

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

RECEIVED
2009 JAN -5 A 7:08
REGISTRATION & DISCLOSURE

Department of Enforcement,

Complainant,

V.

Jon H. Josephson
CRD No. 2959512,

Respondent.

DISCIPLINARY PROCEEDING
No. 2007008238101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. During the period from December 1999 until June 2003, Respondent Jon H. Josephson, without the knowledge or consent of his wife DRJ, effected thirteen partial liquidations of DRJ's variable annuity in the total amount of approximately \$48,716.81 and made improper use of the proceeds of those liquidations. Also without DRJ's knowledge or consent, Josephson affixed her signatures to thirteen surrender or withdrawal request forms and as endorsements to thirteen checks payable to DRJ. In November 2008, Respondent Josephson failed to appear for an on-the-record interview as requested by FINRA staff.

JURISDICTION

2. Jon H. Josephson entered the securities industry in April 1988 as an associated person of Northwestern Mutual Investment Services, LLC ("NMIS") and another member of

FINRA. From on or about May 14, 1998, until on or about July 10, 2006, he was registered through NMIS as an Investment Company / Variable Contracts Representative.

3. On or about July 10, 2006, a Uniform Termination Notice for Securities Industry Registration ("Form U5") was filed by NMIS on behalf of Respondent Josephson. The Form U5 disclosed that Josephson had voluntarily terminated his registration on July 10, 2006.

4. On or about February 26, 2007, an Amended Form U5 was filed by NMIS on behalf of Respondent Josephson. The Amended Form U5 disclosed receipt of a complaint by customer DRJ against Respondent Josephson. By reason of the Amended Form U5, FINRA has jurisdiction to issue this Complaint pursuant to Article 5, Section 4 of its By-Laws.

5. Respondent Josephson is not currently registered or associated with any member firm; however, pursuant to Article V, Section 4 of the FINRA By-Laws, FINRA retains jurisdiction over him for purposes of this Complaint.

**FIRST CAUSE OF ACTION
(UNAUTHORIZED TRANSACTIONS (RULE 2110))**

6. The Department realleges and incorporates by reference paragraphs 1-5 above.

7. During the period from on or about December 6, 1999, until on or about June 20, 2003, while Respondent Josephson was registered through NMIS, his wife DRJ was the sole owner of a variable annuity held through NMIS. Respondent Josephson was the registered representative responsible for DRJ's variable annuity account.

8. During that time period, without the knowledge or consent of DRJ, and in the absence of written or oral authorization to exercise discretion in connection with her variable

annuity, Respondent Josephson submitted thirteen surrender or withdrawal requests through NMIS to the issuer of DRJ's variable annuity, and thereby caused the liquidation of \$48,716.81 from her variable annuity account. The withdrawals are listed in Schedule A, attached hereto and incorporated herein by this reference.

9. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent Josephson.

**SECOND CAUSE OF ACTION
(IMPROPER USE OF CUSTOMER FUNDS (RULES 2330 AND 2110))**

10. The Department realleges and incorporates by reference paragraphs 1-5 and 7-9 above.

11. As a result of the unauthorized partial liquidations of DRJ's variable annuity account, Respondent Josephson received thirteen checks payable to DRJ in the total amount of \$45,230.15, after deduction of withholding taxes, surrender charges and other fees.

12. Respondent Josephson negotiated the checks and spent the funds without the knowledge or consent of DRJ, and in a manner not intended or authorized by DRJ.

13. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2330(a) by Respondent Josephson. Such conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Conduct Rule 2110 by Respondent Josephson.

**THIRD CAUSE OF ACTION
(FORGERY (RULE 2110))**

14. The Department realleges and incorporates by reference paragraphs 1-5, 7-9 and 11-13 above.

15. During the period from on or about December 6, 1999, until on or about June 20, 2003, without the knowledge or consent of customer DRJ and in order to effect partial liquidations of DRJ's variable annuity account, Respondent Josephson affixed, or caused to affixed, the signatures of DRJ to thirteen surrender or withdrawal request forms.

16. During the period from on or about December 9, 1999, until on or about June 26, 2003, without the knowledge or consent of customer DRJ and in order to make improper use of DRJ's funds, Josephson affixed the signatures of DRJ as endorsements to thirteen checks payable to DRJ.

17. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent Johnson.

**FOURTH CAUSE OF ACTION
(FAILURE TO APPEAR AND PROVIDE TESTIMONY
(RULES 8210 AND 2110))**

18. The Department realleges and incorporates by reference paragraphs 1-5, 7-9, 11-13 and 15-17 above.

19. Respondent Josephson's residential address as reflected in FINRA's Central Registration Depository ("CRD") is [REDACTED] ("the CRD Address"). The FINRA staff also obtained a more recent mailing address for Respondent Josephson, [REDACTED] ("the Portland Address").

20. On October 31, 2008, the staff sent a letter to Respondent Josephson pursuant to NASD Procedural Rule 8210, requesting that he appear for an on-the-record interview on November 25, 2008, at the FINRA District Office in Seattle, Washington. The letter was

sent to the CRD Address and the Portland Address, via U.S. Postal Service first class mail and certified mail, return receipt requested.

21. The envelope sent to the CRD Address via first class mail on October 31, 2008, was returned by the U.S. Postal Service, marked "Return to sender, not deliverable as addressed, unable to forward." For the envelope sent to the CRD Address via certified mail, the staff received a Domestic Return Receipt bearing the signature of Molly Lott as "agent." Subsequently, the envelope was returned by the U.S. Postal Service, marked "Return to sender, not deliverable as addressed, unable to forward."

22. The envelope sent to the Portland Address via first class mail on October 31, 2008, was not returned by the U.S. Postal Service. For the envelope sent to the Portland Address via certified mail, the staff received a Domestic Return Receipt bearing the signature of Felicia Magallones.

23. Respondent Josephson did not respond to the staff's letters.

24. On November 25, 2008, Respondent Josephson did not appear in the FINRA District Office in Seattle, Washington, or provide testimony as requested by the staff in its letter of October 31, 2008.

25. Such acts, practices and conduct constitute a violation of NASD Procedural Rule 8210 by Respondent Josephson. Such conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Conduct Rule 2110 by Respondent Josephson.

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, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.
- B. order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: December 31, 2008



David Utevsky, Senior Regional Counsel
Jacqueline D. Whelan, Regional Chief Counsel
FINRA Department of Enforcement
601 Union Street, Suite 1616
Seattle, WA 98101
Phone: (206) 624-0790
Fax: (206) 623-2518
David.Utevsky@finra.org