to pay off the margin balance. Lee also falsely represented to LB that the stocks were not reflected on LB's brokerage account statements because they were being held in a separate retirement account outside of the firm that did not issue statements.

13. On December 3, 2009, Lee met with LB and his wife MLB in person at LB's place of business in Connecticut. At or about the time of that meeting, Lee provided LB with a handwritten document containing false detailed notations representing the dividends purportedly being generated by LB's investments in DPO, PHK and EAD. According to the document, written by Lee and provided to LB, the investments were allegedly generating approximately \$3,814 in dividends on a monthly basis and the overall value of the holdings was approximately \$331,800.

14. Also, during that December 3, 2009 meeting with LB and MLB, Lee continued to falsely represent to LB that he owned DPO, PHK and EAD and that the account was “just over 350”. He also falsely represented that the investments in DPO, PHK and EAD had earned dividends of \$49,591.

15. When asked by LB why he was not receiving statements showing the EAD, PHK and DPO holdings, Lee repeatedly stated, during that December 3, 2009 meeting, that he would send a statement. LB and MLB also reminded Lee that they were counting on the investments, which he had represented were paying \$4,000 in monthly dividends, for their retirement. At the time of the December 3, 2009 meeting, LB did not hold any shares of DPO, PHK or EAD.

16. By reason of the foregoing, Respondent Lee violated FINRA Rule 2010 and NASD Conduct Rule 2110.

THIRD CAUSE OF ACTION

FALSE TESTIMONY TO FINRA STAFF (FINRA RULES 8210 AND 2010)

17. On April 20, 2012, pursuant to FINRA Rule 8210, Lee appeared for sworn, on-the-record testimony. At the outset of the testimony, FINRA staff reminded Lee 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. Lee testified that he understood.

18. Lee falsely testified to the following:

- That Lee had never given LB reason to believe that PHK or EAD were purchased in his account;

- That Lee did not inform LB that LB's account was worth approximately \$350,000;
- That Lee had not told LB he owned 10,000 shares each of DPO, PHK and EAD;
- That Lee had not told LB he had been receiving \$3,814.75 on a monthly basis in dividends for thirteen months and had not told LB that LB had received \$49,591 in total dividends;
- That Lee had not told LB his shares of DPO, PHK and EAD were being held in a different account and did not generate monthly account statements.

19. By reason of the foregoing, Lee violated FINRA Rules 8210 and 2010.

Based on the foregoing, Respondent violated NASD Conduct Rules 2110 and 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 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

A handwritten signature in dark ink, reading "Vaishali Shetty". The signature is written in a cursive, flowing style. The first name "Vaishali" is written with a capital 'V' and a period, followed by the last name "Shetty" with a capital 'S'.

Vaishali Shetty, Senior Regional Counsel
FINRA Department of Enforcement
Two Jericho Plaza, 2nd Floor
Jericho, New York 11753
(516) 949-4237; Fax No. (516) 949-4201
vaishali.shetty@finra.org