

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

Department of Enforcement,

Complainant,

v.

John Charles Kautter, a.k.a.
John Charles Kautter II,
CRD No. 4572852,

Respondent.

Disciplinary Proceeding
No. 2012032922102

Hearing Officer: RES

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: December 4, 2015

INTRODUCTION

Disciplinary Proceeding No. 2012032922102 was filed on July 20, 2015, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent John Charles Kautter submitted an Offer of Settlement (Offer) to Complainant dated December 1, 2015. 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

Respondent entered the securities industry in March 2002 with a FINRA-regulated entity and was approved as a General Securities Representative ("GSR") in September 2002. Respondent remained with that entity until November 2005, when he became associated as a GSR with another FINRA-regulated entity, where he remained until February 2010. In March 2010, Respondent became associated as a GSR with NES, a FINRA-regulated entity, where he remained until January 2013. In April 2014, Respondent joined another FINRA-regulated entity, where he was employed as an associated person until May 28, 2014. Respondent is not currently associated with any FINRA-regulated entity.

Although Respondent is no longer registered or associated with a FINRA-regulated entity, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the date upon which he ceased to be associated with a FINRA member, namely, May 28, 2014, and the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

FINDINGS AND CONCLUSIONS

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

MRB was an elderly securities customer at Firm A, whose account was serviced by registered representative George Hoffman ("Hoffman"). In April 2011, Respondent, a registered representative associated with New England Securities ("NES"), knowingly received a wire transfer of \$36,000 from MRB's securities account at Firm A to Respondent's personal bank account and immediately wire transferred the same funds to Hoffman's personal bank account. By doing so, Respondent improperly facilitated a \$36,000 loan to Hoffman by Hoffman's elderly customer. Respondent, an experienced registered representative, knew or should have known that it was improper for a registered representative to accept money from a customer. Respondent permitted the pass-through of funds from a securities customer to Hoffman away from Hoffman's member firm employer, and did not take reasonable steps to ascertain the reason or pertinent facts relating to the transaction. By doing so and ignoring warning signs that the transaction may be improper, Respondent violated FINRA Rule 2010.

On October 6, 2014, FINRA's Office of Hearing Officers entered a default judgment barring Hoffman for, among other things, borrowing \$36,000 from an elderly customer without obtaining prior approval from his FINRA member employer.

FINRA Rule 2010 states that a "member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

In or about April 2011, Hoffman, a GSR with Firm A, agreed to accept a \$36,000 loan from his elderly and retired securities customer, MRB. Firm A's written policies and procedures required that associated persons obtain written authorization from Firm A prior to accepting a loan from one of its securities customers.

Hoffman did not request or receive written approval from Firm A to accept the loan from MRB.

Shortly after MRB agreed to loan Hoffman the funds, Hoffman called Respondent and asked Respondent to accept a wire of funds from one of Hoffman's customers to Respondent's personal bank account, and immediately wire the funds to Hoffman's personal bank account at WNB ("WNB Account"), less any wire transfer fees.

Hoffman told Respondent that the customer owed him a fee and Respondent asked Hoffman, "[i]s your client okay with this?" to which Hoffman responded, "[y]es, we have a good relationship."

Hoffman did not provide Respondent with any other explanation for the transaction between Hoffman and his securities customer and Respondent did not inquire further as to the transaction.

Respondent knew or should have known that it was improper for a registered representative to receive a fee from a customer in this manner or to accept money from his/her securities customer except under limited and specified conditions, such as provided for in FINRA Rule 3240.

Despite the large amount of money being ultimately transferred from Hoffman's securities customer to Hoffman, and Hoffman's request to Respondent to allow the funds to pass through Respondent's personal bank account, Respondent failed to make a reasonable inquiry into the specific facts concerning the transaction before facilitating the transaction. Specifically, Respondent failed to obtain any information about the reason for the transfer of funds, the source of the funds, and failed to determine if Hoffman's firm was aware of the transaction or approved of it.

On April 21, 2011, Hoffman caused Firm A to wire \$36,000 from MRB's securities account to Respondent's personal bank account. On that same day, Respondent wired \$35,975

to Hoffman's WNB Account. Respondent's bank charged a \$25 fee for the wire transaction, so Respondent deducted the cost from the amount that he wired to Hoffman.

By accepting MRB's funds in his personal bank account and transferring the funds to Hoffman's WNB Account, Respondent facilitated an unapproved loan transaction between Hoffman and MRB.

By facilitating an unapproved loan transaction and ignoring warning signs that the transaction may be improper, Respondent violated 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

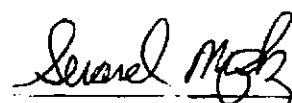
It is ordered that Respondent be suspended for two months from association with any FINRA member in any and all capacities. Respondent has submitted a sworn financial statement and demonstrated an inability to pay. In light of the financial status of Respondent, no monetary sanctions have been imposed.

The sanctions herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

A handwritten signature in cursive script, appearing to read "Gerard Murphy", written over a horizontal line.

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