

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

CALIOPE MAKRIS
(CRD No. 4182361),

Respondent.

Disciplinary Proceeding
No. 2005001405001

DEFAULT DECISION

Hearing Officer – SW

Dated: November 28, 2006

Respondent was barred for violating NASD Procedural Rule 8210 and NASD Conduct Rule 2110 by failing to respond to requests for information issued by the NASD staff. In light of the bar, the Hearing Officer did not impose an additional sanction for Respondent's violation of NASD Conduct Rule 2110 when she falsified a document by affixing the signature of a customer to an insurance application despite her employer's express prohibition against such conduct.

Appearances

Richard A. March, Esq., Senior Regional Attorney, Chicago, IL, and Rory C. Flynn, Esq., Of Counsel, Washington, DC, for the Department of Enforcement.

No appearance by or for Respondent Caliope Makris.

DECISION

I. Background

On August 14, 2006, the NASD Department of Enforcement ("Enforcement") filed the attached two-count Complaint against Respondent Caliope Makris ("Respondent"), alleging that:

(i) she falsified a document by affixing the signature of customer ET to a disability insurance application, and thereby violating her employer's express prohibition against representatives signing a document on behalf of a customer, in violation of NASD Conduct Rule 2110; and

(ii) she failed to respond to requests for information issued pursuant to Rule 8210, in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

On November 1, 2006, Enforcement filed a Motion for Entry of Default Decision ("Motion"), supported by the Declaration of Richard A. March, Esq., Senior Regional Attorney, in NASD's Chicago, IL office, and six exhibits.¹ For the reasons set forth below, the Hearing Officer grants Enforcement's Motion.

II. Respondent's Default

On August 11, 2006, Enforcement served the Complaint and Notice of Complaint on Respondent, via first-class and certified mail, at her address of record in NASD's Central Registration Depository ("CRD address").² (CX-1, p. 1; CX-2, p. 10; DECL at ¶ 6). Although Respondent signed a receipt for the certified mailing on August 14, 2006, Respondent did not file an Answer to the Complaint. (CX-3; DECL at ¶¶ 6, 8).

On September 8, 2006, Enforcement served the Complaint and a Second Notice of Complaint on Respondent, via first-class and certified mail, at her CRD address. (CX-4; DECL at ¶ 7). The NASD staff again received a receipt signed by Respondent for the certified mailing, but Respondent did not file an Answer to the Complaint. (CX-5; DECL at ¶¶ 7, 8).

The Hearing Officer finds that Respondent received actual notice of the Complaint based on the signed receipts. In any event, the Hearing Officer finds that Enforcement complied with NASD Procedural Rule 9134(b)(1) by sending the mailings to Respondent's CRD address.³

¹ Hereinafter, the statements in the Motion for Entry of Default Decision will be designated as "Motion, p.;" the statements in the March Declaration will be designated as "DECL at ¶;" and Enforcement's exhibits will be designated as "CX-" with the appropriate page or paragraph number.

² Respondent's CRD address is [REDACTED] (CX-1, p. 1).

³ See Dep't of Enforcement v. Verdiner, No. CAF020004, 2003 NASD Discip. LEXIS 42, at * 5 n.1 (NAC Dec. 9, 2003) (finding that respondent received constructive notice when complaint was mailed to respondent's CRD address).

Accordingly, the Hearing Officer finds that Respondent received effective notice of this proceeding and further finds that Respondent defaulted by failing to answer the Complaint.⁴

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

On June 16, 2000, Respondent became registered as an investment company and variable contracts products representative with NASD member firm Pruco Securities, LLC ("Pruco"). (CX-1, p. 2). Respondent was associated with Pruco until May 5, 2005, when Pruco filed a Form U-5.⁵ (CX-1, p. 2). Respondent is not currently associated with any NASD member firm. (*Id.*).

Nevertheless, Respondent remains subject to NASD jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of the NASD By-Laws, because (1) the Complaint was filed within two years after her association with Pruco was terminated, and (2) the Complaint charges her with misconduct while she was associated with an NASD member, and with failures to provide information requested pursuant to Rule 8210 during the period of retained jurisdiction.

B. Respondent Falsified a Document by Affixing a Customer's Signature to an Insurance Application without Noting that the Application had been Signed by Someone Other than the Customer

Count one of the Complaint alleges that, in June 2004, Respondent affixed the signature of customer ET to a disability insurance application, without noting in any manner that the application had been signed by someone other than the customer whose name appeared on the document. (Complaint at ¶¶ 2, 4). During June 2004, Pruco maintained a compliance manual

⁴ The following Findings of Fact and Conclusions of Law incorporate the allegations in the attached Complaint, pursuant to Rules 9215(f) and 9269(a) and NASD Notice to Members 99-77.

⁵ The Form U-5 termination comment states, among other things, that Respondent was terminated because she "submitted non-genuine signatures on disability and life insurance application documents to the Company." (CX-1, p. 2).

that contained a provision prohibiting representatives from signing documents on behalf of customers, even if the customer gave consent to do so. (Complaint at ¶ 3).

In its Motion, Enforcement also provided the additional information that Respondent admitted to Pruco in January 2005, that she affixed the signature of customer ET to a disability insurance application as an accommodation to ET. (Motion p. 3). In affixing ET's signature, Respondent expressly violated the provisions of Pruco's compliance manual. (*Id.*).

The allegations in the first cause of the Complaint, and the evidence submitted by Enforcement, are deemed sufficient to establish that Respondent violated NASD Conduct Rule 2110 by falsifying a document.

C. Failure to Respond to Requests for Information

The second cause of the Complaint alleges that Respondent failed to respond to three letters from the NASD staff requesting information regarding the allegation of affixing customer ET's signature to a disability insurance application. (Complaint at ¶¶ 7-10). Specifically, the NASD staff sent the first request for information to Respondent on October 24, 2005, at her CRD address, pursuant to NASD Procedural Rule 8210, via first-class and certified mail. (Complaint at ¶ 7).

The NASD staff sent a second and a third request for information on November 15, 2005, and December 1, 2005, respectively, to Respondent at her CRD address, via first-class and certified mail, pursuant to NASD Procedural Rule 8210. (Complaint at ¶ 8). Although on December 14, 2005, Respondent requested a seven-day extension to respond to the NASD staff's request for information, to date Respondent has failed to provide any information in

⁴ See *Dist. Bus. Conduct Comm. v. Bradley*, No. C07920042, 1994 NASD Discip. LEXIS 187, at *8 (NBCC Oct. 31, 1994) (stating that signing customer names under any circumstances without proper written authority cannot be condoned in the securities industry); *Dept. of Enforcement v. Bendetsen*, No. C01010025 (NAC Aug. 9, 2004).

response to any of the requests for information. (Complaint at ¶¶ 9-10). The Hearing Officer finds that based on her request for an extension, Respondent received actual notice of NASD's requests for information. In any event, pursuant to Rule 8210(d), Respondent is deemed to have received the Rule 8210 requests, which were sent to her CRD address.

Failure to comply with Rule 8210 requests for information is a serious violation because it subverts NASD's ability to perform its regulatory responsibilities.⁶

The allegations in the second cause of the Complaint, and the evidence submitted by Enforcement, are sufficient to establish that Respondent violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110, by failing to respond to the NASD staff's requests for information.⁷

IV. Sanctions

A. Failure to Respond to Rule 8210 Requests for Information

For failing to respond to the three requests for information, Enforcement recommended that Respondent be barred. The NASD Sanction Guidelines provide that a bar should be standard when an individual respondent does not respond in any manner to a request issued pursuant to Rule 8210.⁸ The record does not indicate the existence of any mitigating factors that would warrant a lesser sanction. Accordingly, the Hearing Officer accepts Enforcement's recommendation and bars Respondent for failing to respond to the three requests for information, in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

⁶ See, e.g., Richard J. Rouse, Exchange Act Rel. No. 32,685, 1993 SEC LEXIS 1831, at *7 (1993); Joseph G. Chiulli, Exchange Act Rel. No. 42,359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for NASD to conduct its investigations effectively, and emphasizing that NASD members and associated persons must fully cooperate with requests for information).

⁷ See Dep't of Enforcement v. Baxter, No. C07990016, 2000 NASD Discip. LEXIS 3, at **21, 25 (NAC Apr. 19, 2000).

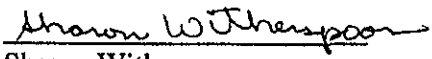
⁸ NASD Sanction Guidelines, p. 35 (2006).

B. The Hearing Officer Imposes No Separate Sanction for Respondent's Falsification of a Document

Because the Hearing Officer barred Respondent for her Rule 8210 violation, the Hearing Officer will impose no separate sanction on Respondent for violating NASD Conduct Rule 2110 by falsifying a document when she affixed the signature of her customer to an insurance application, without noting in any manner that the application had been signed by someone other than the customer, and thereby violated her employer's prohibition against representatives signing documents on behalf of customers, even with the customer's consent.⁹

V. Order

Respondent Caliope Makris is barred from associating with any NASD member firm in any capacity for violating NASD Conduct Rule 2110 and NASD Procedural Rule 8210 by failing to respond to three requests for information issued by the NASD staff. The bar will become effective immediately upon this Default Decision becoming the final disciplinary action of NASD.

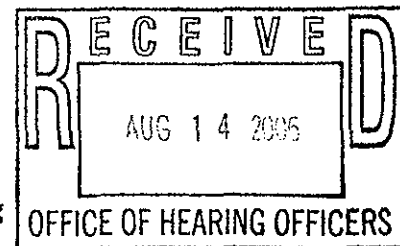

Sharon Witherspoon
Hearing Officer

Dated: Washington, DC
November 28, 2006

Copies to:
Caliope Makris (via FedEx and first class mail)
Richard A. March, Esq. (via electronic and first class mail)
Rory C. Flynn, Esq. (via electronic and first class mail)
Mark P. Dauer, Esq. (via electronic and first class mail)

⁹ Enforcement suggested that a hearing panel would likely impose a suspension of one month and a fine of \$5,000 on Respondent for violating NASD Conduct Rule 2110. (Motion p. 3).

**NASD
OFFICE OF HEARING OFFICERS**



DEPARTMENT OF ENFORCEMENT,

Complainant

vs.

CALIOPE MAKRIS
Limited Registered Representative
(CRD No. 4182361)

Respondent

**Disciplinary Proceeding
No. 2005001405001**

Hearing Officer

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. In or about June 2004, Caliope Makris ("Respondent") was registered as an Investment Company and Variable Contracts Products Representative with Pruco Securities LLC ("Member"), a member of NASD. In or about May 2005, the Member filed a Uniform Termination Notice for Securities Industry Registration (Form U-5), which terminated Respondent's association with the Member. Given that this complaint was filed within two years of the effective date of the termination of association of Respondent with the Member, Respondent is subject to the jurisdiction of NASD, pursuant to Article V, Section 4 of NASD's By-Laws.

FIRST CLAIM
NASD Conduct Rule 2110
Affixing a Signature

2. In or about June 2004, Respondent affixed the signature of public customer ET to a disability insurance application.

3. During all times mentioned herein, the Member maintained a compliance manual which contained a provision prohibiting representatives of the Member from signing a document on behalf of a customer, even if the customer gave consent to do so.

4. The disability insurance application signed by Respondent did not contain any notation evidencing that it had been signed by someone other than the customer whose name appeared on the document.

5. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent.

SECOND CLAIM
NASD Procedural Rule 8210
Failure to Respond

6. Paragraphs 1 through 5 above are realleged and incorporated herein by reference.

7. On or about October 24, 2005, NASD staff sent Respondent a letter requesting that she provide certain information regarding the allegation of affixing ET's signature to the disability insurance application, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The request for information was sent via first class mail and certified mail, return receipt requested, to Respondent's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mail was never returned

and the return receipt was sent back with Respondent's signature on it.

8. On or about November 15 and December 1, 2005, NASD staff sent Respondent additional requests to provide information, which were received by Respondent on November 17 and December 3, 2005.

9. On or about December 14, 2005, Respondent requested a seven-day extension to respond from NASD staff.

10. To date, Respondent has never provided the information requested by NASD staff.

11. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rule 2110 and Procedural Rule 8210 by Respondent.

PRAYER FOR RELIEF

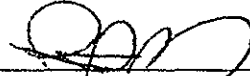
WHEREFORE, Complainant respectfully requests:

- 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 imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and

D. An order imposing any other fitting sanction.

NASD DEPARTMENT OF ENFORCEMENT

Date: August 11, 2006



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