

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant

vs.

KELLY A. BURKE
Associated Person
(CRD No. 4895800)

Respondent

**Disciplinary Proceeding
No. 2005001331101**

Hearing Officer Dana R. Pisanelli

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: June 22, 2006

INTRODUCTION

Disciplinary Proceeding No. 2005001331101 was filed on May 17, 2006, by the Department of Enforcement of NASD ("Complainant"). Respondent Kelly A. Burke ("Burke" or "Respondent") submitted an Offer of Settlement ("Offer") to Complainant on May 23, 2006. Pursuant to Code of Procedure Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC") Review Subcommittee 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 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 Complaint, and to the imposition of

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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

Kelly A. Burke became associated with Country Capital Management Company ("Member"), a member of NASD, on November 3, 2003. She completed and electronically signed a Form U4 on December 8, 2004. She sat for the Series 6 examination on February 8, 2005, and the Series 63 examination on February 16, 2005, but failed both examinations and never became registered. She remained associated with the Member until April 12, 2005. Burke is not currently registered or associated with any member of NASD and 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 FOR COMPLAINT

**NASD Conduct Rule 2110 – Submitting False Social Security Numbers For Individuals
Purchasing Automobile Insurance by Respondent.**

1. During the time in question NG, GG, TP, MB, EB, CB, CT, FC, KK and TG were members of the public who had dealings with Respondent.
2. In or about October 2004, Respondent completed and submitted to Country Life Insurance Company ("Country"), an insurance company that wholly owns the Member, an automobile insurance policy for NG. When Respondent submitted proof of insurance, her supervisor noticed that GG was listed on the policy as another driver. Respondent's supervisor

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questioned her about GG and told her that he needed his full name and driver's license.

Respondent told her supervisor that GG was not a driver in the household and the policy was reinstated on December 23, 2004 based on Respondent's statement. On or about January 20, 2005, Respondent added GG as a named insured to the automobile insurance policy, but did not add him as a driver. Therefore, Respondent was giving GG insurance coverage without rating him under Country's system to determine if GG was eligible to receive automobile insurance from Country.

3. On or about February 1, 2005, Respondent completed and submitted to Country an electronic application for automobile insurance for TP. As part of that submission Respondent used TP's name, but used the Social Security number of MB. TP had a "D" loss score, which would have prevented him from obtaining automobile insurance from Country, while MB had a "B" loss score, which allowed him to purchase automobile insurance at a relatively low cost.

4. On or about February 5, 2005, Respondent completed and submitted to Country an electronic application for automobile insurance for EB. As part of that submission Respondent used EB's name, but used the Social Security number of CB. EB had a "D" loss score, which would have prevented her from obtaining automobile insurance from Country, while CB had a "B" loss score, which allowed him to purchase automobile insurance at a relatively low cost.

5. On or about March 16, 2005, Respondent completed and submitted to Country an electronic application for automobile insurance for CT. As part of that submission Respondent used CT's name, but used the Social Security number of FC. CT had a "D" loss score, which

would have prevented her from obtaining automobile insurance from Country, while FC had a "B" loss score, which allowed him to purchase automobile insurance at a relatively low cost.

6. On or about March 23, 2005, Respondent completed and submitted to Country an electronic application for automobile insurance for KK. As part of that submission Respondent used KK's name, but used the Social Security number of TG. KK had an "F" loss score, which would have prevented her from obtaining automobile insurance from Country, while TG had a "C" loss score, which allowed her to purchase automobile insurance at a relatively low cost.

**SECOND CAUSE FOR COMPLAINT
Conduct Rule 2110 and Procedural Rule 8210 - Refusal to Respond to the Staff's Requests
for Information by Respondent.**

7. On or about August 19, 2005, NASD staff ("Staff") sent to Respondent a request that she provide certain documents and information related to the allegation that she manipulated a computer based auto insurance application system to qualify applicants for car insurance for better rates with Country for which they were not qualified, as noted in paragraphs 2 through 6 above, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent's address of record as contained in the records of the Central Registration Depository ("CRD Address"). A response was due by September 6, 2005. The first class mailing was not returned to the Staff. The certified return receipt was returned signed by Respondent, showing that she received the letter on August 23, 2005.

8. On or about September 8, 2005, having not received a response from Respondent, the Staff sent her a request marked Second Request that she provide certain documents and information related to the allegation that she manipulated a computer based auto insurance

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application system to qualify applicants for car insurance for better rates with Country for which they were not qualified, as noted in paragraphs 2 through 6 above, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent's CRD Address. A response was due by September 22, 2005. The first class mailing, certified mailing and the certified return receipt were not returned to the Staff.

9. On or about September 22, 2005, the Staff received an initial response to its requests for information from Respondent, which failed to fully respond to the Staff's questions.

10. Based on the initial response to the Staff, on or about September 29, 2005, Staff sent to Respondent an additional request that she provide certain documents and information related to the allegation that she manipulated a computer based auto insurance application system to qualify applicants for car insurance for better rates with Country for which they were not qualified, as noted in paragraphs 2 through 6 above, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent in care of her attorney's address, as requested by the attorney. A response was due by October 13, 2005. The first class mailing was not returned to the Staff. The certified return receipt was returned signed by Respondent's attorney, showing that she received the letter on October 3, 2005.

11. On or about October 14, 2005, the Staff received a letter that was signed by Respondent and her attorney, which stated, "[i]n response to your letter dated September 29, 2005, Ms. Burke has decided not to answer any more questions, but to invoke her 5th Amendment privilege."

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12. Based on this response to Staff, on or about October 18, 2005, the Staff sent to Respondent a request marked final request that she provide certain documents and information related to the allegation that she manipulated a computer based auto insurance application system to qualify applicants for car insurance for better rates with Country for which they were not qualified, as noted in paragraphs 2 through 6 above, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The request for information was sent by first class mail and by facsimile, to Respondent in care of her attorney's address and facsimile telephone number, as requested by the attorney. A response was due by October 31, 2005. The first class mailing was not returned to the Staff. The certified confirmation page shows that Respondent's attorney received the letter on October 18, 2005.

13. Respondent refused to respond to each and all of the requests for documents and information described in paragraphs 7, 8, 10 and 12 above, and the time for Respondent to respond has passed.

Based on the foregoing, Respondent violated NASD Conduct Rule 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

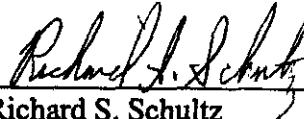
It is ordered that Respondent be barred from association with any member of NASD in any capacity.

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



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