

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant

v.

**Carolyn S. Everhard
Registered Representative
(CRD No. 2344119)**

Respondent

**Disciplinary Proceeding
No. 20050025930**

Hearing Officer

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. Between July 2005 and October 2005, Carolyn S. Everhard ("Respondent") was registered as an Investment Company/Variable Contracts Products Representative with Chase Investment Services Corp. ("Member"), a member of NASD. Respondent also is currently registered with an NASD member. Respondent therefore is subject to the jurisdiction of the NASD, pursuant to Article V, Section 4 of NASD's By-Laws.

**FIRST CLAIM
Conversion of Customer's Funds
Violation of NASD Conduct Rules 2110 and 2330(a)**

2. During all relevant times, J.C. was a member of the public who maintained a securities account with the Member and a checking account at the Member's affiliate, Bank One.

3. On or about August 10, 2005, Respondent met with customer J.C. and it was decided that J.C. would reduce her checking account balance from approximately \$16,400 to approximately \$10,000 by depositing \$6,400 in her existing variable annuity.

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4. To effectuate this transaction, J.C. signed and endorsed personal check #1544 payable to Bank One in the amount of \$6,400. Respondent cashed, or caused to be cashed, this check on J.C.'s behalf and had a cashiers check issued for \$6,000 payable to Life Investors, the annuity company.

5. Respondent failed to give the remaining \$400 to J.C., and thereafter used the remaining \$400 for her benefit or for the benefit of someone other than J.C., without the knowledge or consent of J.C.

6. On or about August 11, 2005, Respondent claimed to Bank One personnel that J.C. no longer wanted to deposit the funds in her variable annuity; rather, J.C. now wanted \$6,000 in cash delivered to her at her home.

7. Respondent then wrote, or caused to be written, "not used for purpose intended" on the \$6,000 cashier's check describe above and obtained \$6,000 in cash.

8. Respondent's bank supervisor directed Respondent, if Respondent intended to deliver the funds to J.C. at her home, to obtain a signed receipt from J.C.

9. Respondent represented to the Member that she delivered the funds to J.C., however, Respondent failed to obtain a signed receipt and when questioned was unable to specifically identify J.C.'s residence.

10. J.C. never received the funds from Respondent, however.

11. In fact, Respondent used the \$6,000 belonging to J.C. for her own use or benefit, or for the benefit of someone other than J.C., without the knowledge or consent of J.C.

12. The above acts, practices and conduct constitute a violation of NASD Conduct Rules 2110 and 2330(a) by Respondent.

SECOND CLAIM
Failure to Completely Respond to Requests for Information
Violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210

13. On or about February 6, 2006, NASD staff sent Respondent a first request that Respondent provide certain information and documents concerning Respondent's termination of registration from the Member, in accordance with NASD Procedural Rule 8210. This first request was sent by first class mail and by certified mail, return receipt requested, to Respondent's last known address, which also was Respondent's address of record as contained in the records of the Central Registration Depository ("CRD Address"). Neither mailing was returned to NASD staff.

14. On or about February 27, 2006, NASD staff sent to Respondent a second request for the same information and documents regarding this matter, in accordance with 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. Neither mailing was returned to NASD staff.

15. Also on or about February 27, 2006, after the second request for information and documents had been mailed, NASD staff received a letter with an Amended Form U-5 from Respondent, which noted that the customer complaint was oral and thus did not require disclosure. Respondent did not respond to any of the staff's questions presented in the earlier letters and stated that "any further questions can go to Chase."

16. On or about February 28, 2006, NASD staff sent Respondent another letter informing Respondent that she must respond to the staff's requests for information and documents, regardless of the concerns she expressed in her letter to staff. The letter was sent by

first class mail and by certified mail, return receipt requested, to Respondent's CRD Address pursuant to NASD Procedural Rule 8210. Neither mailing was returned to NASD staff.

17. On or about March 23, 2006, NASD staff received a letter from Respondent, in which Respondent provided answers to its information requests, but failed to provide the staff with copies of her bank account statements and securities account statements, as requested.

18. On or about March 28, 2006, NASD staff spoke with Respondent by telephone. The staff advised Respondent that she had to provide the staff with copies of her bank account statements and securities account statements, as requested. Respondent replied that she had retained an attorney and that she would not be giving the staff any such financial statements before consulting with her attorney.

19. In a letter a letter to NASD staff dated April 12, 2006, attorney Denise S. Barone advised the staff that she had been retained by Respondent, and that she had advised Respondent "...to obtain the requested bank statements, as identified in your letter dated February 6, 2006; as soon as those bank statements are available, I will forward them to you."

20. On or about May 25, 2006, having received no statements from Respondent, NASD staff sent a fourth request for Respondent's bank account statements and securities account statements. The letter was sent by first class mail and by certified mail, return receipt requested, to Respondent's CRD Address pursuant to NASD Procedural Rule 8210. Neither mailing was returned to NASD staff.

21. Sometime between approximately May 26, 2006 and June 8, 2006, Respondent left a telephone message with NASD staff. Respondent claimed to have had a family emergency

and had that she would not reply by June 8, the due date in the staff's May 25, 2006 letter. She also informed the staff that she was representing herself.

22. On June 22, 2006, the staff attempted to contact Respondent. Her telephone had been disconnected.

23. To date, Respondent has failed to respond to each and all of the requests for the bank and securities account statements as described in the paragraphs above, and the time and the dates for responding to the requests have passed.

24. The acts, practices, and conduct described above constitute a violation 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 violation charged and alleged herein;
- B. An order imposing sanctions upon Respondent in accordance with NASD 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: July 14, 2006



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