

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

Department of Enforcement,

Complainant,

v.

Julian Jay Piekarczyk
CRD No. 1128773,

Respondent.

Disciplinary Proceeding
No. 2018058117101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. During the period 2014 through 2017 (the “Relevant Period”), Respondent Julian Jay Piekarczyk engaged in an unethical course of conduct by taking advantage of his relationship with a customer to benefit financially from the customer’s policies and accounts. In doing so, Piekarczyk acted contrary to representations he made to his firm, Pruco Securities, LLC (“Pruco” or the “Firm”), and in circumvention of its policies designed to protect customers.

2. Specifically, in 2014, Piekarczyk notified Pruco that customer RB, who was 63 years old at the time, intended to name Piekarczyk as a beneficiary of RB’s life insurance policy. Pruco’s policies prohibited employees from being named as a beneficiary of a customer’s policy or sharing in profits or losses realized in a customer’s policy or account. Consistent with the Firm’s policies, Pruco informed Piekarczyk that he could not be named a beneficiary of RB’s policy without a Firm-approved exception. In response, Piekarczyk represented to Pruco that he would not be named a beneficiary of RB’s policy.

3. Thereafter, in 2014 and 2015, Piekarczyk circumvented Firm policies by having RB designate Piekarczyk's wife as a beneficiary on multiple financial products that Piekarczyk sold to RB and by assisting RB in making the beneficiary designations.

4. Piekarczyk further engaged in a course of unethical conduct by convincing RB to open a joint bank account with him, with right of survivorship, in 2015. RB funded the account with a deposit of \$76,977.41 and periodically deposited additional funds into the account. Piekarczyk never deposited any funds into the joint bank account.

5. Piekarczyk did not disclose to the Firm that his wife was named beneficiary of RB's financial products or that he shared a bank account with RB, thus impeding the Firm from supervising his relationship with RB and addressing conflicts of interest.

6. After RB died in 2017, Piekarczyk obtained approximately \$146,000 as a result of the beneficiary designations and right of survivorship on the shared bank account.

7. By circumventing the Firm's policies and unethically benefitting from his relationship with RB, Piekarczyk failed to "observe high standards of commercial honor and just and equitable principles of trade," and thereby violated FINRA Rule 2010.

RESPONDENT AND JURISDICTION

8. Piekarczyk entered the securities industry in May 1978 when he associated with Pruco.

9. From approximately December 1984 to June 1991 and August 1991 to August 2018, Piekarczyk was registered as an Investment Company and Variable Contracts Products Representative through his association with Pruco.

10. Piekarczyk also was registered with a Pruco affiliated member firm from August 1991 to December 1993.

11. On August 2, 2018, Pruco filed a Form U5 reporting that Piekarczyk's registration had been terminated because he "maintained joint control of a customer's outside bank account, without firm approval, and, upon the death of the customer, who was not an immediate family member, closed the account after withdrawing the funds from the account."

12. Although Piekarczyk 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, August 2, 2018, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

FACTS

A. Piekarczyk had his Wife Named Beneficiary of RB's Financial Products and Maintained a Joint Bank Account with RB

13. During the Relevant Period, Pruco's policies provided, in relevant part:

All sales professionals and employees are prohibited from directly or indirectly sharing in the profits or losses realized by a client in any policy or account, excluding immediate family.... Sales professionals and employees are not permitted to be trustees or beneficiaries to client policies unless the client is a member of such individual's immediate family.

14. Pruco put these policies in place to prevent registered representatives from improperly benefitting from customer relationships and to avoid conflicts of interest.

15. Piekarczyk knew of the Firm's policies prohibiting him from being a beneficiary or sharing in the profits or losses of a customer.

16. In approximately June 2014, during a branch office exam, Piekarczyk verbally notified Pruco that RB, who was not a member of Piekarczyk's immediate or extended family, intended to make Piekarczyk a beneficiary of his life insurance policy.

17. In July 2014, the Firm notified Piekarczyk, in writing, that he was prohibited from becoming a beneficiary of RB's policy without a Firm-approved exception to Pruco's policies.

18. Piekarczyk did not request that Pruco approve an exception to Firm policies.

19. Instead, in November 2014, Piekarczyk represented to the Firm that he would not be RB's beneficiary.

20. Nonetheless, from approximately December 2014 through June 2015, Piekarczyk circumvented Firm policies by having RB designate Piekarczyk's wife as a beneficiary of multiple financial products, all of which Piekarczyk sold to RB.

21. On December 17, 2014, RB designated Piekarczyk's wife as a beneficiary of two variable annuities that Piekarczyk sold to RB.

22. On May 19, 2015, RB designated Piekarczyk's wife as a beneficiary of an account containing mutual funds that Piekarczyk sold to RB.

23. In June 2015, RB designated Piekarczyk's wife as a beneficiary of a fixed annuity that Piekarczyk sold to RB in exchange for four life insurance policies.

24. Piekarczyk assisted RB in designating Piekarczyk's wife as a beneficiary of the financial products by completing and submitting the beneficiary designation forms for the two variable annuities and the mutual fund account, and by instructing RB to call the insurance carrier to change the beneficiary designation on the fixed annuity.

25. Piekarczyk did not disclose to the Firm that his wife had been named beneficiary on any of RB's accounts or policies.

26. Piekarczyk further engaged in a course of unethical conduct by maintaining a joint bank account with RB.

27. On or about August 4, 2015, at Piekarczyk's suggestion, Piekarczyk and RB opened an interest-earning joint bank account with right of survivorship.

28. RB funded the joint account with a deposit of \$76,977.41. Periodically, RB deposited additional funds into the account. Piekarczyk never deposited any funds into the account.

29. Piekarczyk did not disclose to the Firm that he maintained a joint account with RB.

B. Piekarczyk Financially Benefited from RB's Policies and Accounts

30. On or about March 30, 2017, RB died.

31. After RB's death, Piekarczyk became the sole owner of the funds and interest earned in the joint bank account with RB.

32. Between April 3, 2017 and October 27, 2017, Piekarczyk withdrew the balance of the joint account, totaling \$69,512.24, and deposited the funds into a bank account he held with his wife.

33. In addition, between May 11 and May 19, 2017, Piekarczyk's wife received five checks totaling \$76,539.88 as a beneficiary of RB's variable annuities, mutual fund account, and fixed annuity.

34. All five checks that Piekarczyk's wife received as RB's beneficiary were deposited into a bank account Piekarczyk held with his wife.

35. After RB's death, the administrator of RB's estate complained to the Firm about Piekarczyk's conduct. The Firm resolved the complaint by paying the estate \$146,037.01.

CAUSE OF ACTION
Unethical Conduct
(FINRA Rule 2010)

36. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 35, above.

37. 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.”

38. FINRA Rule 2010 establishes a broad ethical mandate for persons engaged in the securities industry. Even in the absence of a violation of another FINRA rule or securities law, a person violates Rule 2010 if he or she acts unethically or in bad faith.

39. During the Relevant Period, Pruco’s policies prohibited Piekarczyk from becoming a beneficiary of a customer’s policy and sharing in the profits or losses of a customer’s account or policy.

40. Piekarczyk was aware of these policies and was specifically informed by the Firm that he could not become RB’s beneficiary without a Firm-approved exception. He did not seek an exception and represented to the Firm that he would not be RB’s beneficiary. Piekarczyk circumvented Firm policies by having RB designate Piekarczyk’s wife as a beneficiary on financial products that Piekarczyk sold to RB and by assisting RB in making the beneficiary designations.

41. In addition, at Piekarczyk’s suggestion, RB and Piekarczyk opened an interest-bearing joint bank account with right of survivorship. RB funded the account with an initial deposit of \$76,977.41 and made additional, periodic deposits into the account. Piekarczyk never deposited his own funds into the account.

42. After RB's death, Piekarczyk obtained approximately \$146,000 as a result of his wife's beneficiary designations and his survivorship on the shared bank account.

43. Piekarczyk's course of conduct with respect to RB was unethical and contrary to industry norms and practices.

44. Piekarczyk's conduct also impeded Pruco from supervising his relationship with RB and addressing conflicts of interest posed by Piekarczyk's entanglement in RB's financial affairs.

45. As a result of the foregoing, Piekarczyk failed to "observe high standards of commercial honor and just and equitable principles of trade," and thereby violated FINRA Rule 2010.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement 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 Piekarczyk 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 bears such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: June 16, 2020



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