

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PHILIP JOHN NOCIFORO
(CRD 1482682),

Respondent.

Disciplinary Proceeding
No. C10050027

Hearing Officer _____

COMPLAINT

Upon information and belief, the Department of Enforcement alleges that:

JURISDICTION

1. Respondent Philip John Nociforo first became registered with NASD as an Investment Company Products/Variable Contracts Representative ("IR") on April 6, 1993 through member firm Pruco Securities LLC (BD No. 5685) ("Pruco") and Prudential Insurance Company (BD No. 45533) (collectively, "Prudential"). He was subsequently registered through several NASD member firms.
2. From December 7, 1998 through May 31, 2002, Respondent was registered as an IR through member firm Metropolitan Life Insurance Company (BD No. 4095) and member firm MetLife Securities Inc. (BD No. 14251) (collectively, MetLife").
3. Respondent is not currently registered with NASD. On February 18, 2005, a different NASD member firm through which Respondent was registered filed with NASD a Uniform Termination Notice for Securities Industry Registration

("Form U-5") concerning Respondent. The Form U-5 indicated that Respondent's last day of employment at that firm was February 15, 2005.

4. Respondent remains subject to the jurisdiction of NASD pursuant to Article V, Section 4 of NASD's By-Laws.

BACKGROUND

5. Paragraphs 1 through 4, above, are re-alleged and incorporated herein by reference.
6. Respondent knew customers JMG and JEG (collectively, "J&J") when he worked at Prudential and J&J held life insurance through Prudential. He was aware of the life insurance that JMG held through Prudential.
7. Respondent completed and submitted a variable life insurance application for customer JMG to MetLife on or about August 7, 2000 ("JMG's MetLife Application.")
8. Respondent completed and submitted a variable life insurance application for customer JEG to MetLife on or about August 7, 2000 ("JEG's MetLife Application.")

FIRST CAUSE OF COMPLAINT

**(Falsification of Variable Life Insurance Application)
(Violation of NASD Conduct Rule 2110)**

9. Paragraphs 1 through 8, above, are re-alleged and incorporated herein by reference.
10. In connection with JMG's MetLife Application, Respondent completed and submitted various forms.

- a. On one form Respondent indicated that JMG did not have other life insurance coverage. Respondent knew that this was false.
- b. On another form Respondent indicated that JMG was not replacing existing life insurance coverage with the new MetLife policy. Respondent knew that this was false.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

SECOND CAUSE OF COMPLAINT
(Falsification of Variable Life Insurance Application)
(Violation of NASD Conduct Rule 2110)

11. Paragraphs 1 through 10, above, are re-alleged and incorporated herein by reference.

12. In connection with JEG's MetLife Application, Respondent completed and submitted various forms.

- a. On one form Respondent indicated that JEG did not have other life insurance coverage. Respondent knew that this was false.
- b. On another form Respondent indicated that JEG was not replacing existing life insurance coverage with the new MetLife policy. Respondent knew that this was false.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

THIRD CAUSE OF COMPLAINT
(Misuse of Funds Belonging to JMG)
(Violation of NASD Conduct Rule 2110)

13. Paragraphs 1 through 14 are re-alleged and incorporated herein by reference.

14. JMG gave Respondent a check for \$11,609.15 on or about October 3, 2000. JMG gave this money to Respondent for the specific purpose of funding his MetLife variable life insurance purchase.
15. Shortly after he received the check, Respondent deposited the check into his personal bank account.
16. On or around October 6, 2000, Respondent obtained a bank check in the amount of \$3,572. He forwarded that money to MetLife as an initial premium payment on JMG's variable life insurance policy.
17. Respondent never forwarded any other monies to MetLife for payment into JMG's variable life insurance policy.
18. Respondent did not apply JMG's funds as the customer directed and/or intended.
19. Respondent converted the remaining \$8037.15 of JMG's money for his personal use.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

FOURTH CAUSE OF COMPLAINT
(Misuse of Funds Belonging to JEG)
(Violation of NASD Conduct Rule 2110)

20. Paragraphs 1 through 21 are re-alleged and incorporated herein by reference.
21. JEG gave Respondent a check for \$2,448.75 on or about October 3, 2000. JEG gave this money to Respondent for the specific purpose of funding her MetLife variable life insurance purchase.
22. Shortly after he received the first check from JEG, Respondent deposited it into his personal bank account.

23. On or around October 26, 2000, Respondent took an additional check in the amount of \$1,992.56 from JEG. JEG gave this money to Respondent for the specific purpose of funding her MetLife variable life insurance contract.
24. Shortly after he received the second check from JEG, Respondent deposited it into his personal bank account.
25. On or around October 6, 2000, Respondent obtained a bank check in the amount of \$2,448.75. He forwarded that money to MetLife as an initial premium payment on JEG's variable life insurance policy.
26. Respondent never forwarded any other monies to MetLife for payment into JEG's variable life insurance policy.
27. Respondent did not apply JEG's funds as the customer directed and/or intended.
28. Respondent converted \$1,992.56 of JEG's money for his personal use.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

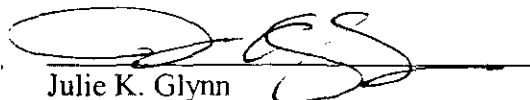
- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. An order imposing sanctions upon Respondent in accordance with NASD Procedural Rule 8310;
- C. An order to pay any outstanding restitution to JMG and JEG, including interest on converted funds;

D. An order imposing such costs of any proceedings as are deemed fair and appropriate under the circumstances in accordance with NASD Procedural Rule 8330; and

E. An order imposing any other fitting sanction.

Dated: May 5, 2005

DEPARTMENT OF ENFORCEMENT



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