

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KARL E. ROESLER, JR.
(CRD No. 2455080),

Respondent.

Disciplinary Proceeding
No. 20050026124-01

Hearing Officer – AWH

DEFAULT DECISION

May 25, 2007

**Formerly registered representative barred for knowingly submitting
forged documents and concealing the forgeries, in violation of NASD
Conduct Rule 2110.**

Appearances:

James M. Stephens, Esq., for the Department of Enforcement.

No appearance by or for Karl E. Roesler, Jr.

DECISION

Background

On January 3, 2007, the Department of Enforcement filed the Complaint in this proceeding, alleging that Karl E. Roesler, Jr., knowingly submitted forged documents to his broker-dealer and concealed those forgeries, in violation of NASD Conduct Rule 2110. Roesler did not file an Answer to the Complaint, or to a Second Notice of Complaint. As a result, Enforcement filed a Motion for Entry of Default Decision on April 3, 2007, to which Roesler did not respond. Accordingly, pursuant to Procedural Rules 9215(f) and 9269, Enforcement's Motion will be granted, and the allegations in the Complaint, which is attached to this Decision, will be deemed admitted.

Findings of Fact¹

Respondent

As pertinent to the Complaint, Roesler was registered as a General Securities Representative through member firm MML Investors Services, Inc. ("MML"), from February 1, 2002, until he was terminated on September 22, 2005. He was later registered through another member firm from February 23, 2006, until his termination on December 31, 2006. He is not currently registered through any member firm.

The Forgeries

Roesler was the registered representative for MW and GW who had a joint account at MML. They were also Roesler's father-in-law and mother-in-law. MW passed away on November 23, 2003, but his name as a joint tenant was not removed from the account at MML. From April 21, 2004, through August 24, 2005, Roesler knowingly submitted 52 wire transfer documents to MML, for a total of \$127,549.56, which contained the signatures of MW that had been forged by GW. The instructions for the wire transfers were contained in letters which directed that money be wired from the joint account to various bank accounts.

Concealment of the Forgeries

In July 2005, MML's Anti-Money Laundering Unit noticed a large number of wire transfers from the account of MW and GW, and asked Roesler about them. Roesler stated that he had known MW and GW for close to 20 years, and that the purpose of the wire transfers was to help their two adult children who were mentally disabled. He did

¹ All findings of fact are based upon the admitted allegations in the Complaint, the Declaration in support of the Motion for Entry of Default Decision, and the exhibits attached thereto.

not disclose that they were his father-in-law and mother-in-law, nor did he disclose that MW was deceased.

The Anti-Money Laundering Unit later learned that MW and GW were Roesler's father-in-law and mother-in-law, and that MW had died in November 2003, well before the wire transfers began. The AML Unit conveyed that information to Roesler's branch manager who, along with another supervisor, asked Roesler about the wire transfers. Roesler told them that he had known MW and GW for years, saw them all the time, and had met with them a couple of weeks earlier. When the supervisors confronted Roesler with the fact that records showed MW had passed away in November 2003, Roesler admitted that he knew MW was deceased and that GW had been signing MW's name to the wire transfer letters that he submitted to the firm.

Later that same day, Roesler left a message for the branch manager, telling him that GW was his mother-in-law. At a meeting a few days later, he told the branch manager that GW signed for her deceased husband because she did not want to remove his name from the account. MML then terminated Roesler because of his failure to cooperate with its inquiry into the wire transfers.

During his on-the-record interview with NASD staff, Roesler said that he did not provide full disclosure of the facts when first questioned by the AML Unit because he did not want to confront his mother-in-law about the issue. He thought he had disclosed enough information so that the review of the wire transfers would be closed and he would not have to deal with the uncomfortable situation with his mother-in-law. He admitted that he also attempted to conceal the forgeries from his MML supervisors when they contacted him about the wire transfers.

Service of the Complaint

On January 3, 2007, Enforcement served Roesler with the Complaint and Notice of Complaint by first class and certified mail sent to his last known address as listed in the CRD. The certified mailing was returned unclaimed. The first class mailing was not returned. Roesler did not file an Answer.

On February 1, 2007, Enforcement served the Complaint and Second Notice of Complaint on Roesler by first class and certified mail sent to his CRD address. The receipt for the certified mailing was returned bearing the signature of "Karl Roesler." The first class mailing was not returned. Roesler did not file an Answer to the Complaint.

Discussion and Conclusions

Jurisdiction

Article V, Section 4 of the NASD By-Laws provides for a two-year period of retained jurisdiction over a registered person after the effective date of the person's termination of registration. During this period of retained jurisdiction, NASD may file a complaint based upon conduct that occurred while the individual was registered through a member firm, or based upon such person's failure to provide information requested pursuant to NASD Procedural Rule 8210, if the request was made, and the complaint is filed, during the foregoing period of retained jurisdiction.

Enforcement filed the Complaint on January 3, 2007, within two years of the termination of Roesler's registration. The Complaint alleges misconduct while Roesler was registered with an NASD member firm. Therefore, NASD has jurisdiction over this proceeding.

Respondent's Default

Enforcement properly served the Complaint on Roesler by sending it via first class and certified mail to his CRD address. Pursuant to NASD Procedural Rule 9134, the mailings provide constructive notice of the instant proceeding, and the fact that he signed the certified mail receipt for the Second Notice of Complaint and Complaint demonstrates that he had actual notice of this proceeding. Because Roesler failed to file an answer to the Complaint, Procedural Rules 9215(f) and 9269 authorize entry of a default decision against him. Accordingly, the allegations in the Complaint are deemed admitted.

Submission of Forged Documents and Concealment of Forgeries

NASD Conduct Rule 2110 requires that associated individuals "observe high standards of commercial honor, and just and equitable principles of trade." NASD's "disciplinary authority is broad enough to encompass business-related conduct that is inconsistent with just and equitable principles of trade, even if that activity does not involve a security."² The Securities and Exchange Commission and NASD have consistently held that forgery violates Conduct Rule 2110.³ Although he did not forge MW's signature, Roesler condoned the forgeries and facilitated their use in executing the wire transfers. That conduct has the same effect as the commission of the forgeries themselves. By submitting the letters of instruction with the forged signatures, Roesler knowingly submitted false documents to the firm. Falsifying documents is an archetypal

² *Daniel D. Manoff*, Exchange Act Release No. 46,708, 2002 SEC LEXIS 2684, at *12 (Oct. 23, 2002); *James A. Goetz*, Exchange Act Release No. 39,796, 1998 SEC LEXIS 499 (Mar. 25, 1998); *Ernest A. Cipriani, Jr.*, Exchange Act Release No. 33,675, 1994 SEC LEXIS 506 at *4 (Feb. 24, 1994).

³ It is well established that forgery is not consistent with high standards of commercial honor and just and equitable principles of trade as required by Rule 2110. *See, e.g., Donald M. Bickerstaff*, Exchange Act Release No. 35,607, 1995 SEC LEXIS 982 (Apr. 17, 1995)

violation of Conduct Rule 2110.⁴ By knowingly submitting documents with forged signatures and concealing those forgeries, Roesler violated NASD Conduct Rule 2110.

Sanctions

For forgery and/or falsification of records, the NASD Sanction Guidelines suggest a fine of \$5,000 to \$100,000, and, where mitigating circumstances exist, a suspension in any and all capacities for up to two years, or, in egregious cases, a bar.⁵ The principal considerations are (1) the nature of the documents forged or falsified, and (2) whether the respondent had a good-faith, but mistaken, belief of express or implied authority.

Here, the forged documents were important customer instructions to wire money out of a brokerage account to various bank accounts. Unauthorized withdrawals from customer accounts expose both the customer and the firm to risk of loss of those funds.

Roesler could have had no belief, mistaken or otherwise, that he had any authority to submit falsified documents to the firm. In fact, he engaged in a pattern of conduct over a 17-month period, concealed his misconduct from the firm, and misled the firm's investigators when he omitted to reveal material facts about MW and GW, and falsely claimed to have met with both of them recently. Accordingly, Roesler's conduct was egregious, and a bar is the appropriate sanction for it.

Conclusion

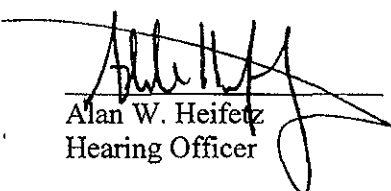
Karl E. Roesler is barred from association with any member firm in any capacity for knowingly submitting forged documents and concealing the forgeries, in violation of

⁴ See *Charles E. Kautz*, 1996 SEC LEXIS 994 (April 5, 1996); *Dep't of Enforcement v. Brookes McIntosh Bendetsen*, 2003 NASD Discip. LEXIS 30 (OHO July 8, 2003) (unethical to sign someone else's name without written authorization).

⁵ NASD SANCTION GUIDELINES, p. 39.

NASD Conduct Rule 2110. The bar shall become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.



Alan W. Heifetz
Hearing Officer

Copies to:
Vis First Class Mail & Overnight Courier
Karl E. Roesler, Jr.

Via First Class and Electronic Mail
James M. Stephens, Esq.
Mark P. Dauer, Esq.
Rory C. Flynn, Esq.

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

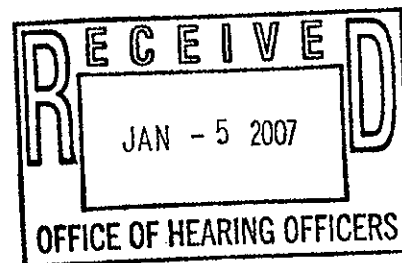
v.

**KARL E. ROESLER, JR.
General Securities Representative
(CRD No. 2455080)**

Respondent.

Disciplinary Proceeding No. 20050026124-01

Hearing Officer - ____



COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Roesler allowed his mother-in-law to forge her deceased husband's signature on 52 letters of authorization to wire money from a jointly-held brokerage account to various bank accounts. Roesler submitted these letters to his broker-dealer for execution knowing that his father-in-law was deceased and that the letters contained forgeries. Moreover, Roesler concealed these facts from his broker-dealer when questions arose about the letters of authorization.

JURISDICTION

2. From January 29, 2002 through September 8, 2005, Respondent Karl E. Roesler, Jr. was associated with NASD member MML Investors Services, Inc. (MML) and was registered with NASD as a general securities representative.

3. From February 21, 2006 through December 31, 2006, Roesler was associated with another NASD member and was registered with NASD as a general securities representative.

4. This Complaint is being filed within two years of Roesler's termination from association with an NASD member. Accordingly, NASD retains jurisdiction over this disciplinary proceeding pursuant to Article V, Section 4 of NASD By-Laws.

CAUSE OF ACTION

Standards of Commercial Honor and Principles of Trade Knowingly Submitting Forged Documents and Concealing Forgeries NASD Conduct Rule 2110

5. In February 2003, customers M.W. and G.W. opened an MML brokerage account with Roesler as the registered representative. M.W. and G.W. held the account as joint tenants with rights of survivorship.

6. M.W. and G.W. were Roesler's father-in-law and mother-in-law.

7. On November 23, 2003, M.W. died.

8. Although Roesler was aware of M.W.'s death, he took no action to notify MML of M.W.'s death, nor did he take any steps to remove M.W. as a joint tenant on the account.

9. From April 2004 through August 2005, MML received 52 letters of authorization instructing the broker-dealer to wire funds out of the brokerage account of M.W. and G.W. Through these letters, a total of \$127,549.56 was transferred from the MML brokerage account to various bank accounts.

10. Each of the 52 letters of authorization was purportedly signed by M.W. and G.W. G.W. forged her deceased husband's signature on each of these letters.

11. Roesler knew that G.W. was forging her deceased husband's signature on these letters of authorization. Roesler submitted the letters to MML for processing with knowledge that M.W. was deceased and that each letter contained a forgery.

12. In July 2005, the MML anti-money laundering compliance unit (the AML unit) became concerned about the amount of money that was being transferred out of the brokerage account of M.W. and G.W. The AML unit contacted Roesler to ask about the wire transfers.

13. Roesler responded that he had known M.W. and G.W. for close to twenty years and that the wire transfers were to help their children, who were mentally disabled. He did not disclose that M.W. and G.W. were his father-in-law and mother-in-law, nor did he reveal that M.W. was deceased.

14. The AML unit continued its investigation and independently discovered that M.W. and G.W. were Roesler's father-in-law and mother-in-law. Moreover, it was discovered that M.W. had died nearly two years ago. The AML unit referred the investigation to Roesler's supervisors in August 2005.

15. On September 1, 2005, C.P., Roesler's branch office supervisor, contacted him by telephone to ask about the wire transfers. Roesler stated that he had known M.W. and G.W. for years and saw them all the time. He further stated that he had met with M.W. and G.W. just a couple of weeks ago.

16. C.P. put Roesler on hold and conferred with P.R., another one of Roesler's supervisors. C.P. and P.R. then got on the telephone together with Roesler. P.R. asked Roesler whether he was aware that M.W. had passed away and, if so, whether he could explain how M.W.'s signature appeared on the letters of authorization. When confronted with these questions, Roesler finally admitted that M.W. was deceased and that G.W. had been forging M.W.'s signature on the letters of authorization.

17. Later that same day, Roesler left C.P. a voicemail in which he acknowledged that M.W. and G.W. were his father-in-law and mother-in-law. He also admitted that he had known that G.W. had been forging M.W.'s signature on the letters of authorization since his death.

18. On September 8, 2005, MML terminated Roesler's employment because of his failure to cooperate with its inquiry into the wire transfers.

19. Through this conduct, Roesler failed to observe the high standards of commercial honor and the just and equitable principles of trade, and thereby violated NASD Conduct Rule 2110.

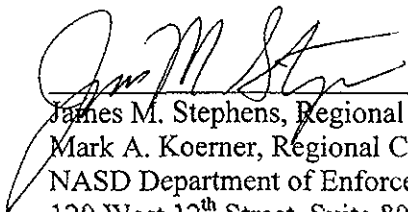
PRAYER

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Procedural Rule 8310(a), including monetary sanctions, be imposed against Roesler; and
- B. order that Roesler bear such costs of proceeding as are deemed fair and appropriate under the circumstances, in accordance with NASD Procedural Rule 8330.

NASD Department of Enforcement

Date: January 3, 2007


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