

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

Department of Enforcement,

Complainant,

v.

Sean Michael Refsnider
(CRD No. 4762963),

Respondent.

DISCIPLINARY PROCEEDING
No. 2019063790901

HEARING OFFICER: RES

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: October 15, 2020

INTRODUCTION

Disciplinary Proceeding No. 2019063790901 was filed on April 28, 2020, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA or Complainant). Respondent Sean Michael Refsnider submitted an Offer of Settlement (Offer) to Complainant dated October 13, 2020. 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 (as amended by the Offer), 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 (as amended by the Offer), 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

Refsnider entered the securities industry in February 2004 when he became associated with Ameriprise. In April 2004, Refsnider became registered with FINRA through Ameriprise as a General Securities Representative (GSR). Refsnider left Ameriprise in March 2012, but re-registered with Ameriprise as a GSR in June 2012 where he remained until his termination in August 2019.

In a Uniform Termination Notice for Securities Industry Registration (Form U5) dated September 3, 2019, Ameriprise reported the termination of Refsnider's association after the Firm concluded that he misappropriated client funds.

Although Refsnider is no longer registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws, because: (i) the Complaint was filed within two years after September 3, 2019, the effective date of the termination of Refsnider's registration with Ameriprise; and (ii) the Complaint charges Refsnider with failing to respond to FINRA requests for information during the two-year period after the date on which he ceased to be registered or associated with a FINRA member firm.

FINDINGS AND CONCLUSIONS

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

Summary

In connection with FINRA's investigation into whether Refsnider converted approximately \$42,000 in funds belonging to his elderly Firm Customer A, Refsnider failed to provide FINRA

with all of the documents and information that it had requested pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

***Failure to Provide Documents and Information to FINRA
Violation of FINRA Rules 8210 and 2010***

FINRA Rule 8210(a) requires a “person associated with a member, or any other person subject to FINRA’s jurisdiction to provide information orally, in writing, or electronically ... with respect to any matter involved in [an] investigation....”

FINRA Rule 8210(c) similarly provides that “[n]o member or person shall fail to provide information or testimony ... pursuant to this Rule.”

A failure to comply with a request for information pursuant to FINRA Rule 8210 is also a violation of FINRA Rule 2010.

Following Refsnider’s termination by Ameriprise, Enforcement commenced an investigation into allegations that Refsnider converted approximately \$42,000 belonging to Customer A, an elderly individual who was Refsnider’s customer while he was associated with the Firm, including by obtaining a check from Customer A and using the funds for personal expenses and by using Customer A’s debit card to withdraw cash and make purchases for himself.

On October 18, 2019, Enforcement sent Refsnider a request for documents and information pursuant to FINRA Rule 8210 seeking, among other things: (i) a list of banking and credit card accounts held by Refsnider from July 2019 through August 2019 (Relevant Period) and copies of the account statements; (ii) any electronic communications (*i.e.*, order confirmations or sales receipts) relating to the purchases he made using Customer A’s debit card; and (iii) printouts of the order details of purchases made by Refsnider on Amazon during the Relevant Period (First 8210 Request). The First 8210 Request informed Refsnider that his failure to produce the

requested documents and information could subject him to a disciplinary action and the imposition of sanctions, including a bar.

The First 8210 Request was sent via certified mail, return receipt requested, and first class mail to Refsnider's residential address of record in FINRA's Central Registration Depository (CRD Address), and to the email address Refsnider previously used to communicate with FINRA (Email).

The First 8210 Request sent via certified mail to Refsnider's CRD Address was returned to Enforcement as unclaimed; however, the copy sent by first class mail was not returned to Enforcement.

The information and documents Enforcement requested in the First 8210 Request were material to its investigation into Refsnider's conversion of Customer A's funds.

On October 18, 2019, via message sent from his Email, Refsnider acknowledged receipt of the First 8210 Request.

On October 21, 2019, Refsnider represented via Email to Enforcement that he would timely provide the requested documents and information.

Although Refsnider was required to respond and produce the requested documents and information by October 25, 2019, Refsnider did not produce the documents and information as requested and did not request an extension of this deadline.

On October 30, 2019, Enforcement sent Refsnider a second request for documents and information pursuant to FINRA Rule 8210 (Second 8210 Request), enclosing the First 8210 Request and again requesting that Refsnider produce copies of his banking and credit card account statements and documentation relating to the purchases he made using Customer A's debit card and on Amazon.

The Second 8210 Request also informed Refsnider that his failure to produce the requested documents and information could subject him to a disciplinary action and the imposition of sanctions, including a bar.

The Second 8210 Request was sent via certified mail, return receipt requested, and first class mail to Refsnider's CRD Address and to Refsnider's Email.

The Second 8210 Request sent via certified mail to Refsnider's CRD Address was delivered on November 4, 2019; the copy sent by first class mail was not returned to Enforcement.

Although Refsnider was required to respond and produce the requested documents and information by November 6, 2019, Refsnider did not produce the documents and information as requested and did not request an extension of the deadline.

On November 7 and 8 of 2019, via message sent from his Email, Refsnider again represented that he would produce documents responsive to the First and Second 8210 Requests. However, Refsnider did not produce the documents and information requested in the First and Second 8210 Requests and did not request an extension.

On December 4, 2019, Refsnider appeared and provided on-the-record (OTR) testimony at FINRA's district office in Philadelphia, Pennsylvania. At the OTR, despite admitting under oath that he received the First and Second 8210 Requests, Refsnider only provided Enforcement with printouts of the order information regarding certain of the Amazon orders he placed between August 2 and 7, 2019 using Customer A's debit card. Refsnider testified that he would provide outstanding documents and information, including copies of his banking and credit card statements and additional documents providing a complete picture of his internet orders during the Relevant Period, by the end of the day.

To date, Refsnider has not provided Enforcement with the banking and credit card statements requested in the First and Second 8210 Requests. Refsnider has also not provided Enforcement with the additional documents and electronic correspondence requested in the First and Second 8210 Requests and relating to his internet purchases he represented was in his possession during his OTR testimony, *e.g.*, order confirmations, sales receipts or associated correspondence.

These documents were material to Enforcement's investigation of Refsnider's conversion of funds from Customer A.

As a result of his misconduct, Refsnider violated FINRA Rules 8210 and 2010.

Based on the foregoing, Respondent violated FINRA Rules 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 Sean Michael Refsnider is barred from associating with any FINRA member firm in any capacity.

The sanctions imposed herein shall be effective on a date set by FINRA staff. A bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED

FINRA

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



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