

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MARY DENISE GUSTAVSON
(CRD No. 4950885),

Respondent.

Disciplinary Proceeding
No. 2006007458501

Hearing Officer – LBB

DEFAULT DECISION

January 23, 2008

For Respondent's falsification of a document in violation of NASD Conduct Rule 2110, Respondent is barred in all capacities. Respondent is also barred for failing to provide requested information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110.

Appearances

George C. McGuigan, Jr., Regional Counsel, FINRA, Dallas, TX, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement ("Enforcement") filed the Complaint in this matter on September 12, 2007, asserting two causes of action against Respondent Mary Denise Gustavson ("Respondent"). The first cause of action alleges that Respondent altered financial documents to deceive her firm about a customer's qualifications to receive a loan and submitted the altered documents to her employer in violation of NASD Conduct Rule 2110. The second cause of action alleges that Respondent failed to respond to NASD Procedural Rule 8210 requests to

submit information relating to the termination of her employment, thereby violating Rules 8210 and 2110.

The Complaint and Second Notice of Complaint were served on Respondent by regular and certified first-class mail at her Central Registration Depository ("CRD") address.

Respondent did not file an Answer to the Complaint or to a Second Notice of Complaint. On December 5, 2007, Enforcement filed a Motion for Entry of Default Decision, to which Respondent did not respond. Accordingly, pursuant to NASD Procedural Rules 9215(f) and 9269, the allegations in the Complaint will be deemed admitted and Enforcement's motion will be granted.¹

I. Respondent's Default

Enforcement sent the Notice of Complaint and Complaint to Respondent at her CRD address by regular and certified first-class mail on September 11, 2007. On October 12, 2007, Enforcement sent the Second Notice of Complaint, together with a copy of the Complaint and Notice of Complaint, to Respondent at her CRD address, by regular and certified first-class mail. Respondent has not filed an Answer or otherwise responded to the Complaint.

Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with NASD Procedural Rule 9134, giving her constructive notice of this proceeding. By failing to respond, she defaulted.

II. Jurisdiction

Respondent entered the securities industry in June 2005 as an Investment Company and Variable Contracts Products Representative with FINRA member firm Wachovia Securities, LLC. Respondent's association with Wachovia Securities was terminated on November 9, 2006.

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the additional materials filed by Enforcement with its motion.

Although Respondent has not been associated with any FINRA member since then, she remains subject to FINRA jurisdiction for purposes of this proceeding, pursuant to Art. V, § 4 of FINRA's By-Laws, because the Complaint was filed within two years after the termination of her association with a member firm, and because it charges her with misconduct while she was associated with the firm and with failing to provide information requested during that two-year period.

III. Origin of the Investigation

On December 6, 2006, Wachovia Securities filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of Respondent, reporting the termination of her association and registration with the firm as of November 9, 2006. The Form U5 reported that Wachovia Securities had terminated Respondent because she had altered a document that she thereafter submitted to Wachovia Bank in order to assist a bank customer with obtaining a loan. FINRA staff began its investigation of Respondent following receipt of the Form U5.

IV. Violations

A. Falsification of Documents

NASD Conduct Rule 2110 requires that members "shall observe high standards of commercial honor and just and equitable principles of trade." A respondent violates the rule when she engages in unethical conduct. Dep't of Enforcement v. Geoffrey Ortiz, Complaint No. E0220030425-01, 2007 NASD Discip. LEXIS 28, at *15 (N.A.C. Oct. 10, 2007).

Falsification of documents is unethical conduct that violates Rule 2110. Dep't of Enforcement v. Geoffrey Ortiz, at *16. "Falsifying documents is a prime example of misconduct that adversely reflects on a person's ability to comply with regulatory requirements and has been held to be a practice inconsistent with just and equitable principles of trade." Dep't of Enforcement v.

Marylan Taylor, Complaint No. C8A050027, 2007 NASD Discip. LEXIS 11, at **22-23 (N.A.C. Feb. 27, 2007). FINRA's disciplinary authority under Rule 2110 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." Dep't of Enforcement v. Marylan Taylor, at *22 (citations omitted).

In October 2006, while associated with member firm Wachovia Securities, LLC, Respondent assisted customer SS in obtaining a loan from Wachovia Bank. Respondent was concerned that Wachovia Bank would reject SS's loan application because the customer did not have sufficient financial resources. To ensure that SS obtained a loan, Respondent retrieved a financial statement from a third person, LM, and pasted SS's name and date of birth over LM's name and date of birth to make it appear as if it were SS's financial statement. Respondent then copied the altered document and submitted the copy to Wachovia Bank for processing in support of SS's loan application.

Respondent falsified a document and submitted it to Wachovia Bank, thereby violating NASD Conduct Rule 2110.

B. Failure to Respond to Requests for Information

The second cause alleges that Respondent failed to respond to requests for information in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. FINRA staff mailed three requests to Respondent. Each letter requested that Respondent provide information by a certain date. All three letters were mailed to Respondent at her CRD address, and each letter stated that Respondent was required to respond pursuant to Rule 8210. Respondent never provided the requested information.

Rule 8210(a)(1) authorizes FINRA to require persons associated with a member to "provide information ... if requested, with respect to any matter involved in the investigation ...

[or] examination.” When Respondent registered with FINRA, she agreed that she understood and consented to abide by its rules, including the requirement to provide information requested by FINRA for its investigations. Toni Valentino, Exchange Act Release No. 49,255, 2004 SEC LEXIS 330, at **13-14 (Feb. 13, 2004). Rule 8210(c) imposes on associated persons and member firms an unqualified obligation to fully and promptly cooperate with requests made by FINRA under Rule 8210. As the SEC stated recently,

Rule 8210 is an essential tool for NASD’s enforcement responsibilities under the Securities Exchange Act of 1934. As we stated in our first opinion, “[i]t is well settled that, because NASD lacks subpoena power over its members, a failure to provide information fully and promptly undermines the NASD’s ability to carry out its regulatory mandate.” The Commission has taken a broad view of the scope of Rule 8210, finding, for example, that recipients of requests under Rule 8210 must respond to the requests or explain why they cannot and may not set conditions on their compliance. Nor is NASD required to justify its information requests.

Rooney A. Sahai, Exchange Act Release No. 55,046, 2007 SEC LEXIS 13, at *10 (Jan. 5, 2007).

A violation of Rule 8210 is also a violation of Rule 2110. Dep’t of Enforcement v. Hoeper, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

The allegations in the Complaint, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110.

V. Sanctions

For falsification of documents, the FINRA Sanction Guidelines recommend a suspension for up to two years, or, in egregious cases, a bar. FINRA Sanction Guidelines at 39 (2007).. The Guidelines identify two principal considerations: the nature of the documents forged or falsified and whether a respondent had a good faith belief that he had authority to sign the documents.

Both considerations support a finding that this is an egregious case. Respondent falsified the financial statement in order to qualify a customer for a loan for which she was not qualified, and to thereby earn a commission to which she was not entitled. The financial statement was an important document, containing information on which Wachovia would rely in determining whether to make a loan. If the loan were granted in reliance on false financial information, the likelihood of a default would be greater, potentially harming both Wachovia and the customer.

The customer was not aware that Respondent was going to create the falsified document, and Respondent had no authority to create the document. Furthermore, if the customer had authorized her to create and submit the falsified document, Respondent's actions would have been as a participant in a fraud on Wachovia, which would have provided an independent basis for a bar. A bar is the appropriate sanction for Respondent's falsification of a document in violation of Rule 2110.

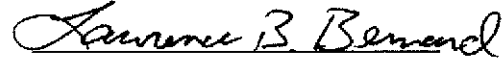
For failing to respond to requests for information, the Guidelines recommend a bar. FINRA Sanction Guidelines at 35. There is no evidence of any mitigating facts that would support a lesser sanction. Respondent had three opportunities to respond to the requests for information and failed to do so. Especially in light of the serious matter that the staff was investigating, a bar is the appropriate sanction for Respondent's failure to respond in violation of Rule 8210.

VI. Conclusion

Respondent is barred from associating with any FINRA member in any capacity for falsification of a document in violation of NASD Conduct Rule 2110. Respondent is also barred for failing to respond to requests for information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110.

The bar will be effective immediately if this decision becomes FINRA's final disciplinary action.

SO ORDERED.

A handwritten signature in cursive script, reading "Lawrence B. Bernard".

Lawrence B. Bernard
Hearing Officer

Copies to: Mary Denise Gustavson (*via overnight courier and first-class mail*)
George C. McGuigan, Jr., Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic and first-class mail*)

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**MARY DENISE GUSTAVSON
(CRD No. 4950885)**

RESPONDENT

**DISCIPLINARY PROCEEDING
No. 2006007458501**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In October 2006, and while registered with member firm Wachovia Securities, Gustavson altered a financial statement in order to assist customer S.S. with obtaining a loan from Wachovia Bank. In addition, FINRA (f/k/a National Association of Securities Dealers or NASD) staff mailed three letters to Gustavson requesting information from her; however, Gustavson failed to respond to all three request letters.

JURISDICTION

2. Respondent Mary Denise Gustavson entered the securities industry in April 2005 when she associated with FINRA member firm Wachovia Securities, LLC. In June 2005, and while associated with Wachovia Securities, she registered as an

Investment Company and Variable Contracts Products Representative.

Wachovia terminated Gustavson's association with the firm on November 9, 2006 and since that time, she has not associated with any other member of FINRA.

3. Although Gustavson is not currently associated, she remains subject to the jurisdiction of FINRA until November 8, 2008, pursuant to Article V, Section 4 of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly registered persons.

FIRST CAUSE OF ACTION

(Alteration of a Financial Document (Conduct Rule 2110))

4. The Department realleges and incorporates by reference paragraphs 1-3 above.
5. In October 2006, and while registered with member firm Wachovia Securities, Gustavson was assisting customer S. S. in obtaining a loan from Wachovia Bank. Based upon her experience, upon reviewing S.S.'s financial statement, Gustavson believed that Wachovia Bank would reject S.S.'s loan application because the customer did not have the requisite financial resources.
6. Believing that customer S.S.'s loan application would be rejected, and in order to ensure that S.S. obtained a loan, Gustavson retrieved a financial statement from a third person, L.M., and altered it to make it appear as if it were the financial statement of S.S. Gustavson effected the alteration by pasting S.S.'s name and date of birth over L.M.'s name and date of birth. Thereafter, Gustavson copied

the altered financial document, and submitted the copy to Wachovia Bank for processing in support of S.S.'s loan application.

7. Such acts, practices, and course of conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent Gustavson.

SECOND CAUSE OF ACTION

(Failure to Respond (Conduct Rule 2110 and Procedural 8210))

8. The Department realleges and incorporates by reference paragraphs 1-6 above.
9. By letter dated February 16, 2007, FINRA staff requested, pursuant to Procedural Rule 8210, that Gustavson provide written information concerning her termination from Wachovia Securities, and whether a written statement that Wachovia Securities had provided to the staff was in fact her statement, and whether the details in the written statement were accurate in all respects. FINRA staff mailed the February 16th request letter to Gustavson, via first class regular mail, at her CRD residential address, and the letter included a due date for the information of March 1, 2007. Gustavson failed to respond in any manner to the February 16th request letter. The February 16th request letter has never been returned to the District office.
10. Because Gustavson failed to respond to FINRA's February 16th request letter, the staff mailed another request letter to her. In this regard, by letter dated March 6, 2007, FINRA staff requested, pursuant to Procedural Rule 8210, that Gustavson provide the previously requested information in connection with her termination

from Wachovia Securities. FINRA staff mailed, via first class regular mail and certified mail, the March 6th request letter to Gustavson at her CRD residential address, and the letter included a due date for the information of March 20, 2007.

11. The first class regular mailing of the March 6th request letter has never been returned to the District office. The return receipt card for the certified mailing of the March 6th request letter was signed and returned to the District office reflecting delivery to Gustavson's CRD residential address. Gustavson failed to respond in any manner to the March 6th letter.
12. Because Gustavson failed to respond to the March 6th request letter, FINRA staff mailed a third request letter to her. In this regard, by letter dated March 22, 2007, FINRA staff requested, pursuant to Procedural Rule 8210, that Gustavson provide the previously requested information in connection with her termination from Wachovia Securities. The March 22nd request letter was mailed, via first class regular mail and certified mail, to Gustavson at her CRD residential address and the letter included the due date of April 4, 2007 for the information.
13. The first class regular mailing of the March 22nd request letter has never been returned to the District office. The return receipt card for the certified mailing of the March 22nd request letter was signed and returned to the District office reflecting delivery to Gustavson's CRD residential address. Gustavson failed to respond in any manner to the March 22nd letter.

Complaint
2006007458501/ Mary Denise Gustavson

14. Such acts, practices, and course of conduct constitute separate and distinct violations of NASD Conduct Rule 2110 and NASD Procedural Rule 8210 by Respondent Gustavson.

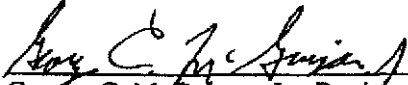
RELIEF REQUESTED

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.

FINRA DEPARTMENT OF ENFORCEMENT

Date: September 11, 2007


George C. McGuigan, Jr., Regional Counsel
Andrew Favret, Regional Chief Counsel
FINRA Department of Enforcement
12801 North Central Expressway
Suite 1050
Dallas, Texas 75243
(972) 701-8554; Fax: (972) 716-7646

Complaint
2006007458501/ Mary Denise Gustavson

Of Counsel

Rory C. Flynn
Vice President & Chief Litigation Counsel
FINRA Department of Enforcement
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
(202) 974-2974; Fax: (202) 721-8318

Mark P. Dauer
Deputy Chief Litigation Counsel – Regions
FINRA Department of Enforcement
1100 Poydras Street
Energy Centre, Suite 850
New Orleans, LA 70163
(504) 522-6527; Fax: (504) 522-4077