

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

Department of Enforcement,

Complainant,

v.

Kenneth Brownlee (CRD No. 4534181),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013036217601

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between October 2009 and June 2010, Kenneth Brownlee sold four customers interests in limited liability corporations created by City Capital Corporation ("CCC"), a company that purported to offer investors the opportunity to invest in so-called "sweepstakes machines" (casino-like machines).
2. Brownlee introduced the customers to CCC, completed the requisite paperwork, and facilitated the sale of the securities and subsequent transfer of funds to CCC.
3. Brownlee, however, did not have a reasonable basis to recommend CCC to the four customers because he failed to conduct reasonable due diligence on CCC prior to making his recommendation.
4. CCC was subsequently found to be a fraudulent enterprise, and Brownlee's customers lost all of the money they invested in CCC.
5. Accordingly, Brownlee violated NASD Rule 2310 and FINRA Rule 2010.
6. CCC was not an approved investment offered through Brownlee's member firm.

7. Brownlee did not provide his firm with written notice disclosing his role in selling interests in limited liability companies created by CCC.

8. Brownlee received five checks from CCC and an affiliate totaling over \$12,000.

9. Brownlee did not provide his firm with written notice of his receipt of these payments from CCC.

10. Accordingly, Brownlee violated NASD Rule 3040 and FINRA Rule 2010.

11. Brownlee falsely attested on his 2010 annual compliance questionnaire from his firm that he had not engaged in any private securities transactions and had not received any unapproved outside compensation.

12. Brownlee also falsely attested that he had forwarded all securities-related correspondence for firm review when, in fact, he did not forward correspondence related to the customers' investments in CCC.

13. Brownlee also falsely attested that he had not provided fiduciary services for any other person when, in fact, he had obtained power of attorney designations over accounts for two customers who had invested in CCC.

14. Accordingly, Brownlee violated FINRA Rule 2010.

15. Finally, when FINRA staff requested information and documents pursuant to FINRA Rule 8210 relating to any money he received from CCC or any related entity and relating to his participation in any customer investments in CCC, Brownlee falsely claimed that he had not received any money from CCC or any related entity and that he had no involvement in any customers' investment in CCC.

16. Brownlee also twice failed to appear for on-the-record testimony scheduled pursuant to FINRA Rule 8210 despite having prior notice thereof.

17. Accordingly, Brownlee violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

18. Kenneth Brownlee (CRD No. 4534181) first became associated with a FINRA member firm, Allstate Financial Services, LLC, in May 2002. He remained registered with Allstate as an Investment Company and Variable Contracts Representative until March 7, 2013, when Allstate terminated his registration “after allegations involving the sale of an unauthorized investment product and engaging in an undisclosed outside business activity.”

19. Although Brownlee 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 his most recent FINRA-member employer firm, namely March 7, 2013; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with providing false responses in response to FINRA’s requests for information during FINRA’s investigation and failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

RELEVANT NON-PARTY (CCC)

20. Brownlee was introduced to CCC in 2009 when the company’s chief executive officer, Ephren Taylor (“Taylor”), gave a presentation about the company at Brownlee’s church. Following the presentation, Brownlee’s minister invited Brownlee to dinner with Taylor.

21. The Securities and Exchange Commission (“SEC”) sued CCC, Taylor, and CCC’s chief operating officer, Wendy Connor (“Connor”), on April 12, 2012, charging CCC and its

officers with fraud for enticing investors to roll over retirement portfolios to self-directed IRA custodial accounts and invest those funds in “sweepstakes machines” through CCC.

22. According to the SEC complaint, CCC purported to offer to investors interests in limited liability companies that purchased “sweepstakes machines” and promoted them as investments that would generate investor returns of as much as 300 percent or more in the first year by way of monthly distributions of income from the machines.

23. The sweepstakes machines were computers loaded with various games, many of which resembled those found in casinos. CCC claimed to have established internet cafes where the sweepstakes machines would be located.

24. CCC promised financial professionals 10 percent commissions for investor referrals.

25. The SEC alleged that, in reality, the investors’ funds were pooled and used for a variety of purposes unrelated to the sweepstakes machines, including to pay Taylor’s personal expenses and to fund Taylor’s wife’s music career.

26. On March 7, 2013, the SEC obtained a judgment finding that CCC was a fraudulent scheme and ordering that defendants pay \$14 million in penalties, restitution, and interest.

27. On June 17, 2014, the Department of Justice arrested Taylor and Connor on a fraud indictment related to their roles at CCC.

FACTS

28. Between October 2009 and June 2010, Brownlee recommended that four of his Allstate customers (ZH, MJ, JP, and AD) invest a total of \$290,669 in CCC.

29. Before recommending an investment in CCC to these customers, Brownlee's due diligence on CCC was limited to: (1) speaking with Taylor, Connor, and Connor's husband; (2) reading a book written by Taylor; (3) checking the SEC and Better Business Bureau websites for customer complaints; and (4) reading somewhere that Taylor had been featured on television news shows as a self-made millionaire.

Brownlee's Four Customers Invest in CCC

30. ZH, currently 70 years old, became Brownlee's customer in 2006. At that time, her liquid net worth was \$195,000 and her estimated annual income was between \$25,000 and \$50,000.

31. In 2006, Brownlee recommended that she purchase a variable annuity ("VA") through Lincoln Benefit Life ("Lincoln") utilizing \$98,015 from a Thrift Savings Plan, which she did. The Lincoln VA represented 60 percent of her liquid net worth.

32. In early 2010, Brownlee recommended that ZH surrender the Lincoln VA he had sold ZH four years earlier to invest the proceeds with CCC through an account with APS, a third-party administrator of self-directed IRAs.

33. ZH followed Brownlee's recommendation.

34. Brownlee completed the forms for the investment in CCC and to open an account with APS in late February 2010 and directed ZH to sign them. Brownlee indicated on those forms that, outside of securities accounts, ZH's only other liquid assets were \$3,500 in savings and \$3,500 in a checking account.

35. Brownlee included his own email address on each new account form under "Account Owner Information" so that APS would communicate directly with him.

36. Accordingly, in March 2010, ZH surrendered the Lincoln VA.

37. Lincoln subsequently issued a check for the proceeds totaling \$102,169.14, payable to APS. On March 30, 2010, APS transferred the funds to CCC's affiliate, purportedly to create a limited liability company formed to purchase 27 sweepstakes machines.

38. MJ, currently 74 years old, became Brownlee's customer in 2004. At that time, her liquid net worth was \$160,000 with an estimated annual income between \$25,000 and \$50,000.

39. When she opened her account, Brownlee recommended that MJ roll over her 401K to an IRA in order to invest with Allstate. MJ followed the recommendation and then purchased a Lincoln VA for \$50,000 and a Lincoln fixed annuity for \$108,611.50. The two annuities represented 99 percent of her liquid net worth.

40. In early 2010, Brownlee recommended that MJ surrender the two Lincoln annuities (one variable and one fixed) he had sold MJ six years earlier to invest the proceeds with CCC through an account with APS.

41. MJ followed Brownlee's recommendation.

42. Brownlee completed both the CCC and APS account forms in late February 2010 and directed MJ to sign them. On those forms, Brownlee indicated that, apart from securities accounts, MJ's liquid assets consisted of \$1,000 in savings and \$1,500 in a checking account.

43. Brownlee included his own email address on each form under "Account Owner Information" so that APS would communicate directly with him.

44. Accordingly, in March 2010, MJ surrendered the Lincoln annuities and Lincoln issued a check for the proceeds totaling \$124,316.06, payable to APS.

45. In April 2010, APS transferred the funds to CCC's affiliate, purportedly to create a limited liability company formed to purchase 31 sweepstakes machines.

46. JP, currently 49 years old, became Brownlee's customer in 2005. At that time, she had a liquid net worth of \$30,000 with estimated annual income between \$50,000 and \$100,000.

47. JP purchased a Lincoln VA in late 2005 after Brownlee recommended that she roll over \$26,477.50 from an employer-sponsored retirement plan to an IRA. The Lincoln VA represented 88 percent of JP's liquid net worth.

48. In early 2010, Brownlee recommended that JP surrender the Lincoln VA he had sold JP five years earlier to invest the proceeds with CCC through an account with APS.

49. JP followed Brownlee's recommendation.

50. Brownlee completed the CCC and APS account forms in late April 2010 and directed JP to sign them. On those forms, Brownlee indicated that, apart from securities accounts, JP's liquid assets consisted of \$6,000 in savings and \$2,000 in a checking account.

51. Brownlee included his own email address on each new account form under "Account Owner Information" so that APS would communicate directly with him.

52. Accordingly, in June 2010, JP surrendered the Lincoln VA and Lincoln issued a check for the proceeds totaling \$30,175.07 payable to APS.

53. On June 1, 2010, APS transferred the funds (\$30,175.07) to CCC's affiliate, purportedly to create a limited liability company formed to purchase five sweepstakes machines.

54. AD, currently 38 years old, became Brownlee's customer in 2006. At that time, her liquid net worth was \$85,000 and she had estimated annual income between \$50,000 and \$100,000.

55. AD opened her account by depositing proceeds from a real estate transaction and purchased two Lord Abbett mutual funds totaling \$42,000.

56. In October 2009, Brownlee recommended that AD sell the two mutual funds he had sold AD three years earlier to invest the proceeds with CCC.

57. AD followed Brownlee's recommendation.

58. Accordingly, in October 2009, AD sold the mutual funds and wrote a check for \$45,000 from the proceeds of that sale, payable to CCC.

59. On December 17, 2009, Brownlee completed a CCC application for AD and indicated that, outside of securities accounts, AD's liquid assets consisted of \$5,000 in savings and \$20,000 in a checking account.

60. In May 2010, the funds were deposited with CCC's affiliate, purportedly to create a limited liability company formed to purchase sweepstakes machines.

61. In addition to recommending the investment in CCC, Brownlee assisted each of these four customers with their investments by completing and submitting paperwork on their behalf, directing their investments, and setting up accounts outside of Allstate to maintain custody of their investments.

62. Moreover, for two of the customers, ZH and MJ, Brownlee obtained powers of attorney over the accounts maintained with APS that were holding their CCC investments.

63. CCC was found to be a fraudulent scheme by a federal court in 2013.

64. Each of Brownlee's four customers lost his or her entire investment in CCC.

CCC Compensated Brownlee

65. Between February and June 2010, Brownlee received five checks from CCC and an affiliate of CCC totaling \$12,692.35.

Brownlee Did Not Disclose His CCC-Related Activity to Allstate and Submitted a False Compliance Questionnaire to the Firm

66. CCC was not an approved investment offered through Allstate, and Brownlee offered the securities outside the scope of his employment with Allstate.

67. Brownlee did not provide prior written notice or otherwise disclose to Allstate that he intended to offer CCC to customers and that he would receive compensation from CCC. Nor did Brownlee later disclose that he had recommended and participated in the four customers' investments in CCC or that he received compensation from CCC.

68. Furthermore, in his annual compliance questionnaire for 2010, dated August 28, 2010, Brownlee falsely denied that he had engaged in any private securities transactions during the prior 12 months and denied that he accepted compensation from any person or entity not approved by Allstate.

69. On the August 2010 questionnaire, Brownlee also falsely attested that he had forwarded copies of all securities-related incoming and outgoing correspondence that was not sent or received through his Allstate email account.

70. In fact, Brownlee had used his Allstate fax machine to send and receive APS and CCC-related correspondence that he did not forward to Allstate.

71. Brownlee also used a personal email account to communicate with at least one customer regarding her CCC investment without forwarding those emails to Allstate.

72. On the August 2010 questionnaire, Brownlee also falsely attested that he had not provided fiduciary services, such as acting with power of attorney, for any person.

73. In fact, Brownlee had obtained power of attorney designation for customers ZH and MJ.

Brownlee Provided False Answers in Response to Two Rule 8210 Requests

74. Brownlee provided false information to FINRA related to his involvement with CCC.

75. On March 27, 2013, FINRA staff sent Brownlee a request for information and documents pursuant to FINRA Rule 8210 that requested that Brownlee provide, among other things, documents and information related to any compensation he received for selling the CCC investment, a description of the CCC investment, and his involvement in facilitating any transactions.

76. In a response letter dated April 9, 2013, Brownlee falsely stated that he did not sell the CCC investment and that he was not compensated for recommending the product.

77. Brownlee's response was false. Between February and June 2010, Brownlee received \$900 from CCC and \$11,792.35 from a CCC affiliate.

78. Brownlee's response was also false because he recommended that four customers (ZH, MJ, JP, and AD) sell securities purchased through Allstate and invest the proceeds with CCC.

79. Brownlee's response was also false because he facilitated the sales of securities and transfers of the proceeds to CCC by completing and transmitting the requisite paperwork.

80. On January 22, 2014, FINRA staff sent Brownlee another request for information and documents pursuant to FINRA Rule 8210 that requested that Brownlee provide, among other things, documents and information related to any monies received from any CCC-related entity.

81. In a response letter dated February 5, 2014, Brownlee again falsely denied receiving any money or other financial consideration from CCC or related entities.

82. Brownlee's response was false. Between February and June 2010, Brownlee received \$900 from CCC and \$11,792.35 from a CCC affiliate.

Brownlee Twice Failed to Appear for On-the-Record Testimony

83. On October 18, 2013, FINRA staff requested pursuant to FINRA Rule 8210 that Brownlee appear for on-the-record testimony on January 15, 2014, at FINRA's Atlanta District Office. The letters were sent via regular and certified mail to Brownlee's address in CRD but were returned as undeliverable.

84. On November 18, 2013, FINRA staff contacted Brownlee to obtain a current home address, which he provided.

85. Later that day, FINRA staff sent letters to Brownlee's current address via regular and certified mail requesting that he appear for on-the-record testimony on January 15, 2014.

86. Brownlee received the letters, as evidenced by his subsequent submission of a completed background questionnaire that accompanied the testimony request.

87. On January 14, 2014, FINRA staff informed Brownlee that his testimony would need to be rescheduled due to staff illness and that the staff would be in contact soon with a new date and time. Despite being told in advance that the testimony would need to be rescheduled, Brownlee and his attorney appeared at FINRA's offices in Atlanta on January 15, 2014.

88. On January 22, 2014, FINRA staff served on Brownlee's counsel via email, Federal Express, and regular mail a request pursuant to Rule 8210 for on-the-record testimony to take place on February 19, 2014 in the Atlanta District Office.

89. On February 6, 2014, Brownlee's counsel informed FINRA staff that Brownlee would not appear for testimony on February 19, 2014.

90. Brownlee did not appear for the testimony scheduled for February 19, 2014.

91. On February 19, 2014, FINRA staff served on Brownlee's counsel via email, Federal Express, and regular mail another request pursuant to Rule 8210 for on-the-record testimony, to take place on March 4, 2014 in the Atlanta District Office.

92. On March 3, 2014, Brownlee's counsel informed FINRA staff that Brownlee would not appear for testimony on March 4, 2014.

93. Brownlee did not appear for the scheduled testimony on March 4, 2014.

**FIRST CAUSE OF ACTION
Suitability (NASD Rule 2310 and FINRA Rule 2010)**

94. The Department realleges and incorporates by reference paragraphs 1 through 93 above.

95. When recommending the purchase, sale, or exchange of any security to a customer, NASD Rule 2310 required that a registered representative "have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs." IM-2310-2 provided that "[i]mplicit in all member and registered representative relationships with customers is the fundamental responsibility of fair dealing."

96. Brownlee made recommendations to each of the four customers in 2010 that they sell their current investments and invest the proceeds in CCC. He brought the investment in CCC to his customers' attention, recommended that they sell their current investments and invest in CCC, and facilitated the sale of their current investments and investments in CCC.

97. At the time of each of those recommendations, Brownlee failed to conduct sufficient due diligence on CCC to be able to make a suitable recommendation to his customers.

98. Brownlee's due diligence was limited to: (1) speaking with Taylor, Connor, and Connor's husband; (2) reading a book written by Taylor; (3) checking the SEC and Better

Business Bureau websites for customer complaints; and (4) reading somewhere that Taylor had been featured on television news shows as a self-made millionaire.

99. Therefore, Brownlee did not have a reasonable basis to recommend that the four customers sell their current investments and invest in CCC.

100. As a result of the foregoing conduct, Brownlee violated NASD Rule 2310 and FINRA Rule 2010.

**SECOND CAUSE OF ACTION
Private Securities Transactions (NASD Rule 3040 and FINRA Rule 2010)**

101. The Department realleges and incorporates by reference paragraphs 1 through 100 above.

102. NASD Rule 3040 states, in relevant part, that “[n]o person associated with a member shall participate in any private securities transaction” without “provid[ing] written notice to the member with which he is associated describing in detail the proposed transaction and the person’s proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction.” The rule defines “private securities transaction” as “any securities transaction outside the regular course or scope of an associated person’s employment with a member, including, though not limited to, new offerings of securities which are not registered with the [SEC].” If, as here, an associated person is compensated for their participation, then they must provide advance written notice prior to each transaction.

103. Brownlee participated in the above-referenced four customers’ investments in CCC by, among other things, introducing them to CCC, recommending that they invest in CCC, completing the requisite paperwork, and facilitating the sale of the customers’ securities and transferring the proceeds to investments in CCC. The customers invested money in CCC and

affiliated entities with the expectation that they would receive profits derived from the effort of others with respect to sweepstakes machines.

104. Brownlee received compensation from CCC and an affiliate.

105. The investments in CCC were private securities transactions.

106. Brownlee failed to give prior written notice to, and receive prior written permission from, his firm, Allstate, before participating in these private securities transactions. Nor did Brownlee disclose his involvement in these transactions prior to being confronted by Allstate.

107. As a result of the foregoing conduct, Brownlee violated NASD Rule 3040 and FINRA Rule 2010.

**THIRD CAUSE OF ACTION
Providing False Information to Allstate (FINRA Rule 2010)**

108. The Department realleges and incorporates by reference paragraphs 1 through 107 above.

109. FINRA Rule 2010 requires that a member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. It is a violation of FINRA Rule 2010 for registered persons to make false representations to their employing firm.

110. Brownlee falsely represented to Allstate in his annual compliance questionnaire dated August 28, 2010, that: (1) he had not engaged in any private securities transactions during the prior 12 months; (2) he had not accepted compensation from any person or entity not approved by Allstate; (3) he had forwarded copies of all securities-related incoming and outgoing correspondence that was not received through his Allstate email account; and (4) he had not provided fiduciary services, such as acting with power of attorney, for any person.

111. Brownlee's representations were false and he knew they were false when he made them.

112. As a result of the foregoing conduct, Brownlee violated FINRA Rule 2010.

**FOURTH CAUSE OF ACTION
Lying to FINRA (FINRA Rules 8210 and 2010)**

113. The Department realleges and incorporates by reference paragraphs 1 through 112 above.

114. Rule 8210 requires persons who are, or within the last two years have been, associated with a FINRA member to provide information requested by FINRA staff in connection with its investigations.

115. It is a violation of FINRA Rule 8210 to provide false information to FINRA in response to a request for information or documents that was made pursuant to FINRA Rule 8210.

116. Brownlee stated in response to requests for information and documents issued pursuant to FINRA Rule 8210 that he did not receive any money from CCC or any related entity, and that he did not participate in his customers' investments in CCC.

117. Those statements were false and he knew they were false when he made them.

118. As a result of the foregoing conduct, Brownlee violated FINRA Rules 8210 and 2010.

**FIFTH CAUSE OF ACTION
Failure to Appear for On-The-Record Testimony (FINRA Rules 8210 and 2010)**

119. The Department realleges and incorporates by reference paragraphs 1 through 118 above.

120. FINRA Rule 8210 requires persons who are, or within the last two years have been, associated with a FINRA member to provide testimony at a location specified by FINRA staff, under oath or affirmation, with respect to any matter involved in an investigation.

121. It is a violation of FINRA Rule 8210 to fail to appear for on-the-record testimony after receipt of proper notice.

122. In connection with an investigation of Brownlee's conduct described above, FINRA staff requested, pursuant to FINRA Rule 8210, that Brownlee appear for testimony on February 19, 2014 and March 4, 2014.

123. Brownlee received proper notice of the requests for testimony on the above-referenced dates. Brownlee's counsel acknowledged receipt of the notices for testimony on February 5, 2014 and March 3, 2014 when counsel informed FINRA staff that Brownlee would not appear for testimony thereafter.

124. Brownlee failed to appear for testimony on both occasions.

125. As a result of the foregoing conduct, Brownlee violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

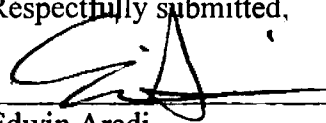
WHEREFORE, the Department respectfully requests that the Panel:

- 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, including that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest; 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

Date: October 30, 2014

Respectfully submitted,



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