

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Anthony Diaz
(CRD No. 4131948),

Respondent.

DISCIPLINARY PROCEEDING
No. 2012034112402

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

- I. From on or about May 31, 2012 to on or about September 21, 2012, while registered with FINRA through an association with Sandlapper Securities, LLC (BD. No. 137906) ("Sandlapper" or the "Firm"), Respondent Anthony Diaz ("Diaz") knowingly allowed FD, another representative at Sandlapper, to falsely list himself as the broker of record on applications and other documents for at least 24 variable annuity transactions involving Lincoln Financial Group ("LFG"). Diaz was the representative who recommended and sold the LFG annuities to his customers and engaged in this unethical conduct to circumvent LFG's refusal to appoint him as an agent. Diaz's actions caused Sandlapper's books and records to be inaccurate. Based on the foregoing, Diaz violated FINRA Rules 2010 and 4511.

RESPONDENT AND JURISDICTION

2. In March 2000, Diaz first became registered with FINRA as an Investment Company Products/Variable Contracts Limited Representative. From March 2012 to September 19, 2012, Diaz was registered through Sandlapper in this capacity and other capacities. On September 19, 2012, Sandlapper filed a Uniform Termination Notice for Securities Industry Registration (Form U5) stating that Diaz was terminated for soliciting sales of variable annuities to clients without being properly appointed with the annuity company. Diaz is currently registered with another member firm.
3. As Diaz is currently registered, he is subject to FINRA's disciplinary jurisdiction.

BACKGROUND

4. Diaz and FD were registered representatives with Sandlapper. Diaz hired FD to be the on-site Principal for a branch office of Sandlapper located in Scotrun, Pennsylvania, which Diaz owned. FD was responsible for the day-to-day operations of the branch office, including the review of new account forms and trades.
5. Although FD was ostensibly Diaz's supervisor, Diaz hired FD, owned the Scotrun branch office, and controlled payments made from the branch office, including the commissions and FD's salary.
6. Both Diaz and FD applied to LFG for appointment to sell the company's variable annuity products, but only FD was appointed. In June 2012, LFG notified Diaz and Sandlapper that Diaz would not be appointed to sell LFG variable annuities because of LFG's concerns regarding the number of firms with which Diaz had been associated and the number of customer complaints against him.

**CAUSE OF ACTION
Falsification of Records
(FINRA Rules 2010 and 4511)**

7. The Department realleges and incorporates by reference paragraphs 1 through 6 above.
8. FINRA Rule 2010 provides that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”
9. It is a violation of FINRA Rule 2010 for an associated person to intentionally evade firm policies and procedures, to make misrepresentations and omissions to the firm or its representatives, and to falsify records maintained in a member firm’s official records.
10. FINRA Rule 4511 requires each member to, among other things, make and preserve books and records in conformity with all applicable laws, rules and regulations, including FINRA Rules and Rules 17a-3 and 17a-4 of the Securities Exchange Act of 1934.
11. From on or about May 21, 2012 to on or about September 21, 2012, with the knowledge and consent of Diaz, FD falsely listed himself as the “representative,” “licensed agent” or “Producer” on applications and other documents for at least 24 LFG variable annuity transactions. The customers, dates, amounts of purchases, and net commissions for the 24 LFG variable annuity transactions are listed below:

DATE	CUSTOMER	AMOUNT	NET COMMISSION
5/31/12	MW and CW	\$20,000	\$1,190
6/4/12	KP	\$250,000	\$14,875
6/6/12	NM	\$16,000	\$952
6/11/12	HA	\$51,908.80	\$3,088.57
6/11/12	WM	\$57,734.08	\$3,435.18
6/11/12	SC	\$48,812.41	\$2,904.34
6/11/12	BC	\$79,825.13	\$4,749.60
6/11/12	PZ	\$78,508.33	\$4,671.13

6/14/12	IIC	\$152,077.94	\$9,048
6/15/12	BM	\$49,816.15	\$2,964.06
6/15/12	JD	\$18,000	\$1,071
6/15/12	LG	\$63,940.18	\$3,804.44
6/15/12	MH	\$57,124.52	\$3,398
6/20/12	DB	\$30,000	\$1,785
6/22/12	MB	\$10,000	\$595
6/22/12	AD	\$74,951.03	\$4,459.59
6/29/12	SW	\$59,610.44	\$3,546.82
7/1/12	FW and IW	\$30,000	\$1,190
7/23/12	SS and RS	\$50,000	\$2,975
8/1/12	HD	\$41,025.62	\$2,441
8/1/12	AL	\$14,667.84	\$12,476.15
8/10/12	JB	\$16,000	\$952
8/20/12	CK	\$57,000	\$3,391.50
9/21/12	DG	\$45,755	\$2,722.42
Totals		Amount = \$1,372,757.47	Net commissions = \$92,685.80

12. For each of the 24 LFG variable annuity transactions, there was standard documentation that LFG required to process the transaction. For each of the 24 transactions, FD falsely signed as the “representative,” “licensed agent” or “Producer” on the required documentation, including:
- An annuity application and supplement;
 - An “Appropriateness Verification Statement,” in which a representative acknowledges that he has discussed with the client various annuity replacement issues; and
 - A “Customer Identification Verification form,” in which a representative is required to certify that he has met with the proposed annuity owner and reviewed the customer’s identification information (name, social security number, etc.) listed on the form.
13. Diaz was aware of and allowed FD to falsely sign as the broker of record for at least 24 LFG variable annuity transactions despite the fact that Diaz, not FD, had recommended and sold these annuities to his customers.

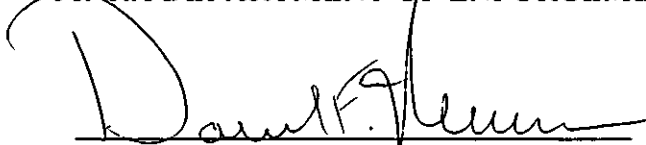
14. Diaz engaged in this unethical conduct to circumvent LFG's refusal to appoint him as an agent for its products.
15. Diaz's actions caused Sandlapper's books and records to be inaccurate.
16. Based on the foregoing, Diaz violated FINRA Rules 2010 and 4511.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT



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Date: March 9, 2015