

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DAVID SUPERCINSKI,
(CRD No. 1125410),

Respondent.

Disciplinary Proceeding
No. 20070082087-01

Hearing Officer – RSH

DEFAULT DECISION

November 23, 2009

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REGISTRATION & DISCLOSURE

Respondent violated Conduct Rule 2110 by forging customer signatures and causing an unauthorized trade, and Procedural Rule 8210 and Conduct Rule 2110 by failing to respond to requests for information. For these violations, Respondent was barred from associating with any member firm in any capacity.

Appearances

Dorian M. Gross, Senior Counsel; Tracy Timbers, Director; and Linda Riefberg, Chief Counsel, New York, NY, for the Department of Enforcement.

No appearance by or for the Respondent.

DECISION

I. Introduction

The FINRA Department of Enforcement commenced the investigation that led to the Complaint against Respondent David Supercinski after Supercinski's member firm filed an amended Uniform Termination Notice for Securities Industry Registration ("Form U5") on June 18, 2007. The firm disclosed that several customers had filed complaints alleging that Supercinski had forged their signatures on variable annuity documents and made unauthorized transactions. On May 26, 2009, Enforcement filed a

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Complaint charging Supercinski with forgery and unauthorized trading, in violation of Conduct Rule 2110, and with failure to provide information, in violation of Procedural Rule 8210 and Conduct Rule 2110.¹

Supercinski did not answer or otherwise respond to the Complaint. Consequently, on September 25, 2009, Enforcement filed a Motion for Entry of Default Decision, which was supported by the Declaration of Dorian M. Gross and 24 exhibits. Supercinski did not reply to the motion.²

II. Jurisdiction

From October 1999, until July 2006, Supercinski was registered as a General Securities Representative of Woodbury Financial Services, Inc. ("Woodbury"), a FINRA member firm.³ On or about July 28, 2006, Woodbury filed a Form U5, which reported that it had discharged Supercinski for exaggerating financial information on new account forms.⁴ Supercinski has not been associated with a FINRA member firm since July 28, 2006.⁵ On June 18, 2007, and November 20, 2007, Woodbury filed amendments to Form U5, which reported that several customers had filed complaints alleging that Supercinski had forged their signatures and made unauthorized trades.⁶ Between June 25, 2007, and November 7, 2008, FINRA staff made eight separate requests for information, documents and testimony from Supercinski.⁷

¹ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. On December 15, 2008, the first phase of new consolidated FINRA Rules went into effect. See, Regulatory Notice 08-57. With respect to this decision, unless otherwise noted, the relevant FINRA Rules are identical to the corresponding NASD Rules.

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the additional materials filed by Enforcement.

³ Complainant's Exhibit (CX)-1; Declaration of Dorian M. Gross ("Gross Decl."), ¶¶ 4-5.

⁴ CX-2.

⁵ CX-1.

⁶ CX-3, 4.

⁷ Gross Decl., ¶¶ 14-25; CX-6, 8, 9, 11, 13, 14, 16, 17.

Although Supercinski is not currently associated with a FINRA member, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4(a) of FINRA's By-Laws, because (1) The Complaint alleges misconduct that occurred while Supercinski was registered with a FINRA member firm; (2) FINRA requested information from Supercinski when it still retained jurisdiction over him, i.e., within two years following Woodbury's filing of an amended Form U5 disclosing that Supercinski may have engaged in conduct actionable under securities laws and FINRA rules; and (3) the Complaint was filed within two years after Supercinski failed to provide information requested by FINRA.⁸

III. Respondent's Default

On May 27, 2009, Enforcement sent the Complaint and Notice of Complaint to Supercinski by first-class certified mail (return receipt requested) at his residential address as recorded in the Central Registration Depository ("CRD Address"). The Complaint and Notice of Complaint were also sent to Supercinski's attorney by first-class certified mail. The mailing sent to Supercinski's CRD Address was forwarded to another address ("Forwarding Address"), but eventually was returned to Enforcement marked, "Unclaimed." The receipt returned to Enforcement indicated that the mailing was delivered to Supercinski's attorney. Supercinski did not respond to the Complaint by June 24, 2009, the deadline specified in the Notice of Complaint.⁹

On July 1, 2009, Enforcement sent the Complaint and Second Notice of Complaint to Supercinski by first-class certified mail (return receipt requested) at his CRD Address and Forwarding Address. The Complaint and Second Notice of Complaint

⁸ See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

⁹ CX-19, 20; Gross Decl., ¶¶ 29-33.

were also mailed to Supercinski's attorney. The mailings sent to Supercinski were returned to Enforcement marked, "Unclaimed." The receipt returned to Enforcement shows that the mailing was delivered to Supercinski's attorney. The Second Notice of Complaint instructed Supercinski to file an answer to the Complaint by July 20, 2009; however, he failed to do so.¹⁰

Under FINRA Rule 9134(b)(1), the mailing of the Complaint to a respondent's CRD address constitutes valid service. Enforcement also mailed the Complaint to Supercinski's forwarding address after it became aware of that address. Accordingly, Supercinski received constructive, if not actual, notice of the Complaint.

To date, Supercinski has not filed an answer with the Office of Hearing Officers or otherwise responded to the Complaint. By failing to answer the Complaint, Supercinski defaulted.¹¹ Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's motion for entry of a default decision.

IV. Violations

A. Forgery

The First Cause of Action in the Complaint alleges that Supercinski violated Conduct Rule 2110 by forging the signatures of three Woodbury customers on documents, including variable annuity applications and transfer forms, without the customers' knowledge or consent. Supercinski was the registered representative of record for each of the customers, and his signature appeared on each of the annuity

¹⁰ CX-21, 23, 24; Gross Decl., ¶¶ 34-38.

¹¹ *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (NASD Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

applications submitted on behalf of the customers.¹² Woodbury stated in the Form U5 on which it reported Supercinski's discharge that he "exaggerated financial information...in order to increase commission advance amounts, resulting in numerous commission reversals."¹³

1. Customer SF

The Complaint alleges, and evidence in Enforcement files shows, that on or about August 2, 2005, Supercinski forged customer SF's signature on a variable annuity application and related documents, and falsely stated on the application that SF intended to make an initial purchase payment of \$541,000. On or about April 11, 2006, Supercinski forged SF's signature on another variable annuity application and related documents, and falsely stated on the application that SF intended to make an initial purchase payment of \$410,000. SF did not sign or consent to the submission of any of the documents, and he did not authorize the purchase of the annuities. The falsified documents did not result in the purchase of the variable annuities by SF.¹⁴

2. Customer EB

The Complaint alleges, and evidence in Enforcement's files shows, that on or about September 22, 2005, Supercinski forged customer EB's signature on a variable annuity application and related documents, and falsely stated on the application that EB intended to make an initial purchase payment of \$607,000. On or about December 1, 2005, Supercinski forged EB's signature on another variable annuity application and related documents, and falsely stated on the application that EB intended to make an initial purchase payment of \$531,000. EB did not sign or consent to the submission of

¹² Gross Decl., ¶ 10b.

¹³ CX-2, Item 3.

¹⁴ Complaint, ¶¶ 8-13; Gross Decl., ¶¶ 9-10.

any of the documents, and he did not authorize the purchase of the annuities. The falsified documents did not result in the purchase of the variable annuities by EB.¹⁵

3. Customer AI

The Complaint alleges, and evidence in Enforcement's files shows, that on or about October 12, 2005, Supercinski forged customer AI's signature on a variable annuity application and related documents, and falsely stated on the application that AI intended to make an initial purchase payment of \$415,206. AI did not sign or consent to the submission of any of the documents, and she did not authorize the purchase of the annuity. The falsified documents resulted in an unauthorized transfer of \$88,000 from AI's account, and in the purchase of a variable annuity for AI. Woodbury informed the issuer of the annuity contract of the forgery, and was able to cancel the transaction.¹⁶

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Supercinski forged customer documents, and thereby violated Conduct Rule 2110.

B. Unauthorized Trading

The Complaint's Second Cause of Action alleges, and evidence in Enforcement's files shows, that Supercinski violated Conduct Rule 2110 by causing the unauthorized transfer of AI's assets and the unauthorized purchase of a variable annuity for AI. The allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Supercinski made unauthorized transactions in AI's account, and thereby violated Conduct Rule 2110.¹⁷

¹⁵ Complaint, ¶¶ 14-20; Gross Decl., ¶¶ 9-10.

¹⁶ Complaint, ¶¶ 21-25; Gross Decl., ¶¶ 9-10, 12d-e.

¹⁷ Complaint, ¶¶ 28-30; Gross Decl., ¶¶ 11-12.

C. Failure to Provide Information, Documents and Testimony

The Complaint's Third Cause of Action alleges that Supercinski violated Procedural Rule 8210 and Conduct Rule 2110 by failing to comply with FINRA requests for information, documents and testimony.

On June 25, 2007, August 31, 2007, and September 14, 2007, FINRA Staff sent requests for information, by first-class and certified mail, to Supercinski at his CRD Address. The letters requested information about AI's and EB's claims that Supercinski had forged their signatures on variable annuity applications.¹⁸ Supercinski responded to the first two requests with letters saying that he would be unable to respond until he examined "copies of all items in the client files that are at Woodbury..." Supercinski did not respond to the September 14 request and never provided the information requested by FINRA.¹⁹

On March 12, 2008, FINRA Staff sent a request for documents to Supercinski at his CRD Address by first-class and certified mail.²⁰ On March 19, 2008, Supercinski called FINRA staff to request an extension of time to provide the documents. Supercinski was given until March 31, 2008, to produce the documents.²¹ After Supercinski failed to produce the documents by the new date, FINRA staff sent a second request on April 2, 2008. Supercinski did not respond to the April 2 request and to date, has not produced any of the documents requested.²²

¹⁸ Gross Decl., ¶¶ 14-17; CX-6,8,9.

¹⁹ Gross Decl., ¶¶ 14-18; CX-7, 10.

²⁰ Gross Decl., ¶ 19; CX-11.

²¹ Gross Decl., ¶ 20; CX-12.

²² Gross Decl., ¶¶ 21-22; CX-13.

On March 14, 2008, FINRA staff sent a request for testimony to Supercinski at his CRD Address by first-class and certified mail.²³ On April 14, 2008, FINRA staff received a letter from Supercinski's attorney notifying the staff that she represented Supercinski and directing them to send all further correspondence to her. She further stated that "due to the possibility a criminal case may arise from this incident," she had advised Supercinski not to appear for testimony.²⁴ On October 31, 2008, and November 7, 2008, FINRA staff sent two more requests for documents and testimony to Supercinski through his attorney, by facsimile, first-class mail and overnight delivery. None of the mailings or facsimiles was returned; however, the staff never received a response to the requests.²⁵

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Supercinski failed to respond to numerous requests for information, documents, and testimony, and thereby violated Procedural Rule 8210. A violation of Rule 8210 is also a violation of Rule 2110.²⁶

V. Sanctions

A. Forgery

Conduct Rule 2110 requires an associated person to "observe high standards of commercial honor and just and equitable principles of trade." It is well-settled that forgery is unethical conduct that violates Rule 2110.²⁷ For forgery, the FINRA Sanction

²³ Gross Decl., ¶ 23; CX-14.

²⁴ Gross Decl., ¶ 24; CX-15.

²⁵ Gross Decl., ¶¶ 25-27; CX-16, 17.

²⁶ *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, n. 28 (July 1, 2008); *Anthony H. Barkate*, 57 S.E.C. 488, 489, n. 1 (2004); *Department of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

²⁷ See *Department of Enforcement v. Geoffrey Ortiz*, 2007 FINRA Discip. LEXIS 3, at *16 (N.A.C. Oct. 10, 2007) (citing *Donald M. Bickerstaff*, 52 S.E.C. 232, 235-36 (1995)); *aff'd Geoffrey Ortiz*, Exchange Act Rel. No. 58416, 2008 SEC LEXIS 2401 (SEC Aug. 22, 2008).

Guidelines direct adjudicators to consider imposing a suspension for up to two years where mitigating factors exist, or a bar in egregious cases. The principal considerations in determining sanctions include: (i) the nature of the documents forged, and (ii) whether the respondent had a good-faith, but mistaken, belief of express or implied authority.²⁸

In this case, there do not appear to be any mitigating factors. The documents forged were important forms that were designed to authorize and cause transfers of funds for the purchase of variable annuities. Documents for multiple customers were forged, and there is no evidence that Supercinski had any belief that he had authority to sign the forms. This is an egregious case and Supercinski should be barred for his conduct.

B. Unauthorized Trading

Unauthorized trading is “a serious violation of just and equitable principles of trade.”²⁹ By causing assets to be transferred and a variable annuity to be purchased for AI without her authorization, Supercinski violated Conduct Rule 2110.

The Sanction Guideline for unauthorized transactions recommends a bar in egregious cases of unauthorized trading.³⁰ The unauthorized trade in this case is qualitatively egregious because, by forging AI’s signature, Supercinski attempted to conceal his actions and acted in bad faith. Supercinski should therefore be barred for his conduct.

C. Failure to Respond to Investigative Requests

A violation of Rule 8210 is serious because Rule 8210 is a key element in FINRA’s oversight function and allows FINRA to carry out its regulatory functions

²⁸ *FINRA Sanction Guidelines*, 39 (2007), www.finra.org/sanctionguidelines.

²⁹ *Jonathan Garrett Ornstein*, Exchange Act. Rel. No. 31557, 1992 SEC LEXIS 2972 (S.E.C. Dec. 3, 1992).

³⁰ *FINRA Sanction Guidelines*, 103 (2007).

without subpoena power.³¹ When an individual fails to provide information, FINRA's ability to perform its regulatory functions is subverted.³² For these reasons, the Sanction Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.³³ Supercinski failed to respond to numerous requests for information, documents and testimony. There is no evidence of any mitigating facts that would justify a sanction of less than a bar. Although Supercinski's attorney advised him not to attend the testimony scheduled by Enforcement, such advice is not mitigating.³⁴

Accordingly, Supercinski should be barred from associating with any FINRA member in any capacity for violating Rules 8210 and 2110.

VI. Order

For forging customer signatures and causing an unauthorized trade, in violation of Conduct Rule 2110, and for failing to respond to requests for information, documents and testimony, in violation of Procedural Rule 8210 and Conduct Rule 2110, David Supercinski is barred from associating with any member firm in any capacity. The bar

³¹ *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 314 (Nov. 14, 2008); *Joseph G. Chiulli*, Exchange Act Rel. No. 42359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000).

³² *Joseph P. Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

³³ *FINRA Sanction Guidelines* 35 (2007), www.finra.org/sanctionguidelines.

³⁴ *Howard Brett Berger*, *supra* at *20.

will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.

A handwritten signature in black ink, appearing to read "Rochelle S. Hall", written over a horizontal line.

Rochelle S. Hall
Hearing Officer

Copies to:

David Supercinski (*via first-class mail and overnight courier*)
Dorian M. Gross, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

David Supercinski
(CRD No. 1125410)

Respondent.

Disciplinary Proceeding
No. 20070082087-01

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. David Supercinski ("Supercinski") forged signatures on variable annuity applications and on other documents that he submitted to the member firm Woodbury Financial Services, Inc. ("Woodbury"). The three individuals whose signatures were forged had not authorized or requested the purchase of variable annuities. This conduct by Supercinski was in violation of NASD Conduct Rule 2110. Additionally, Supercinski failed to respond to requests for information, for documents, and for an on-the-record interview, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110.

RESPONDENT AND JURISDICTION

2. Supercinski became associated with Fortis Investors, Inc. ("Fortis") as an Investment Company and Variable Contracts Products Rep. (Series 6) in or about October 1999. In or about September 2000, Supercinski became associated with Fortis as a General Securities Representative (Series 7). Thereafter, Fortis became known as Woodbury. Supercinski remained associated with Woodbury until his involuntary termination on July 28, 2006.
3. On or about July 28, 2006, Woodbury filed a Full Form U-5, which reported that Supercinski was discharged on July 28, 2006 for "*exaggerating financial information on new account forms in order to increase commission advance amounts resulting in numerous commission reversals.*"
4. Within two years of the original notice of termination, Woodbury filed amendments to the original notice of termination, which disclosed that Supercinski may have engaged in additional conduct which is actionable under NASD Rules. These include an amended Form U-5 filed on or about June 18, 2007, and an amended Form U-5 filed on or about November 20, 2007.
5. Supercinski has not been associated with any member in any capacity since Woodbury terminated his employment, but as a result of amendments made to the original notice of termination, Supercinski remains subject to FINRA's jurisdiction until at least two years from the date of the November 20, 2007 amended Form U-5 filing, pursuant to Article V, Section 4 of FINRA's By-Laws.

FIRST CAUSE OF ACTION

Forgery

NASD Conduct Rule 2110

Forgery Relating to Customer SF

6. The Department realleges and incorporates by reference paragraphs 1 through 5, above.
7. On or about August 1, 2005, customer SF entered into an agreement with Supercinski to receive financial planning services. Also, in or about September 2005, SF opened an IRA at Woodbury, and Supercinski was the representative of record.
8. As set forth in paragraphs 9 and 11, below, Supercinski forged customer SF's signature to variable annuity applications and other documents without SF's prior knowledge or consent. Customer SF had not authorized Supercinski to purchase the annuities.
9. Supercinski forged or caused to be forged customer SF's signature to the following documents, in connection with an application to purchase a variable annuity from MetLife Investors USA Insurance Company ("MetLife Investors"). The forged documents are each dated August 2, 2005:
 - a. *MetLife Investors USA Variable Annuity Series VA Application*
 - b. *MetLife Investors Assignment and Transfer/Direct Rollover Request*
10. The variable annuity application referred to in paragraph 9, above, falsely stated that SF intended to make an initial purchase payment of \$541,000.
11. Supercinski again forged or caused to be forged customer SF's signature to the following documents, in connection with an application to purchase a variable annuity from

Security Benefit Life Insurance Company ("Security Benefit"). The forged documents are each dated April 11, 2006:

- a. Security Benefit SecureDesigns Variable Annuity Application*
- b. Security Benefit SecureDesigns Incoming Funds Transfer/Rollover*
- c. Woodbury New Account Form*
- d. Woodbury Point of Sale - Annuity*

12. The variable annuity application referred to in paragraph 11, above, falsely stated that SF intended to make an initial contribution of \$410,000.

13. The falsified documentation set forth in paragraphs 9 and 11, above, did not result in a purchase by customer SF of the respective variable annuities.

Forgery Relating to Customer EB

14. In or about March 2005, customer EB opened an IRA at Woodbury, and Supercinski was the representative of record.

15. As set forth in paragraphs 16 and 18, below, Supercinski forged customer EB's signature to variable annuity applications and other documents without EB's prior knowledge or consent. Customer EB had not authorized Supercinski to purchase the annuities.

16. Supercinski forged or caused to be forged customer EB's signature to the following documents, in connection with an application to purchase a variable annuity from MetLife Investors. The forged documents are each dated September 22, 2005:

- a. MetLife Investors USA Variable Annuity Series VA Application*
- b. MetLife Investors Assignment and Transfer/Direct Rollover Request*
- c. Woodbury Financial Services Account Form*

17. The variable annuity application referred to in paragraph 16, above, falsely stated that EB intended to make an initial purchase payment of \$607,000.

18. Supercinski again forged or caused to be forged customer EB's signature to the following documents, in connection with an application to purchase a variable annuity from Security Benefit. The forged documents are each dated December 1, 2005:
- a. *Security Benefit SecureDesigns Variable Annuity Application*
 - b. *Security Benefit SecureDesigns Incoming Funds Transfer/Rollover*
 - c. *Woodbury Financial Services Account Form*
 - d. *Woodbury Client Replacement Disclosure Letter*
19. The variable annuity application referred to in paragraph 18, above, falsely stated that EB intended to make an initial contribution of \$531,000.
20. The falsified documentation set forth in paragraphs 16 and 18, above, did not result in a purchase by customer EB of the respective variable annuities.

Forgery Relating to AI

21. As of approximately November 2005, Supercinski was identified as the representative for a variable annuity purchased with AI's 403(b) TSA assets.
22. As set forth in paragraph 23, below, Supercinski forged AI's signature to a variable annuity application and other documents without AI's prior knowledge or consent. AI had not authorized Supercinski to purchase the annuity.
23. Supercinski forged or caused to be forged AI's signature to the following documents, in connection with an application to purchase a variable annuity from Security Benefit. The forged documents are each dated October 12, 2005:
- a. *Security Benefit SecureDesigns Variable Annuity Application*
 - b. *Security Benefit SecureDesigns Incoming Funds Transfer/Rollover*
 - c. *Woodbury Financial Services Account Form*
 - d. *Woodbury Client Replacement Disclosure Letter*

24. The variable annuity application referred to in paragraph 23, above, falsely stated that AI intended to make an initial contribution of \$415,206.
25. The falsified documentation set forth in paragraph 23, above, did result in an unauthorized transfer of AI's 403(b) TSA assets in the amount of approximately \$88,000, and in a purchase of a Security Benefit variable annuity for AI.
26. Supercinski, without the authorization of SF, EB, and AI, submitted the respective falsified variable annuity applications and other documents that appeared to be signed by them.
27. As a result of the conduct set forth in paragraphs 6 through 26, above, Supercinski violated NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION

Unauthorized Trading

NASD Conduct Rule 2110

28. The Department realleges and incorporates by reference paragraphs 1 through 27, above.
29. As set forth in paragraphs 21 through 27, above, without AI's prior knowledge or consent, Supercinski falsified documentation which resulted in an unauthorized transfer of assets and in a purchase for AI of a Security Benefit variable annuity, where Supercinski was identified on the variable annuity statement as the representative.
30. As a result of the conduct set forth in paragraphs 28 through 29, above, Supercinski violated NASD Conduct Rule 2110.

THIRD CAUSE OF ACTION

Failure to Provide Information, Documents, and Testimony

NASD Procedural Rule 8210 and Conduct Rule 2110

31. The allegations contained in paragraphs 1 through 30, above, are hereby realleged and incorporated by reference.
32. By letter dated June 25, 2007 (the "June 25th Letter") Supercinski was advised that NASD was conducting an inquiry into a complaint by AI. The letter was sent by regular mail to Supercinski's last known residential address, as reflected in the Central Registration Depository (the "CRD Address"). Staff therein advised Supercinski that AI had alleged that he forged her name on documents used to transfer her funds to Security Benefit. Enclosed with the June 25th Letter was a copy of AI's complaint letter, a copy of the Security Benefit SecureDesigns Variable Annuity Application, and a copy of the Security Benefit SecureDesigns Incoming Funds Transfer/Rollover form. Supercinski was asked to provide certain information, including whether he signed or caused someone else to sign AI's name on the variable annuity application enclosed with the letter. Supercinski was advised that the request was being made pursuant to NASD Procedural Rule 8210.
33. Supercinski submitted a letter in reply to the June 25th Letter. Supercinski's reply was dated June 27, 2007, and was mailed in an envelope that reflected the CRD Address as the return address. Supercinski did not therein respond whether he had signed or caused someone else to sign AI's name on the variable annuity application. Supercinski said he could not answer staff's questions without reviewing the client file. More specifically, among other things, Supercinski stated in part, that he would need to review "*Copies of*

all docs, papers, forms, apps, notes, Profiles reports, emails and other correspondence, along with any marketing materials, and copies of statements from Security Benefit from 2005 to year end of 2006.”

34. By letter dated August 31, 2007 (the “August 31st Letter”) sent by staff to Supercinski at the CRD Address by regular mail and certified mail - return receipt (“certified mail”), staff followed-up on the requests for information that had been made in the June 25th Letter. In the August 31st Letter, staff noted that the June 25th Letter had enclosed copies of documents that contained signatures that AI had alleged were forged, and had also enclosed AI’s complaint letter. Staff advised Supercinski that the staff believed that he was previously provided with sufficient information to address AI’s allegations with respect to the completion of information on a variable annuity application, including the allegation that Supercinski had forged AI’s signature on the annuity application. Staff also advised Supercinski that FINRA had also received a complaint from EB, and that a copy of EB’s complaint was enclosed with the August 31st Letter. Supercinski was requested to respond to the allegations made by EB. Supercinski was also advised that the request by staff was being made pursuant to NASD Procedural Rule 8210, and he was asked to respond by September 10, 2007. The copy of the August 31st Letter sent by certified mail was returned unclaimed. The copy sent by regular mail was not returned.
35. By letter dated September 14, 2007 (the “September 14th Letter”) sent by staff to Supercinski at the CRD Address by regular mail and certified mail, staff enclosed a copy of the August 31st Letter, and requested that Supercinski respond to the requests made therein. Supercinski was instructed to respond by September 28, 2007. A return receipt

was received back for the certified delivery of the September 14th Letter, showing delivery.

36. By letter dated September 4, 2007 (but post-marked September 17, 2007, and stamped received by FINRA on September 18, 2007) Supercinski replied to the August 31st Letter. The reply was mailed in an envelope that had the CRD Address as the return address. In his letter, Supercinski did not respond to the requests for information by FINRA. Instead, Supercinski among other things, stated that “[w]ithout the complete copies of the information/files I previously requested I am unable to answer your questions about [AI] and [EB].”

Requests For Bank Statements

37. By letter dated March 12, 2008 (the “March 12th Letter”) sent to Supercinski at the CRD Address by regular and certified mail, staff requested that Supercinski produce certain bank statements for the period January 2005 through September 2006, for each bank account in which commission or other payments made to him from Woodbury were directly or indirectly deposited. Supercinski was advised that the request was being made pursuant to NASD Procedural Rule 8210. Supercinski was requested to produce the bank statements by March 24, 2008. A return receipt for the March 12th Letter was received back, with a signature.
38. On or about March 19, 2008, Supercinski advised staff through a telephone voice-mail message, that he had gathered some of the requested bank statements but that he required additional time to respond.

39. By letter dated March 25, 2008 (the "March 25th Letter") sent to Supercinski at the CRD Address, by regular mail and federal express, Supercinski was advised by staff that he would be granted an extension of time until March 31, 2008 to produce the requested bank statements.
40. The March 31, 2008 due date passed without any bank statements being produced by Supercinski.
41. By letter dated April 2, 2008 (the "April 2nd Letter") sent to Supercinski at the CRD Address by regular and certified mail, staff advised Supercinski that he had until April 10, 2008 to produce the requested bank statements. The April 2nd Letter enclosed a copy of the March 12th Letter and a copy of the March 25th Letter. Supercinski was again advised in the April 2nd Letter that the request for bank statements was being made pursuant to NASD Rule 8210. A return receipt for the April 2nd Letter was received back, with a signature.
42. Supercinski did not produce any bank statements on or before April 10, 2008, or at any time thereafter. Supercinski has not asserted that there are no bank statements that are responsive to FINRA's request.

Request For Testimony

43. By letter dated March 14, 2008 (the "March 14th Letter") sent to Supercinski at the CRD Address by regular and certified mail, staff requested that Supercinski appear for an on-the-record interview, to take place at FINRA's District Office in Dallas, Texas, commencing at 9:30 a.m. on April 15, 2008. Supercinski was advised that the request

was being made pursuant to NASD Procedural Rule 8210. A return receipt for the March 14th Letter was received back, with a signature.

44. By letter dated April 14, 2008, staff received a "Representation Letter" from Randy W. Bowers, Esq. ("Bowers"). In that letter, Bowers stated that she had been retained to represent Supercinski and that all information including court dates and correspondence should be directed to her office. Bowers also stated that "[d]ue to the possibility a criminal case may arise from this incident, I have advised my client not to appear for the meeting, April 15, 2008."
45. By letter dated October 31, 2008 (the "October 31st Letter") sent by staff to Bowers at her last known office address (the "Office Address") Bowers was asked "whether your client is now prepared to comply with FINRA's requests that he appear for a sworn on-the-record interview, and that he provide bank statements." Bowers was asked to advise staff in writing as soon as possible whether Supercinski "has any intention to comply with these requests by FINRA, and if so, when." The October 31st Letter was sent by facsimile and by regular mail.
46. By letter dated November 7, 2008 (the "November 7th Letter") sent to Bowers at the Office Address, staff enclosed a copy of the October 31st Letter, and again requested a written reply from Bowers as to whether Supercinski had any intention to comply with FINRA's requests that he appear for a sworn on-the-record interview and that he provide bank statements. The November 7th Letter was sent to Bowers by federal express.
47. No written reply was received from Bowers, and Bowers has not verbally offered to staff to make Supercinski available for an on-the-record interview, or to produce his bank

statements. To date, Supercinski has failed to testify and failed to produce his bank statements as requested.

48. As a result of the conduct set forth in paragraphs 31 through 47, above, Supercinski violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

RELIEF REQUESTED

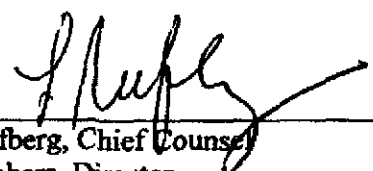
WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed.

FINRA DEPARTMENT OF ENFORCEMENT

Date: _____

5/21/09



Linda Riefberg, Chief Counsel
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