

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

**JO ELLEN FISHER
(CRD No. 3047985),**

Respondent.

**DISCIPLINARY PROCEEDING
No. 2014041208401**

HEARING OFFICER: CC

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: October 1, 2014

INTRODUCTION

Disciplinary Proceeding No. 2014041208401 was filed on July 29, 2014 by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Jo Ellen Fisher submitted an Offer of Settlement (Offer) to Complainant dated September 24, 2014. 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

Fisher first entered the securities industry in April 1998 when she associated with a FINRA member firm. She first registered with FINRA as an Investment Company Products/Variable Contracts Representative (Series 6) in November 2008. She registered as a Series 6 representative with Raymond James Financial Services, Inc. ("Raymond James" or the "firm") on January 4, 2010. She subsequently acquired a General Securities Representative (Series 7) license. Raymond James terminated Fisher's registration with FINRA by filing a Uniform Termination Notice for Securities Industry Registration (Form U5) on May 30, 2014 for violating firm policy with respect to receipt of client funds. Fisher has not been registered or associated with any FINRA member firm since her termination from Raymond James on May 30, 2014.

Although Fisher is no longer registered or associated with a FINRA member, she 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 Fisher's registration with Raymond James, namely, May 30, 2014, and (2) the Complaint charges Fisher with misconduct committed while she was registered or associated with a FINRA member and with failing to truthfully respond to FINRA requests for information during on-the-record testimony within the two-year period after the date upon which she ceased to be 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:

SUMMARY

Between July 5, 2013 and December 13, 2013, Respondent Jo Ellen Fisher ("Fisher") converted over \$924,000 from the trust account of a 95-year-old customer by transferring securities and cash from the trust account to the brokerage account of "AF" (Fisher's daughter) without the customer's authorization. After liquidating most of the securities, the funds were used to purchase a truck, three cars, expensive watches and jewelry, to pay the mortgage on Fisher's home, to renovate and repair Fisher's home and for other personal uses by Fisher and her family.

As a result, Fisher violated FINRA Rules 2150(a) and 2010.

In addition, Fisher provided to her firm and to FINRA a falsified "Godparent's Certificate" and provided falsified "client notes" to her firm to create the deceptive appearance that the elderly customer intended to gift the securities and cash to AF because purportedly AF was the elderly customer's "goddaughter," which AF was not.

As a result, Fisher violated FINRA Rule 2010.

During testimony provided to FINRA pursuant to FINRA Rule 8210, Fisher falsely claimed that the elderly customer directed each of the unauthorized transfers from his trust account to AF's brokerage account and that he did so because AF was the elderly customer's goddaughter. During testimony, Fisher also falsely claimed that the "Godparent's Certificate" confirmed that her daughter was the elderly client's goddaughter. Fisher also testified that the January 2000 "client notes" stating that the elderly client intended to give money to AF were

authentic, when they were not. When informed during testimony that there was evidence that the January 2000 “client notes” were fictitious, Fisher refused to answer any further questions.

As a result, Fisher violated FINRA Rules 8210 and 2010.

**FIRST CAUSE OF ACTION - Conversion of Securities and Funds
(Violations of FINRA Rules 2150(a) and 2010)**

In March 2013, after “EC”—another registered representative with whom Fisher had worked with for years—retired, Fisher took responsibility from EC for the brokerage account for the living trust of customer “EM,” then 95-years old.

On July 3, 2013, Fisher created a brokerage account at Raymond James in AF’s name. Fisher was the registered representative assigned to the account.

From July 2013 through December 2013, Fisher transferred securities and funds worth over \$924,000 from EM’s trust account to AF’s brokerage account at Raymond James without EM’s authorization or knowledge as follows:

- a. On July 5, 2013, Fisher transferred 700 shares of Glincher Realty Trust (ticker GRT) and 1,450 shares of Blackrock Core Bond Trust (ticker BHK), together valued at over \$26,000, from EM’s trust account to her daughter’s brokerage account.
- b. On July 24, 2013, Fisher transferred 1,400 shares of AT&T (ticker T) and 2,420 shares of Bob Evans Farms (ticker BOBE), together valued at over \$173,000, from EM’s trust account to her daughter’s brokerage account.
- c. On August 8, 2013, Fisher transferred 1,408 shares of AT&T (ticker T), 1,980 shares of Bob Evans Farms (ticker BOBE), 2,060 shares of General Electric (ticker GE), 170 shares of Prudential Financial Inc. (ticker PRU), and 750

shares of Regions Financial Inc. (ticker RF), together valued at over \$219,900 from EM's trust account to her daughter's brokerage account.

- d. On September 13, 2013, Fisher transferred 764 shares of Comcast (ticker CMCSA) valued at over \$33,500 from EM's trust account to her daughter's brokerage account.
- e. On September 16, 2013, Fisher transferred 3,211 shares of Voya Small Company Fund A (ticker AESAX), Voya Growth Opportunities Fund (ticker NLCAX), 2,405 shares of Voya Mid-Cap Opportunities Fund A (ticker NMCAX), 565 shares of Prudential Mid-Cap Value Fund A (ticker SPRAX) and 1,547 shares of Prudential Strategic Value Fund A (ticker SUVAX), together valued at over \$186,800, from EM's trust account to her daughter's brokerage account.
- f. On December 13, 2013, Fisher transferred 1,828 shares of Duke Energy (ticker DUK), 2,125 shares of Worthington Industries (ticker WOR), and 883 shares of Xcel Energy (ticker XEL) together valued over \$235,000 from EM's trust account to her daughter's brokerage account. Fisher also withdrew \$50,000 cash from EM's trust account and deposited the cash in her daughter's brokerage account.

Most of the securities Fisher transferred to AF's brokerage account were liquidated shortly after they were transferred and the proceeds from the securities sales, except for approximately \$50,000, were then transferred to a bank account owned jointly by Fisher, her husband and AF and ultimately to a bank account owned by Fisher and her husband.

Beginning July 25, 2013, funds from securities liquidated from AF's brokerage account were used for numerous purchases and payments for the benefit of Fisher and her family, including:

- a. A 2014 Ford Explorer truck worth over \$52,000.
- b. Three cars worth together over \$80,000.
- c. Jewelry, including a 2-carat diamond solitaire ring and a pearl necklace, and four expensive watches, including two Rolex watches, all totaling over \$162,000.
- d. Fisher's home mortgage paid in full for approximately \$45,000.
- e. Fisher's home renovations and repairs worth over \$165,000.

As a result of the foregoing conduct, Respondent Fisher intentionally converted at least \$924,750 of her customer's securities and funds for her personal use and benefit, thereby violating FINRA Rules 2150(a) and 2010.

**SECOND CAUSE OF ACTION - Providing False and Misleading Documents
(Violations of FINRA Rule 2010)**

During the firm's investigation into the transfer of EM's securities and funds to AF's brokerage account, Fisher provided a "Godparent's Certificate" to the firm that stated inter alia "This is to certify that [EM] is a GODPARENT to [Fisher's daughter]." The certificate bore a signature purportedly belonging to Reverend "AM."

Fisher also provided the "Godparent's Certificate" to FINRA during the course of its investigation.

The "Godparent's Certificate" was never signed by Reverend "AM" and was never executed by Reverend "AM's" church, facts that were known to Fisher.

During the firm's investigation, Fisher also provided to the firm a typewritten single page document entitled "Re: [EM] Trust" dated January 26, 2000 that Fisher claimed constituted "client notes" prepared by EC on or about January 26, 2000 to document a discussion EC purportedly had with EM on that date (the "January 2000 Client Notes").

The January 2000 Client Notes stated that EM "came into the office to talk about investments and the thought about giving money to [Fisher's daughter] when she turns 21 years old in 2013" and EM "said he was thinking between 500,000 and 850,000."

The January 2000 Client Notes also stated that when EC asked why EM wanted to give money to Fisher's daughter, EM said to EC that "he didn't get to be a father so he had a chance to do something for his goddaughter."

During the firm's investigation, Fisher also provided to the firm a typewritten single page document entitled "Re: [EM] Trust" dated March 2, 2013 that Fisher claimed constituted "client notes" prepared by EC on or about March 2, 2013 to document a discussion EC purportedly had with EM on that date (the "March 2013 Client Notes").

The March 2013 Client Notes stated that EC, "showed him [EM] my notes from back in 2000. He [EM] said yes I think I'm going to do this."

EC did not prepare the January 2000 Client Notes or the March 2013 Client Notes, and never had any conversation with EM about EM providing money or anything of value to AF, facts that were known by Fisher.

Fisher provided the "Godparent's Certificate" to the firm and to FINRA to deceive the firm and FINRA into believing that her daughter was, in fact, EM's goddaughter.

Fisher provided the January 2000 Client Notes and the March 2013 Client Notes to the firm to deceive the firm into believing that EC prepared the notes and that EM had conversations

with EC in January 2000 and March 2013 where EM had expressed his intent to gift assets to Fisher's daughter because Fisher's daughter was EM's goddaughter.

By providing false and misleading documents to the firm and to FINRA, Respondent Fisher violated FINRA Rule 2010.

**THIRD CAUSE OF ACTION - Providing False and Misleading Testimony
and Refusing to Testify**

(Violations of FINRA Rules 8210 and 2010)

Fisher provided sworn testimony to FINRA on July 1, 2014, pursuant to a request scheduling her testimony for that date pursuant to FINRA Rule 8210. During her testimony, FINRA staff reminded Fisher of, among other things, her obligation under FINRA Rule 8210 to answer questions "fully, accurately, and truthfully."

During her testimony on July 1, 2014, Fisher falsely testified that EM was AF's godfather and that EM wanted to gift money to her (his goddaughter).

Fisher falsely testified that EM authorized and directed each of the asset transfers described in paragraph 12, above.

Fisher falsely testified that EM authorized and directed each of the asset transfers described in paragraph 12, above, because Fisher's daughter was EM's goddaughter.

Fisher falsely testified that the "Godparent's Certificate" confirmed that her daughter was EM's goddaughter.

Fisher falsely testified that EC prepared the January 2000 Client Notes.

During the latter part of her testimony, when informed that there was evidence that EC did not prepare the January 2000 Client Notes, Fisher refused to answer any further questions about the January 2000 Client Notes or to answer any other questions by FINRA relevant to its investigation.

By providing false and misleading testimony and by refusing to complete her testimony by answering the staff's questions, Respondent Fisher violated FINRA Rules 8210 and 2010.

Based on the foregoing, Respondent violated FINRA Rules 2150(a), 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

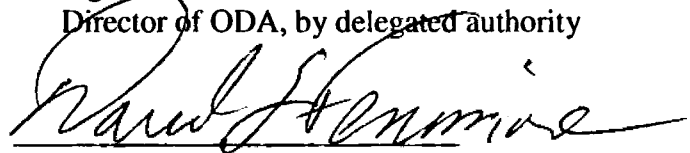
It is ordered that Respondent be permanently barred from associating with any FINRA member in any capacity.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar 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 "David L. Fenimore", is written over a horizontal line.

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