

**FINANCIAL INDUSTRY REGULATORY AUTHORITY<sup>1</sup>**  
**OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

FREDRICKA D. WATSON  
(CRD No. 849531),

Respondent.

Disciplinary Proceeding  
No. 20060052704

Hearing Officer – AWH

**DEFAULT DECISION**

November 7, 2007

**Formerly registered representative cheated on a continuing education examination, in violation of NASD Conduct Rule 2110, and failed to respond to Staff requests for information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. Respondent barred for both violations.**

Appearances:

Kevin G. Kulling, Esq., for the Department of Enforcement.

No appearance by or for Fredricka D. Watson.

**DECISION**

**Background**

On May 21, 2007, the Department of Enforcement (“Enforcement”) filed the Complaint in this proceeding, alleging that Fredericka D. Watson cheated on a continuing education examination, in violation of NASD Conduct Rule 2110, and failed to respond to FINRA Staff requests for information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. Watson failed to answer the Complaint. She also failed to file an Answer to the Second Notice of Complaint and Complaint that Enforcement filed on

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<sup>1</sup> As of July 30, 2007, NASD consolidated with the member firm regulation functions of NYSE and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD.

June 18, 2007. As a result, on August 9, 2007, Enforcement filed a Motion for Entry of Default Decision. Watson did not respond to that Motion. Pursuant to NASD Procedural Rules 9215(f) and 9269, the Motion will be granted, and the allegations in the Complaint, which is attached to this decision, will be deemed admitted.

### **Findings of Fact<sup>2</sup>**

#### **The Respondent**

Watson first entered the securities industry in February 2000. She was registered as an Investment Company/Variable Contracts Representative through FINRA member firm Allstate Financial Services, LLC, from December 7, 2000, to April 24, 2006. She is not currently associated with any member firm.

#### **Examination Cheating**

On April 21, 2006, Watson appeared at an off-site testing center in order to complete the Regulatory Element of Continuing Education. While completing the Regulatory Element, she took notes from her pocket, looked at them, and placed them on the desk where she was sitting. Watson was observed by a test administrator who approached her and confiscated the notes. Prior to taking the Regulatory Element, Watson acknowledged that she understood that she was prohibited from taking any personal items such as notes, formulas, or study materials into the examination room and that she agreed to turn over any such material in her possession to the testing center staff immediately prior to taking the examination.

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<sup>2</sup> All findings of fact are based on the admitted allegations in the Complaint, the Declaration Supporting a Motion for Entry of Default Decision, and the exhibits attached thereto.

### **Failure to Respond to Staff Requests for Information**

On August 7, August 23, and September 7, 2006, FINRA Staff sent Watson requests that she provide information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. Among other things, the Staff sought (1) confirmation that the copy of the notes that were confiscated by the test administrator were those that Watson consulted during the examination; (2) the origin of the notes she brought into the examination; and (3) an explanation for having the document, removing it from her pocket, and consulting the notes during the examination. The first request was sent to her CRD address by first class and certified mail. Watson signed the certified mail receipt, which contained a forwarding address. The second request was sent in the same manner to her CRD address and the forwarding address. Watson signed the certified mail receipt sent to the forwarding address. The third request was sent in the same manner to her CRD address and the forwarding address. The certified mail receipt sent to the forwarding address was signed by a third party. The first class mailing sent to the forwarding address was not returned. The mailings sent to the CRD address were returned, marked "unable to forward." Watson contacted the Staff, stating that she did not wish to work in the securities industry and that she refused to respond to the Staff's written requests for information.

### **Service of the Complaint**

On May 21, 2007, Enforcement served the Complaint and Notice of Complaint on Watson via first class and certified mail sent to both her CRD address and the forwarding address that she provided to the Staff. The first class mailing to the forwarding address was not returned. The certified mailing to that address was returned, marked

“Unclaimed.” The first class and certified mailings to the CRD address were both returned, marked “Return to Sender; Not Deliverable as Addressed; Unable to Forward; No Forward Order on File; Return to Postmaster of Addressee for Review.” Watson did not file an Answer to the Complaint.

On June 18, 2007, Enforcement served the Second Notice of Complaint and Complaint on Watson in the same manner. The certified mail receipt to the forwarding address was signed with an illegible signature. The first class mailing to that address was not returned. The certified and first class mailings to the CRD address were returned, marked “Return to Sender; Not Deliverable as Addressed; Unable to Forward.” Watson failed to file an Answer to the Complaint.

### **Discussions and Conclusions**

#### **Jurisdiction**

Article V, Section 4 of the FINRA By-Laws provides for a two-year period of retained jurisdiction over a formerly registered person after the effective date of the individual’s termination of registration. During this period of retained jurisdiction, FINRA 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 May 21, 2007, within two years of the termination of Watson’s registration. The Complaint is based upon conduct that occurred while she was registered through a FINRA member firm, and her failure to respond to

requests for information issued during the period of retained jurisdiction. Therefore, FINRA has jurisdiction over this proceeding.

### **Respondent's Default**

Enforcement properly served the Complaint on Watson by sending it via first class and certified mail to her CRD address and her last known address that she provided to the Staff. Pursuant to NASD Procedural Rule 9134, the mailings establish that she had at least valid constructive notice of the Complaint. The signed receipt for the certified mailing to the forwarding address strongly suggests that she had actual notice of the Complaint. Because Watson failed to respond to the Complaint, Procedural Rules 9215(f) and 9269 authorize entry of a default decision against her. Accordingly, the allegations in the Complaint are deemed admitted.

### **Examination Cheating**

The integrity of the securities industry is based upon the belief that members of the industry are knowledgeable, qualified, and honest. Cheating during Regulatory Element Continuing Education prevents FINRA, the employer, and the investing public from determining whether a registered representative is knowledgeable and qualified. Cheating on an examination is dishonest and is conduct inconsistent with the high standards of commercial honor and just and equitable principles of trade required of members of the securities industry. *See Dep't. of Enforcement v. Kenneth Shelley*, No. C3A050003, 2007 NASD Discip. LEXIS 8 (NAC Feb. 15, 2007) (holding that attempting to cheat on the Series 24 examination and failure to comply with the Rules of Conduct related to taking the examination violate Conduct Rule 2110's ethical standards); *see also Dist. Bus. Conduct Comm. v. John P. Galli*, No. C9A940025, 1995 NASD Discip. LEXIS

220 (NBCC June 22, 1995) (holding that cheating on a Qualification Examination is a violation of Conduct Rule 2110). By bringing notes into the testing center and using them during the examination, Watson violated NASD Conduct Rule 2110.

#### **Failure to Respond to FINRA Requests for Information**

Procedural Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information and testimony related to any matter under investigation. The Rule serves as a key element in FINRA's oversight function and allows FINRA to carry out its regulatory functions without subpoena power.<sup>3</sup> When an individual fails to respond to information requests, FINRA's ability to perform its regulatory responsibilities is subverted.<sup>4</sup>

Pursuant to Procedural Rule 8210, notice of a request for information is considered received if the request is mailed or otherwise transmitted to the person's last known CRD address. Enforcement mailed three requests for information to Watson at her last known CRD address. Accordingly, Watson received constructive notice of the requests for information. By signing the receipts for delivery of two of the requests sent by certified mail to the forwarding address, and by contacting the Staff to refuse to respond to those requests for information, Watson demonstrated that she had actual

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<sup>3</sup> See, e.g., *Dep't of Enforcement v. Valentino*, No. FPI010004, 2003 NASD Discip. LEXIS 15, at \*12 (NAC May 21, 2003), *aff'd*, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted); *Joseph G. Chiulli*, Exchange Act Release No. 42,359, 2000 SEC LEXIS 112, at \*16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for the FINRA effectively to conduct its investigations, and emphasizing that FINRA members and associated persons must fully cooperate with requests for information).

<sup>4</sup> *Joseph P. Hannan*, Exchange Act Release No. 40,438, 1998 SEC LEXIS 1955, at \*9 (Sept. 14, 1998). Further, a violation of Procedural Rule 8210 is also a violation of Conduct Rule 2110, contravening "high standards of commercial honor." *Dep't of Enforcement v. Baxter*, No. C07990016, 2000 NASD Discip. LEXIS 3, at \*25 (NAC Apr. 19, 2000).

notice of those requests. Her failures to respond in any way to those requests for information violated Procedural Rule 8210 and Conduct Rule 2110.

### **Sanctions**

For cheating or possessing unauthorized materials in the Regulatory Element of Continuing Education, FINRA Sanctions Guidelines provide that a bar is standard unless the unauthorized possession of materials does not rise to the level of cheating.<sup>5</sup> Here, Watson cheated because she utilized the material she brought into the examination. Accordingly, she will be barred from association with any FINRA member firm in any capacity for cheating on an examination, in violation of NASD Conduct Rule 2110.

For failing to respond in any way to requests for information made pursuant to Rule 8210, FINRA Sanction Guidelines provide that a bar is standard.<sup>6</sup> Here, Watson's failures to respond were clearly intentional. There are no mitigating circumstances that would warrant a lesser sanction. Accordingly, Watson will be barred in all capacities for failing to respond to requests for information, made pursuant to Procedural Rule 8210.

### **Conclusion**

Fredricka D. Watson is barred from association with any member firm in any capacity for (1) cheating on a continuing education examination, in violation of NASD Conduct Rule 2110, and (2) failing to respond to requests for information, in violation of

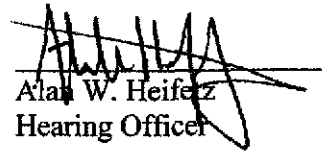
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<sup>5</sup> FINRA SANCTION GUIDELINES, at 43 (2007 ed.).

<sup>6</sup> *Id.* at 35.

NASD Procedural Rule 8210 and Conduct Rule 2110. The bars shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

**SO ORDERED.**

  
Alan W. Heifez  
Hearing Officer

**Copies to:**

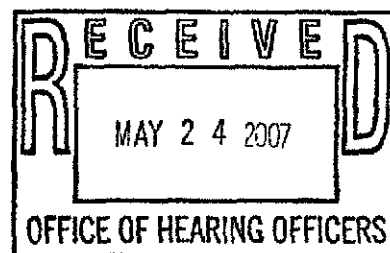
Fredricka D. Watson *(Via First Class Mail & Overnight Courier)*

Kevin G. Kulling, Esq. *(Via First Class & Electronic Mail)*

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David R. Sonnenberg, Esq. *(Via First Class & Electronic Mail)*

**NASD  
OFFICE OF HEARING OFFICERS**



**DEPARTMENT OF ENFORCEMENT,**

**COMPLAINANT,**

**v.**

**FREDRICKA D. WATSON  
CRD No. 849531**

**RESPONDENT.**

**DISCIPLINARY PROCEEDING  
No. 20060052704**

**COMPLAINT**

The Department of Enforcement alleges:

1. Fredricka Watson ("Respondent") was registered as an investment company/variable contracts representative of Allstate Financial Services, LLC, ("Member"), a NASD member, between February 13, 2000 and April 24, 2006. Respondent therefore is subject to the jurisdiction of the NASD, pursuant to Article V, Section 4 of NASD's By-Laws.

**FIRST CAUSE OF ACTION  
(Exam Cheating--Rule 2110)**

2. The Department realleges and incorporates by reference paragraph 1 above.
3. On or about April 21, 2006, Respondent appeared at an off-site testing center in order to complete the Regulatory Element of Continuing Education.
4. While completing the Regulatory Element, Respondent took notes from her pocket, looked at the notes, and placed the notes on the desk where she was sitting.

5. Respondent was observed by a test administrator, who approached Respondent and confiscated Respondent's notes.

6. Prior to taking the Regulatory Element, Respondent acknowledged that she understood she was prohibited from taking any personal items such as notes, formulas or study materials into the examination room and that she agreed to turn over any such material in her possession to the testing center staff immediately prior to taking the exam.

7. The above constitutes a violation of NASD Conduct Rule 2110.

#### **SECOND CAUSE OF ACTION**

(Failure to Respond to Staff Requests--Rule 8210 and 2110)

8. The Department realleges and incorporates by reference paragraphs one through seven above.

9. On or about August 7, 2006, NASD Staff sent to Respondent a request that she provide certain information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. That request for information was sent by first class mail and certified mail to Respondent's address of record as maintained in the records of the Central Registration Depository ("CRD address"). The certified mailing receipt was returned signed by Fredricka Watson and included a forwarding address. The first class mailing was not returned to Staff.

10. On or about August 23, 2006, NASD Staff sent to Respondent a second request that she provide the information originally requested on August 7, 2006, pursuant to and in accordance with Procedural Rule 8210. That request for information was sent by first class mail and certified mail to Respondent's CRD address as well as the forwarding address noted on the returned certified mailing receipt from the August 7, 2006 mailing. The certified mailing receipt

sent to the forwarding address was returned signed by Fredricka Watson. The other mailings were not returned to NASD Staff.

11. On or about September 7, 2006, NASD Staff sent to Respondent a third request that she provide the information that was originally requested on August 7, 2006, pursuant to and in accordance with Procedural Rule 8210. That request also was sent by first class mail and certified mail to Respondent's CRD address and to the forwarding address. The certified mailing receipt sent to the forwarding address was returned to staff signed by a third party. The first class mailing sent to the forwarding address was not returned. The first class and certified mailing sent to Respondent's CRD address were returned, marked "unable to forward."

12. Respondent has failed to respond to the requests for information described in Paragraphs 9, 10 and 11 above, and the dates for responding to the requests have passed.

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

### **PRAYER**

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed.
- 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.

**NASD DEPARTMENT OF ENFORCEMENT**

Date: 5-21-07

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