

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JULIAN JAY PIEKARCZYK  
(CRD No. 1128773),

Respondent.

Disciplinary Proceeding  
No. 2018058117101

Hearing Officer–RES

**DEFAULT DECISION**

September 25, 2020

**Respondent is barred from associating with any FINRA member in any capacity because, in violation of his employer firm’s policies, Respondent induced a customer to designate Respondent’s spouse as a beneficiary on financial products the customer purchased and induced the same customer to open a joint bank account with Respondent, granting him a right of survivorship. Respondent failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.**

*Appearances*

For Complainant: John R. Baraniak, Jr., Esq., Deborah Renner, Esq., William Thompson, Esq.,  
Department of Enforcement, Financial Industry Regulatory Authority

For Respondent: No appearance

**DECISION**

**I. Introduction**

The Department of Enforcement filed a Complaint on June 16, 2020 against Respondent Julian Jay Piekarczyk, formerly a registered person. In a single cause of action, the Complaint alleges that, in violation of his employer firm’s policies, Respondent induced a customer to designate Respondent’s spouse as a beneficiary on financial products the customer bought, and induced the same customer to open a joint bank account with him granting Respondent a right of survivorship.<sup>1</sup> Respondent did not disclose to his employer firm that his spouse was named a

---

<sup>1</sup> Complaint (“Compl.”) ¶¶ 3-4.

beneficiary or that Respondent shared a joint bank account with the customer.<sup>2</sup> The Complaint alleges that after the customer died in 2017, Respondent obtained \$146,052 as a result of the beneficiary designations and right of survivorship on the joint bank account.<sup>3</sup> According to the Complaint, Respondent's conduct violated FINRA Rule 2010.<sup>4</sup>

Enforcement served Respondent with the Complaint, First Notice of Complaint, and Second Notice of Complaint, but Respondent failed to file an Answer. At my direction, Enforcement filed a motion for entry of default decision ("Default Motion"). Respondent did not file an opposition or otherwise respond to Enforcement's Default Motion. For the reasons stated below, I find Respondent in default, deem admitted all allegations in the Complaint, grant the Default Motion, and issue this Default Decision.

## **II. Findings of Fact and Conclusions of Law**

### **A. Background**

Respondent Julian Jay Piekarczyk entered the securities industry in May 1978 when he associated with Pruco Securities LLC ("Pruco").<sup>5</sup> In the time of the Complaint, Respondent was registered as an Investment Company and Variable Contracts Products Representative through his association with Pruco.<sup>6</sup> In a Uniform Termination Notice for Securities Industry Registration (Form U5) filed August 2, 2018, Pruco disclosed that Respondent's association with the firm had been terminated because he had "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."<sup>7</sup> Respondent is not currently registered with FINRA or associated with a FINRA member.<sup>8</sup>

### **B. Jurisdiction**

Although Respondent is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction under Article V, Section 4 of FINRA's By-Laws for purposes of this proceeding because the Complaint (1) was filed within two years of the effective

---

<sup>2</sup> Compl. ¶ 5.

<sup>3</sup> Compl. ¶ 6. All monetary amounts in this Default Decision are rounded to the nearest dollar.

<sup>4</sup> Compl. ¶ 7.

<sup>5</sup> Declaration of John R. Baraniak, Jr., executed September 2, 2020 ("Baraniak Decl."), ¶ 8.

<sup>6</sup> Baraniak Decl. ¶ 9.

<sup>7</sup> Baraniak Decl. ¶ 11.

<sup>8</sup> Baraniak Decl. ¶ 13.

date of the termination of Respondent's registration through Pruco,<sup>9</sup> and (2) charges Respondent with misconduct committed while he was registered through Pruco.<sup>10</sup>

### **C. Origin of the Investigation**

The investigation originated in April 2018, when FINRA began to investigate Respondent after receiving an amended Uniform Application for Securities Industry Registration or Transfer (Form U4).<sup>11</sup> FINRA identified evidence that Respondent may have engaged in unethical conduct by exercising undue influence in his relationship with a customer to benefit financially from the customer's insurance policies and accounts, acting contrary to representations Respondent made to Pruco, and in circumvention of the firm's policies designed to protect its customers.<sup>12</sup>

### **D. Respondent's Default**

Enforcement served Respondent with the Complaint and the First and Second Notices of Complaint by first-class and certified mail at Respondent's last known residential address as reflected in FINRA's Central Registration Depository (CRD), in compliance with FINRA Rules 9131(b) and 9134(a)(2) and (b)(1).<sup>13</sup> Enforcement sent Respondent courtesy copies of the Complaint and Notices of Complaint to each of his personal email addresses.<sup>14</sup> After serving the Complaint and First Notice of Complaint, Enforcement learned that Respondent had another, post office box address, and served the Complaint and Second Notice of Complaint on that address as well.<sup>15</sup> To date, Respondent has failed to file an Answer, as required by FINRA Rule 9215, or otherwise respond to the Complaint.<sup>16</sup> Based on these facts, I find that Respondent has defaulted.

FINRA Rule 9269 authorizes the Hearing Officer to issue a default decision against a respondent who fails to file an Answer to the Complaint within the time afforded by FINRA Rule 9215.<sup>17</sup> Respondent had the opportunity to file an Answer but he did not. Respondent was

---

<sup>9</sup> The termination of Respondent's registration was effective August 2, 2018. Baraniak Decl. ¶ 11. The Complaint was filed on June 16, 2020.

<sup>10</sup> Baraniak Decl. ¶ 13; FINRA By-Laws, Art. V, Sec. 4.

<sup>11</sup> Baraniak Decl. ¶ 4.

<sup>12</sup> Baraniak Decl. ¶ 4.

<sup>13</sup> Baraniak Decl. ¶ 18.

<sup>14</sup> Baraniak Decl. ¶¶ 18, 28.

<sup>15</sup> Baraniak Decl. ¶¶ 25-26.

<sup>16</sup> Baraniak Decl. ¶ 33.

<sup>17</sup> FINRA Rule 9269(a).

warned of the possible consequences of not answering the Complaint.<sup>18</sup> I therefore find that a default decision is warranted.<sup>19</sup> I am authorized by FINRA Rules 9215(f) and 9269 to treat the allegations of the Complaint as admitted. I find that Respondent committed the violation charged and bar him from associating in any capacity with any FINRA member.

**E. Respondent Violates his Employer Firm’s Policies, in Violation of FINRA Rule 2010**

**1. Governing Law**

Enforcement charges Respondent with violating FINRA Rule 2010 by inducing a customer to designate Respondent’s spouse as a beneficiary on financial products bought by the customer and by inducing the same customer to open a joint bank account with him, in contravention of his employer firm’s policies. 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.”<sup>20</sup> FINRA Rule 2010 encompasses all unethical, business-related conduct, even if that conduct does not involve a security or a securities transaction.<sup>21</sup> Conduct that reflects negatively on an associated person’s ability to comply with regulatory requirements fundamental to the securities industry is inconsistent with just and equitable principles of trade.<sup>22</sup> A violation of an employer firm’s policies can violate just and equitable principles of trade.<sup>23</sup>

---

<sup>18</sup> Baraniak Decl. ¶ 32. The Second Notice of Complaint advised Respondent that, in accordance with FINRA Rule 9215, his failure to submit an answer to the Complaint by August 6, 2020, would allow the Hearing Officer (1) to treat the allegations as admitted by him; and (2) to enter a default decision against him under FINRA Rule 9269.

<sup>19</sup> Respondent is notified that he may move to set aside this Default Decision under FINRA Rule 9269(c) if he can show good cause.

<sup>20</sup> FINRA Rules—including FINRA Rule 2010—“apply to all members and persons associated with a member,” and associated persons “have the same duties and obligation as a member under the Rules.” FINRA Rule 0140(a).

<sup>21</sup> *Allen Holeman*, Exchange Act Release No. 86523, 2019 SEC LEXIS 1903, at \*30-31 (July 31, 2019), *petition for review filed*, No. 19-1251 (D.C. Cir. Nov. 26, 2019); *Dep’t of Enforcement v. Orlando*, No. 2014043863001, 2020 FINRA Discip. LEXIS 26, at \*31 (NAC Mar. 16, 2020).

<sup>22</sup> *Dep’t of Enforcement v. Reifler*, No. 2016050924601, 2019 FINRA Discip. LEXIS 44, at \*14 (NAC Sept. 30, 2019), *appeal docketed*, No. 3-19589 (SEC Oct. 10, 2019); *Dep’t of Enforcement v. Grivas*, No. 2012032997201, 2015 FINRA Discip. LEXIS 16, at \*13 (NAC July 16, 2015), *aff’d*, Exchange Act Release No. 77470, 2016 SEC LEXIS 1173 (Mar. 29, 2016).

<sup>23</sup> *Thomas W. Heath, III*, Exchange Act Release No. 59223, 2009 SEC LEXIS 14, at \*10, \*18 (Jan. 9, 2009), *aff’d*, 586 F.3d 122 (2d Cir. 2009); *Orlando*, 2020 FINRA Discip. LEXIS 26, at \*37; *Dep’t of Mkt. Regulation v. Sheerin*, No. 2011027926301, 2017 FINRA Discip. LEXIS 8, at \*38-39 (NAC Mar. 13, 2017); *Dep’t of Enforcement v. Golonka*, No. 200917439601, 2013 FINRA Discip. LEXIS 5, at \*26 (NAC Mar. 4, 2013).

## 2. Facts Showing a Violation

### a. Respondent Facilitates a Customer's Naming of Respondent's Spouse as Beneficiary of the Customer's Financial Products and Maintains a Joint Bank Account with the Customer

Pruco's policies prohibited all sales professionals and employees from sharing in the profits or losses realized by customers in any policy or account:

All sales professionals and employees are prohibited from directly or indirectly sharing in the profits or losses realized by any 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.<sup>24</sup>

Pruco put these policies into effect to prevent registered representatives from improperly benefiting from customer relationships and to avoid conflicts of interest.<sup>25</sup> Respondent knew that Pruco's policies prohibited him from being a beneficiary or sharing in the profits or losses of a customer.<sup>26</sup>

In June 2014, Respondent orally notified Pruco that "RB," a Pruco customer who was not a member of Respondent's immediate or extended family, intended to make Respondent a beneficiary of RB's life insurance policy.<sup>27</sup> The next month, Pruco notified Respondent, in writing, that he was prohibited from becoming a beneficiary of RB's insurance policy without a firm-approved exception to Pruco's policies.<sup>28</sup> Respondent did not request that Pruco approve an exception to the firm's policies.<sup>29</sup> Instead, Respondent represented to Pruco that he would not be RB's beneficiary.<sup>30</sup>

Despite this representation, Respondent circumvented Pruco's policies by inducing RB to designate Respondent's spouse as a beneficiary on multiple financial products, all of which Respondent sold to RB.<sup>31</sup> In December 2014, RB designated Respondent's spouse as a beneficiary on two variable annuities that Respondent sold to RB.<sup>32</sup> In May 2015, RB designated Respondent's spouse as a beneficiary of an account containing mutual funds that Respondent

---

<sup>24</sup> Compl. ¶ 13.

<sup>25</sup> Compl. ¶ 14.

<sup>26</sup> Compl. ¶ 15.

<sup>27</sup> Compl. ¶ 16.

<sup>28</sup> Compl. ¶ 17.

<sup>29</sup> Compl. ¶ 18.

<sup>30</sup> Compl. ¶ 19.

<sup>31</sup> Compl. ¶ 20.

<sup>32</sup> Compl. ¶ 21.

sold to RB.<sup>33</sup> In June 2015, RB designated Respondent's spouse as a beneficiary of a fixed annuity Respondent sold to RB in exchange for four life insurance policies.<sup>34</sup> By allowing and facilitating the naming of Respondent's spouse as a beneficiary on RB's account, annuities, and fixed annuity, Respondent circumvented Pruco's policies, which prohibited registered representatives from holding such designations themselves. This conduct violated FINRA Rule 2010.

Respondent also engaged in a course of unethical conduct by maintaining a joint bank account with RB.<sup>35</sup> In August 2015, at Respondent's suggestion, Respondent and RB opened an interest-bearing joint bank account with a right of survivorship.<sup>36</sup> RB funded the joint account with a deposit of \$76,977.<sup>37</sup> Respondent did not disclose to Pruco that he maintained a joint bank account with RB.<sup>38</sup> These facts show that Respondent circumvented Pruco's policies, which prohibited him from being a joint account holder on a bank account of a customer, in violation of FINRA Rule 2010.

#### **b. Respondent Financially Benefits from the Customer's Insurance Policies and Accounts**

RB died in March 2017.<sup>39</sup> Respondent became the sole owner of the funds and interest earned in the joint bank account with RB.<sup>40</sup> From April through October 2017, Respondent withdrew the balance of the joint account, totaling \$69,512, and deposited the funds into a bank account he held with his spouse.<sup>41</sup> In May 2017, his spouse received five checks, totaling \$76,540, as beneficiary of RB's variable annuities, mutual fund account, and fixed annuity.<sup>42</sup> The administrator of RB's estate complained to Pruco about Respondent's conduct, which led to his termination.<sup>43</sup>

### **III. Sanctions**

According to FINRA's Sanction Guidelines, the purpose of the disciplinary process is to protect the investing public, support and improve overall business standards in the securities

---

<sup>33</sup> Compl. ¶ 22.

<sup>34</sup> Compl. ¶ 23.

<sup>35</sup> Compl. ¶ 26.

<sup>36</sup> Compl. ¶ 27.

<sup>37</sup> Compl. ¶ 28.

<sup>38</sup> Compl. ¶ 29.

<sup>39</sup> Compl. ¶ 30.

<sup>40</sup> Compl. ¶ 31.

<sup>41</sup> Compl. ¶ 32.

<sup>42</sup> Compl. ¶ 33.

<sup>43</sup> Compl. ¶ 35; *see* Baraniak Decl. ¶ 11.

industry, and decrease the likelihood of recurrence of misconduct by the disciplined respondent.<sup>44</sup> The Guidelines contain General Principles Applicable to All Sanction Determinations, Principal Considerations in Determining Sanctions (“Principal Considerations”), and Guidelines applicable to specific violations.

There is no Sanction Guideline applicable to a respondent’s violation of his employer firm’s policies by causing his spouse to become a beneficiary on financial products sold to a customer or by becoming joint account holder with the customer on a bank account. If the Sanction Guidelines do not specifically address the violation committed, an adjudicator should consider the most closely analogous Guideline.<sup>45</sup>

In similar cases, a Hearing Officer or Hearing Panel has applied the Sanction Guideline for Outside Business Activities.<sup>46</sup> That Sanction Guideline recommends a fine of \$2,500 to \$77,000 and states that the adjudicator should consider suspending the respondent in any or all capacities for a period of 10 business days to three months.<sup>47</sup> When the outside business activity involves aggravating factors, the adjudicator should consider a longer suspension of up to one year.<sup>48</sup> Where aggravating factors predominate, the adjudicator should consider a longer suspension (of up to two years) or a bar.<sup>49</sup> The considerations specific to this Guideline are:

- Whether the outside activity involved customers of the firm.
- Whether the outside activity resulted directly or indirectly in injury to other parties, including the investing public and, if so, the nature and extent of the injury.
- The duration of the outside activity, the number of customers and the dollar volume of sales.
- Whether the respondent’s marketing and sale of the product or service could have created the impression that the employer firm had approved the product or service.

---

<sup>44</sup> FINRA Sanction Guidelines (“Guidelines”) at 2 (2019) (General Principle No. 1), <http://www.finra.org/industry/sanction-guidelines>.

<sup>45</sup> Guidelines at 1 (“Overview”) (“For violations that are not addressed specifically, Adjudicators are encouraged to look to the guidelines for analogous violations.”); *Wedbush Sec., Inc.*, Exchange Act Release No. 78568, 2016 SEC LEXIS 2794, at \*44 (Aug. 12, 2016), *petition for review denied*, 719 F. App’x 724 (9th Cir. 2018); *Orlando*, 2020 FINRA Discip. LEXIS 26, at \*45.

<sup>46</sup> *Orlando*, 2020 FINRA Discip. LEXIS 26, at \*45.

<sup>47</sup> Guidelines at 13.

<sup>48</sup> Guidelines at 13.

<sup>49</sup> Guidelines at 13.

- Whether the respondent misled the employer firm about the outside business activity or otherwise concealed the activity from the firm.
- The importance of the role played by the respondent in the outside business activity.<sup>50</sup>

Respondent's misconduct affected a customer of Pruco and directly resulted in injury to that customer.<sup>51</sup> The misconduct continued for three years and involved \$146,052.<sup>52</sup> Respondent misled Pruco about his misconduct and concealed it as it was ongoing.<sup>53</sup>

A review of the Principal Considerations shows that aggravating factors predominate. Respondent exercised undue influence over an elderly customer.<sup>54</sup> The court-appointed administrator of the estate complained to Pruco about Respondent's misconduct, and circumstances compelled the firm to reimburse the estate. Respondent has not accepted responsibility for or acknowledged his misconduct.<sup>55</sup> He engaged in numerous acts and a pattern of wrongdoing.<sup>56</sup> His misconduct was intentional,<sup>57</sup> and resulted in the potential for his monetary gain.<sup>58</sup>

This case presents a fact pattern and aggravating factors like those in *Dep't of Enforcement v. Orlando*. There, the respondent caused an elderly customer with diminished cognitive ability and a lack of financial sophistication to appoint the respondent beneficiary of her bank account, attorney-in-fact with general powers to dispose of her assets, and executor and primary beneficiary of her will.<sup>59</sup> The respondent failed to disclose these appointments to his employer firm, as the firm's policies required.<sup>60</sup> Concluding that a bar was the appropriate

---

<sup>50</sup> Guidelines at 13.

<sup>51</sup> Guidelines at 13 (Specific Considerations Nos. 1 & 2: whether the outside activity involved customers of the firm, and whether the outside activity resulted in injury to other parties).

<sup>52</sup> Guidelines at 13 (Specific Consideration No. 3: the duration of the outside activity and the "dollar volume of sales").

<sup>53</sup> Guidelines at 13 (Specific Consideration No. 5: whether the respondent misled his employer member firm about the existence of the outside activity).

<sup>54</sup> Guidelines at 8 (Principal Considerations Nos. 18 & 19: the level of sophistication of the injured or affected customer, and whether the respondent exercised undue influence over the customer).

<sup>55</sup> Guidelines at 7 (Principal Consideration No. 2: whether the respondent accepted responsibility for and acknowledged the misconduct to his employer prior to detection and intervention by the firm).

<sup>56</sup> Guidelines at 7 (Principal Consideration No. 8: whether the respondent engaged in numerous acts and/or a pattern of misconduct).

<sup>57</sup> Guidelines at 8 (Principal Consideration No. 13: whether the respondent's misconduct was the result of an intentional act, recklessness or negligence).

<sup>58</sup> Guidelines at 8 (Principal Consideration No. 16: whether the respondent's misconduct resulted in the potential for the respondent's monetary or other gain).

<sup>59</sup> *Orlando*, 2020 FINRA Discip. LEXIS 26, at \*16-17.

<sup>60</sup> *Orlando*, 2020 FINRA Discip. LEXIS 26, at \*48.



sanction, the National Adjudicatory Council found the foremost aggravating factor was that the respondent used his position as the customer's registered representative, and the trust that she placed in him, to exert undue influence over her and engage in a deliberate, methodical campaign and pattern of predation.<sup>61</sup> The same aggravating factor is present in this case.

Considering the facts alleged in the Complaint, the Sanction Guideline for Outside Business Activities, the Principal Considerations, and the aggravating factors, for Respondent's contravention of Pruco's policies about the designation of beneficiaries and ownership of joint bank accounts with customers, in violation of FINRA Rule 2010, I bar Respondent from associating with any FINRA member in any capacity. Because Pruco reimbursed RB's estate for the funds that Respondent procured, I do not consider there to be customer loss, and do not impose a fine.<sup>62</sup>

#### **IV. Order**

Respondent Julian Jay Piekarczyk violated FINRA Rule 2010 by inducing a customer to designate Respondent's spouse as a beneficiary of financial products the customer bought, and inducing the customer to open and fund a joint bank account with Respondent, in contravention of the policies of Respondent's employer firm. For this misconduct, Respondent is barred from associating with any FINRA member firm in any capacity. The bar shall be effective immediately if this Default Decision becomes FINRA's final disciplinary action.



Richard E. Simpson  
Hearing Officer

Copies to:

Julian Jay Piekarczyk (via first-class mail, email and overnight courier)  
John R. Baraniak, Jr., Esq. (via email)  
Deborah Renner, Esq. (via email)  
William Thompson, Esq. (via email)  
Jennifer L. Crawford, Esq. (via email)

---

<sup>61</sup> *Orlando*, 2020 FINRA Discip. LEXIS 26, at \*47.

<sup>62</sup> Guidelines at 10 (“Adjudicators generally should not impose a fine if an individual is barred and there is no customer loss.”).