

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT	
Complainant,	DISCIPLINARY PROCEEDING No. 2005001763401
v.	
LYNETTE JOAN JACOBS (A/K/A LYNETTE DAVIS) (CRD No. 1932387),	
Respondent.	

AMENDED COMPLAINT

Upon information and belief, the Department of Enforcement ("Enforcement") alleges as follows:

JURISDICTION

1. In or about October 18, 1989, Respondent Lynette Joan Jacobs ("Jacobs") first became registered with NASD as an Investment Company Products/Variable Contracts Representative ("IR") through her association with an NASD member firm.
2. From on or about November 12, 1992, through on or about July 5, 1999, Jacobs was registered as an IR through her association with Fleet Enterprises, Inc. (BD No. 17434)("Fleet").
3. Jacobs worked for Fleet from within a branch of the firm's bank affiliate.
4. From on or about August 27, 1999, through on or about December 11, 2001, Jacobs was registered with NASD as an IR through her association with Morgan Stanley DW Inc. (BD No. 7556)("MSDW"). From December 7, 1999, through December 11, 2001,

Jacobs was also registered as a General Securities Representative (“GSR”) through her association with MSDW.

5. From on or about May 20, 2002, through March 9, 2004, Jacobs was registered with NASD as a GSR and IR through her association with Citicorp Investment Services (BD No. 23988)(“Citicorp”).
6. Most recently, from August 27, 2004, through July 17, 2006, Jacobs was registered with NASD as a GSR through her association with a member firm. On July 17, 2006, this member firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U-5”) terminating Jacob’s registration. According to the Form U-5, Jacob’s last date of employment was July 12, 2006.
7. Although Jacobs is not currently registered with NASD, she remains subject to NASD jurisdiction pursuant to Article V, Section 4, of the Association’s By-Laws.

BACKGROUND

8. Customer ME is an 88 year-old retiree and former customer of Jacobs.
9. ME first met Jacobs when Jacobs was working for Fleet from within a New Jersey branch of the firm’s bank affiliate (hereinafter the “Bank Branch”).
10. ME eventually opened an account with Jacobs at MSDW and on or about March 19, 2001 ME purchased a \$56,000 variable annuity from Allstate. Jacobs was the broker on this investment.
11. In December 2001, Jacobs was terminated from MSDW and a new MSDW financial advisor was assigned to ME’s account.

FIRST CAUSE OF ACTION
VIOLATION OF NASD CONDUCT RULE 2330 AND 2110
(MISUSE OF CUSTOMER FUNDS)

12. Paragraphs 1 through 11 of this Complaint are re-alleged and incorporated herein by reference.
13. On or about March 3, 2003, an undated handwritten letter purportedly from ME was faxed to Allstate.
14. The letter stated that \$8,500 should be withdrawn from ME's Allstate annuity and a check should be sent to "Lynette Davis" at "[REDACTED]" (the "Elizabeth Address").
15. On or about March 3, 2003, an \$8,500 check was drawn on the account of ME's Allstate variable annuity (the "Allstate Check") and made payable to "Lynette Davis."
16. On or about March 3, 2003, the Allstate Check was mailed to the Elizabeth Address.
17. According to the Central Registration Depository ("CRD"), Jacobs has also used the name Lynette Davis.
18. Additionally, CRD indicates that from August 1999 through November 2004, Jacobs lived at the Elizabeth Address.
19. The Allstate check bears two signature endorsements: Jacobs and HS.
20. On or about May 13, 2003, the Allstate Check was posted to the personal bank account of HS, who was an acquaintance of Jacobs.
21. Upon receipt of her statement from MSDW, in or about March 2004, ME discovered that that the Allstate Check had been issued to Jacobs.

22. ME reviewed the undated handwritten letter received by Allstate that purportedly authorized the issuance of the \$8,500, and concluded that it was not in her handwriting and that her signature had been forged.

23. ME never authorized nor consented to the issuance of the Allstate Check or the manner in which the funds were used by Jacobs.

By reason of the foregoing, Jacobs violated NASD Conduct Rules 2330 and 2110.

SECOND CAUSE OF ACTION

VIOLATION OF PROCEDURAL RULE 8210 AND NASD CONDUCT RULE 2110

(FAILURE TO APPEAR FOR AN ON-THE –RECORD INTERVIEW)

24. Paragraphs 1 through 23 of this Complaint are re-alleged and incorporated herein by reference.

25. From August 2005 through May 2006, the staff of NASD's District No. 10 office (the "Staff") attempted to conduct an on-the-record interview ("OTR") of Jacobs on four different dates. The OTRs were rescheduled, or cancelled for a variety of reasons.

26. In July and October 2006, the Staff again attempted to conduct an OTR of Jacobs. These attempts were unsuccessful. Specifically:

First Request for an OTR

a. By letter dated July 24, 2006, sent to Jacobs, pursuant to and in accordance with NASD Procedural Rule 8210, at her last known residential address as reflected on CRD ([REDACTED]) (the "CRD Address"), the staff of NASD's District No. 10 office (the "Staff") requested that Jacobs appear for an OTR on August 9, 2006 (the "August 9th OTR").

b. Jacobs did not appear for the August 9th OTR.

- c. On August 9th, Jacobs called the Staff and informed them that she unaware she needed to appear for the OTR.
- d. Jacobs also gave the Staff her cellular phone number.

Second Request for an OTR

- a. By letter dated October 16, 2006, sent pursuant to and in accordance with NASD Procedural Rule 8210 at the CRD Address the Staff requested that Jacobs appear for an OTR on November 9, 2006 (the "November 9th OTR").
- b. The Staff conducted an Equifax search and discovered an alternate address for Jacobs ([REDACTED]) (the "Irvington Address").
- c. This second request letter was sent to the CRD Address and the Irvington Address.
- d. On October 16, 2006, the Staff called Jacobs at the cellular telephone number she provided and, after reaching her, informed Jacobs that she was expected to appear for the November 9th OTR.
- e. Jacobs did not appear for the November 9th OTR.

By reason of the foregoing, Respondent violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

PRAYER

WHEREFORE, Enforcement respectfully requests that the Panel:

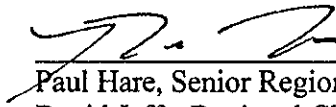
- A. order that one or more of the sanctions provided under NASD Rule 8310(a) be imposed, including that the Respondent be required to disgorge fully any

and all ill-gotten gains and/or make full and complete restitution, together with interest;

- B. order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

Dated: February 8, 2007

DEPARTMENT OF ENFORCEMENT


Paul Hare, Senior Regional Attorney
David Jaffe, Regional Chief Counsel
NASD, District 10
One Liberty Plaza, 48th Floor
New York, New York 10006
(212) 858-4773; Fax No. (212) 858-4770

NASD District Director

Hans Reich
NASD, District 10
One Liberty Plaza
New York, NY 10006

Of Counsel

Rory C. Flynn
NASD Department of Enforcement
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
(202) 974-2974; Fax No. (202) 721-8318

Mark P. Dauer, Of Counsel
NASD Department of Enforcement
1100 Poydras Street
Energy Centre, Suite 850
New Orleans, LA 70163