

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2005002244704**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Cynthia Bulinski, Respondent
CRD No. 1851735

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against her alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Cynthia Bulinski became registered with FINRA in 1988. She was registered as a General Securities Representative (Series 7) from May 1999 through May 2006 with McDonald Investments (McDonald). From May 2006 through August 2009, Bulinski was registered in the same capacity with Cadaret, Grant & Co. (Cadaret Grant). She was registered with J.W. Cole Financial, Inc. (J.W. Cole) as a Series 7 from September through November 2009. Bulinski is not currently registered or associated with a member firm, and has not been since November 2009.

RELEVANT DISCIPLINARY HISTORY

Bulinski has no prior relevant disciplinary history.

OVERVIEW

Bulinski, over the course of more than four years, from January 2004 through September 2008 (the relevant period), and through her employment with two member firms, made unsuitable recommendations to her elderly clients to purchase variable annuities. Some of her customers were of modest means and some invested most, if not all, of their investible assets in the variable annuities recommended by Bulinski.

Bulinski repeatedly failed to tailor her recommendations to meet the individual investment needs of her customers, and instead recommended the same variable annuity to her customers, irrespective of their age, investment experience, liquidity needs, financial situation, and risk tolerance. She recommended to 33 elderly customers in 48 transactions that each customer purchase the same variable annuity with an enhanced death benefit rider, but demonstrated that she did not have a reasonable basis for her recommendation because nine of the 33 customers were too old to purchase the rider and the rest gained little, if any benefit, from the rider while paying a substantial cost for it. Bulinski also recommended unsuitable variable annuities with a rider that was inconsistent with her customers' investment objectives to 72 customers in 92 transactions. By this conduct, Bulinski violated NASD Rules 2310, 2821, and 2110.

FACTS AND VIOLATIVE CONDUCT

Bulinski Recommended Unsuitable Variable Annuity Transactions

Bulinski worked out of a branch of McDonald Investment's affiliate bank from 1999 through January 2006. Thereafter, she worked in a branch office of Cadaret.

During her time at McDonald, Bulinski's customers were referred to her by tellers at the bank branch after the customers came in to the bank to reinvest proceeds from a certificate of deposit or complete other transactions. Most of her customers were elderly, retired investors. Some of them had limited liquid assets and investment experience limited to CDs or fixed annuities, and they entrusted the majority of their investment assets to Bulinski. When she left McDonald for Cadaret, many of her customers followed her, and those who did comprised the bulk of her client base at her new firm.

Almost all of Bulinski's compensation during the latter stages of her career at McDonald derived from commissions on variable and fixed annuity sales to her customers. From January 2004 through May 2006, more than 85% of Bulinski's compensation came from commissions on annuity sales. She was one of McDonald's top 15 variable annuity producers and sold more variable annuities than any other registered representative at the firm. At McDonald, she was the subject of nine written complaints from customers, who complained that they were misled by Bulinski's lack of disclosure about surrender charges and other details of the products she recommended they purchase, most of which were variable annuities. Her compensation at Cadaret derived exclusively from the sales of variable annuities.

A variable annuity is an insurance contract that offers investment features similar in many respects to mutual funds. A customer's premium payments to purchase a variable annuity are allocated to underlying investment portfolios, known as subaccounts, or to a guaranteed fixed interest subaccount that is part of the general account of the insurer. The subaccount value will fluctuate in response to market changes and other factors, and the investor assumes these investment risks.

Variable annuity customers are assessed various fees that generally make the investment more costly than an investment in a mutual fund. These include fees related to insurance features, such as the death benefit, the amount of money beneficiaries receive upon the customer's death; fees for withdrawing assets during the surrender period, often a seven-year period after purchase; and fees related to the optional features, known as riders. An investor may select a rider to guarantee a certain percentage of income every year or other withdrawal options, or to offer a potential increase in the value of the death benefit, but riders often have restrictions, including waiting periods, and charge annual fees for the life of the contract whether the benefit is used or not.

Thirty-three of Bulinski's customers purchased 48 variable annuities that were unsuitable for them. Her customers invested a total of \$4,127,611.71 in these variable annuities, with the size of the annuities ranging up to \$389,497.65. Bulinski recommended that each customer purchase the same variable annuity to the exclusion of other investments and purchase the same rider for that variable annuity. Her cookie cutter approach disregarded each customer's individual investment needs.

In numerous instances, she demonstrated that she did not understand the variable annuity. She inaccurately described the investment to one customer as a fixed annuity rather than a variable annuity and, with other customers, incorrectly stated the surrender period and surrender charges her customers would incur.

Bulinski recommended that each customer purchase the same enhanced death benefit rider. This rider provided customers with an enhanced death benefit equaling the greater of the standard death benefit or the highest contract value of the annuity (adjusted for withdrawals and additional premiums) on any anniversary date between the date the customer purchased the variable annuity and the annuitant's 81st birthday. Customers paid a substantial fee for the rider — 25% of the customer's initial premium for the life of the annuity. Any customer age 80 or older at the time of transaction was not eligible to purchase the rider.

Nine of Bulinski's 33 customers who purchased the rider were 80 years or older at the time of purchase and were, therefore, ineligible for the enhanced death benefit. The remaining customers were between 77 and 80 years old at the time of purchase, and for them, the rider was unsuitable because they stood little chance of benefitting from it while paying a substantial fee for it. These customers had few opportunities to obtain the enhanced benefit; they could "lock in" any increase on at most three occasions (if they were 77 years old) — the anniversary of their purchases when they were 78, 79, or 80 years old. Those customers who were older than 77 at the time they purchased the variable annuity had correspondingly fewer chances to benefit from

the rider. For that limited privilege, the customers paid .25% per year as long as they held the annuity.

Bulinski also typically recommended that her customers purchase a variable annuity with a five-year withdrawal schedule rider. This rider substituted the annuity's usual seven-year withdrawal charge schedule with a five-year withdrawal charge schedule, thus allowing customers access to their money, free of withdrawal or surrender charges, two years earlier than was normally the case. The cost of this rider to customers was .3% per year for as long as they held the annuity.

This rider provided no benefit, at considerable cost, to a customer with no liquidity needs or not needing to withdraw any principal from the annuity for at least 10 years. Nevertheless, Bulinski recommended that 72 of her customers, in 92 transactions, purchase this variable annuity with this rider, even though they stated on their variable annuity and/or new account applications that they had no liquidity needs or did not need to withdraw principal for at least ten years.

In light of the above, Bulinski lacked a reasonable basis for recommending that her customers purchase a variable annuity. Accordingly, Bulinski violated NASD Rules 2310, 2810 and 2110.

B. Respondent also consents to the imposition of the following sanctions:

A bar from association with any member of FINRA in any capacity.

Respondent understands that if she is barred or suspended from associating with any FINRA member, she becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, Respondent may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against Respondent;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudice of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondent understands that:

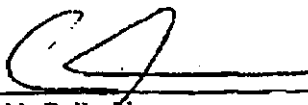
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or

any other regulator against her;

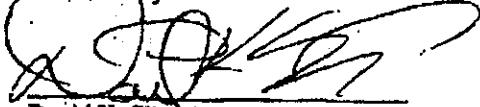
2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's disciplinary record;
3. *FINRA* may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

Respondent certifies that she has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that she has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce her to submit it.

12/1/10
Date


Cynthia Bulinski

Reviewed by:



David K. Silverberg
Counsel for Respondent
The Law Offices of Silverberg & Silverberg, LLP
515 Brisbane Building
Buffalo, NY 14203
716-854-6495

Accepted by FINRA:

12/16/10
Date

Signed on behalf of the
Director of ODA, by delegated authority



James E. Day
Chief Counsel and Associate Vice President
FINRA Department of Enforcement
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