

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

Department of Enforcement,

Complainant,

v.

Barry E. Johnson
CRD No. 5735529,

Respondent.

Disciplinary Proceeding
No. 2012031346401

Hearing Officer: RLP

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 9, 2013

INTRODUCTION

Disciplinary Proceeding No. 2012031346401 was filed on July 30, 2013, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Barry E. Johnson submitted an Offer of Settlement (Offer) to Complainant dated August 15, 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

Between December 2009 and January 2012, Respondent was registered as an Investment Company/Variable Contracts Products Representative with Pruco Securities, LLC ("Pruco"), a FINRA-registered firm. Respondent is not currently registered with a FINRA-registered firm. Although Respondent is no longer registered or associated with a FINRA member, 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 Respondent's registration with Pruco, namely, January 18, 2012, and (2) the Complaint charges Respondent with misconduct committed while he was registered or associated with a FINRA-registered firm and with failing to respond to FINRA requests for information during the two-year period after the date upon which he ceased to be registered or associated with a FINRA-registered firm.

FINDINGS AND CONCLUSIONS

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

FIRST CAUSE OF ACTION Forgery Violation of FINRA Rule 2010

1. In early December 2011, Johnson contacted a representative of E.S., a private company (hereafter, "E.S. Representative"), in an attempt to persuade E.S. to purchase a group

health insurance plan through him. The E.S. Representative told Johnson that E.S. did not wish to switch insurance agents.

2. Shortly thereafter, on or about December 8, 2011, Johnson signed the E.S. Representative's name on a letter that Johnson then faxed to E.S.'s health care provider, requesting that the agent of record for E.S.'s group health insurance policy be changed from the current agent of record to him (the "Agent of Record letter").

3. Johnson signed the E.S. Representative's name on to the Agent of Record letter without the E.S. Representative's knowledge or consent, thereby committing forgery.

4. On or about December 22, 2011, the E.S. Representative signed a "Signature Verification Statement" attesting to the fact that her purported signature on the December 8, 2011 Agent of Record letter was not made or authorized by her. Also, on or about December 22, 2011, Johnson admitted in writing to signing the E.S. Representative's name on the Agent of Record letter without the E.S. Representative's knowledge or consent.

SECOND CAUSE OF ACTION
Failure to Respond Completely
Violation of FINRA Rules 8210 and 2010

5. During 2012, the Department investigated whether Johnson forged the signature of a representative for another company on another Agent of Record letter in an effort to become the agent of record on that company's group health insurance plan.

6. On or about October 25, 2012, FINRA staff sent to Johnson a request that he provide certain information, pursuant to and in accordance with the provisions of FINRA Rule 8210. Specifically, FINRA attached to its 8210 letter two sets of documents that allegedly contained non-genuine signatures. The first set contained documents that had been sent to E.S.,

and the other set contained documents that had been sent to a technology company. FINRA requested that Johnson review the attached documents and answer questions about them, including the following:

- a. whether the handwriting on the coversheets were in his handwriting;
- b. whether he had faxed or caused to be faxed the coversheets;
- c. whether and how he had obtained company letterheads;
- d. whether he wrote and/or signed the contents of the letters that had been faxed;
- e. if he knew who signed the letters, how he knew who signed the letters; and
- f. whether he is left-handed.

The request for information was sent by first class mail and by certified mail, return receipt requested, to [REDACTED] which was Johnson's last known address and Johnson's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mailing was not returned. The certified mailing was returned, marked "Return to Sender; Unclaimed."

7. On or about October 29, 2012, Johnson replied by email to FINRA's request letter dated October 25, 2012. In his reply, Johnson referenced a letter he had sent to FINRA in January 2012, in which he claimed to have explained his actions. He added that he had no desire to be in the financial or insurance industry any longer. However, Johnson's January 2012 letter to FINRA did not address the questions regarding the documents that FINRA had attached to its October 25, 2012 request letter, as described in paragraph 12 above.

8. On or about October 30, 2012, FINRA staff sent Johnson an email, in which he was warned that failure to respond to the October 25, 2012 request letter in full could result in a bar from the industry, and that he should advise if he wished to accept a bar from the industry.

9. On or about October 30, 2012, Johnson sent FINRA an email, in which he wrote, "I have no idea where that fax or forgery came from when it came to [the technologies company]."

If I knew how that document was produced I would have brought that to light.” This was the only response FINRA received to its October 25, 2012 request letter. Johnson did not address any of the questions concerning the documents sent to E.S.; he did not state whether he faxed or caused to be faxed the documents sent to the technologies company; he did not answer the question about whether he had ever obtained letterheads for E.S. or the technologies company; and he did not state whether or not he was left-handed.

10. Accordingly, on or about January 10, 2013, FINRA sent to Johnson a second request that he provide the same information previously requested by FINRA in its October 25, 2012 letter, pursuant to and in accordance with the provisions of FINRA Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Johnson's CRD address. Neither mailing was returned.

11. To date, Johnson has failed to respond to fully respond to the specific questions regarding the documents that FINRA had attached to its October 25, 2012 and January 10, 2013 request letters, and the dates for responding to the request have passed.

Based on the foregoing, Respondent 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 Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

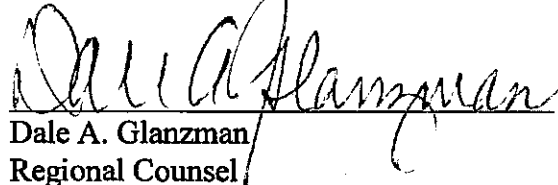
B. It is ordered that Respondent be barred from associating with any FINRA-registered firm in any capacity.

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 black ink, appearing to read "Dale A. Glanzman", is written over a horizontal line.

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