

NASD

Department of Enforcement,

Complainant,

v.

Joseph P. Orozco,
CRD No. 1019164

Respondent.

Disciplinary Proceeding
No. C02040045

Hearing Officer: AHP

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: November 30, 2006

INTRODUCTION

Disciplinary Proceeding No. C02040045 was filed on November 23, 2004, by the Department of Enforcement of NASD ("Complainant"). Complainant filed an Amended Complaint on March 3, 2005. Respondent Joseph P. Orozco submitted an Offer of Settlement ("Offer") to Complainant on November 20, 2006. Pursuant to Code of Procedure Rule 9270(e), the Complainant and the National Adjudicatory Council Review Subcommittee ("NAC") or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to Code of Procedure 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 Amended Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, to the entry of

findings and violations consistent with the allegations of the Amended 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 NASD.

BACKGROUND

From on or about October 26, 2000, until on or about September 8, 2003, Respondent was associated with NASD member, Hornor, Townsend & Kent, Inc. ("HTK") as an Investment Company / Variable Contracts Representative. From on or about December 16, 2003, until on or about April 7, 2005, Respondent was associated with another member firm. Respondent has no disciplinary history.

FINDINGS AND CONCLUSIONS

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

FIRST CAUSE OF COMPLAINT

NASD Conduct Rules 2330(a) and 2110 (Improper Use of Customer Funds in Violation of Conduct Rule 2330(a))

1. In November 2002, customers AM and KM met with Respondent and agreed that Respondent would use the proceeds of AM's retirement distribution check to purchase two variable annuities. Accordingly, on or about February 7, 2003, customer AM gave Respondent his \$471,280.09 distribution check. On or about February 11, 2003, Respondent forwarded the retirement check to HTK. But HTK was unable to process the check because it was made payable to its former clearing firm. HTK promptly returned the check to Respondent Orozco.

2. Respondent Orozco never told his customers that HTK returned the distribution check and never purchased the variable annuities on his customers' behalf. Instead, during the next three months, Respondent Orozco maintained possession of the check and falsely represented to the customers that it had been deposited and the annuities had been purchased as his customers directed. In that same time period, Respondent Orozco reported to HTK that he had not received any customer correspondence even though he received letters from his customers inquiring about the status of their accounts.

SECOND CAUSE OF COMPLAINT

NASD Conduct Rule 2110 (False Statements to Customer)

3. In or about February 2003, customers AM and KM began contacting Respondent and inquiring about the status of the retirement check. Respondent's false responses and actions included the following:

- (i) On February 16, 2003, Respondent left a telephone message with customers AM and KM indicating that the money was in impound and that it would be dispersed as previously agreed "as soon as the money was free;"
- (ii) On February 26, 2003, Respondent telephoned customer AM and told him that he received verbal confirmation that the check had been deposited and was waiting for confirmation before he transferred the funds into annuities;
- (iii) On March 19, 2003, Respondent told customer AM that he was "just waiting for the statement;"

- (iv) On March 26, 2003, customer KM faxed a letter to Respondent. In response, Respondent wrote that AM's retirement check was deposited on February 16, 2003 and had cleared; and
- (v) On April 5, 2003, Respondent met customers AM and KM and told them that the retirement distribution had grown to "over \$480,000" but that he was having difficulty obtaining a statement.

THIRD CAUSE OF COMPLAINT

NASD Conduct Rule 2110 (False Statements to the Firm Regarding Receipt of Customer Correspondence)

4. On a weekly basis, HTK representatives were required to submit a written report indicating whether they had received securities related correspondence. Respondent received correspondence from customers AM and KM, dated March 26, 2003 and April 25, 2003, yet submitted reports that represented that he had not received securities related correspondence during each of the preceding weeks.

FOURTH CAUSE OF COMPLAINT

NASD Procedural Rule 8210 and Conduct Rule 2110 (Failure to Allow Completion of an On-The-Record Testimony)

5. On September 9, 2004, Respondent appeared at the NASD District Office for an on-the-record ("OTR") interview pursuant to NASD Procedural Rule 8210. Respondent failed to complete his OTR interview and provide the requested testimony. In response to questions about the underlying allegations in this action, Respondent stated, "I don't need this [REDACTED] I'm out of here." After being reminded of his obligation to provide testimony, Respondent stated, "I'm going to come over that side of the table and I'm going to kick you're [REDACTED] Thereafter, Respondent abruptly left the NASD District 2 Office and did not return.

Based on the foregoing, Respondent violated Conduct Rules 2330(a) and 2110 and Procedural Rule 8210.

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 NASD of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

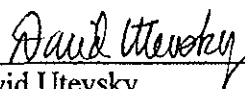
It is ordered that Respondent Joseph P. Orozco be barred from associating with any member of NASD in any capacity.

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this Order by the NAC.

SO ORDERED.

NASD

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



David Utevsky
Regional Counsel
NASD Department of Enforcement
601 Union St., Ste. 1616
Seattle, WA 98101
(206) 624-0790