

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DEBRA L. HANES
(CRD No. 5272382),

Respondent.

Disciplinary Proceeding
No. 20070110717-01

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

July 8, 2009

Respondent is barred from associating with any member firm in any capacity for her failure to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110. In light of the bar, no additional sanction is imposed for Respondent's forgery of her customer's signature on an insurance application, in violation of Conduct Rule 2110.

Appearances

John S. Han, Senior Regional Counsel, San Francisco, CA (Mark P. Dauer, Deputy Chief Litigation Counsel, Of Counsel) for the Department of Enforcement.

No appearance by or on behalf of Debra L. Hanes.

DECISION

I. Introduction

On April 15, 2009, the Department of Enforcement ("Enforcement") filed the attached Complaint against Debra L. Hanes ("Hanes" or the "Respondent"). The Complaint charges that Hanes forged her customer's signature on an insurance application form and then submitted the falsified form to the insurance company, in violation of NASD Conduct Rule 2110. The Complaint further charges that Hanes failed to respond to requests for information FINRA issued pursuant to Procedural Rule 8210 in the course of its investigation into her forgery of the

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insurance application form, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

Hanes did not answer or otherwise respond to the Complaint. Accordingly, on June 23, 2009, Enforcement filed a Motion for Entry of Default Decision with the Office of Hearing Officers, which is supported by the Affidavit of John S. Han, Esq., and six attached exhibits, which are labeled CX-1 through CX-6. The Respondent did not reply to the motion.

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Hanes entered the securities industry in January 2007 when she became associated with Country Capital Management Company ("Country Capital"), a FINRA member. On June 14, 2007, she became registered as an Investment Company and Variable Contracts Products Representative. Country Capital discharged Hanes on October 22, 2007, because it had concluded that she had forged her customer's signature on documents relating to the customer's insurance policy. Hanes' registration with FINRA terminated on November 7, 2007.¹

Although Hanes is not currently registered with FINRA, FINRA has jurisdiction of this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's Bylaws, because (1) the Complaint was filed within two years following the termination of her registration with FINRA, and (2) the Complaint charges her with misconduct committed while she was associated with a FINRA member firm and with failing to respond to FINRA's requests for information made during the two-year period following the termination of her registration.²

¹ CX-2; CX-3.

² Article V, Sec. 4(a), FINRA By-Laws, *available at* www.finra.org/rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: Bylaws").

B. Respondent's Default

The Hearing Officer finds that Enforcement properly served the Respondent with the Complaint. Enforcement mailed the Complaint and the First and Second Notice of Complaint to the Respondent at her most current residential address shown in the Central Registration Depository (the "CRD Address"). Enforcement sent each mailing by first-class certified mail. Enforcement also sent the Complaint and notices to Hanes at a second address she provided Enforcement on February 19, 2009. Enforcement mailed the first notice on April 15, 2009, and the second notice on May 14, 2009.³

Hanes did not respond to either of the notices, and to date she has not filed an Answer with the Office of Hearing Officers. Accordingly, the Hearing Officer finds Hanes in default and, pursuant to Procedural Rules 9215(f) and 9269(a)(2), deems the allegations in the attached Complaint admitted.⁴

C. Origin of Disciplinary Proceeding

FINRA began its investigation of Hanes on October 31, 2007, after Country Capital filed a disclosure form with FINRA that stated Country Capital had terminated Hanes' employment for "rebating a total of \$140 in non-variable life insurance premium payments and for forging a customer's signature on a non-variable life insurance policy application."⁵ In connection with that investigation, FINRA staff sent Hanes two requests for information about her alleged misconduct. As discussed below, Hanes did not provide the requested information.

³ Han Decl. ¶¶ 7-8.

⁴ *Dep't. of Enforcement v. 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)).

⁵ Han Decl. ¶ 10.

D. Forgery

The First Cause of Action alleges that, on July 31, 2007, and while Hanes was associated with Country Capital, she signed customer DM's name on an "Amendment to Life Insurance Application" without DM's knowledge or authorization. On October 12, 2007, in a written statement she provided Country Capital, Hanes admitted that she forged DM's signature.⁶

The Hearing Officer finds that the evidence is sufficient to establish that Hanes forged her customer's signature and thereby violated NASD Conduct Rule 2110, which requires adherence to high standards of commercial honor and just and equitable principles of trade.⁷

E. Failure to Respond to Requests for Information

The Second Cause of Action alleges that Hanes failed to respond in any manner to two requests for information. The Complaint alleges that FINRA issued the requests dated January 8 and January 24, 2008, pursuant to, and in accordance with, Procedural Rule 8210. Each request was sent by first-class certified mail to Hanes's CRD Address and the alternate address she had provided to FINRA during a telephone conversation on January 8, 2008.⁸ Hanes did not respond to either request.

The Hearing Officer finds that the evidence is sufficient to establish that Hanes violated Procedural Rule 8210 and Conduct Rule 2110 by failing to respond in any manner to FINRA's information requests.

⁶ Han Decl. ¶ 14.

⁷ *Dep't of Enforcement v. Kirlin Secs., Inc.*, No. EAF0400300001, 2009 FINRA Discip. LEXIS 2, at *57 (N.A.C. Feb. 25, 2009) ("It is well established that signing a customer's name to documents, without authority, is forgery and is inconsistent with just and equitable principles of trade and violates the high standards of commercial honor set forth in NASD Rule 2110.").

⁸ Han Decl. ¶¶ 17-18, 20.

III. Sanctions

A. Forgery

For forgery and falsification of records, FINRA's Sanction Guidelines ("Guidelines") recommend a fine of \$5,000 to \$100,000, and a suspension in any or all capacities for up to two years in cases where mitigating factors exist. In egregious cases, the Guidelines recommend a bar.⁹ The Guidelines instruct adjudicators to consider, in addition to the principal considerations and general principles applicable to all violations, the nature of the document forged and whether respondent had a good faith, but mistaken, belief of express or implied authority.¹⁰

Applying the applicable Guidelines, the Hearing Officer finds that Respondent's violation was serious. The record contains no evidence that Hanes had a mistaken but good-faith belief that she had her customer's authorization to sign the insurance application on his behalf. Indeed, Hanes submitted a written statement to her firm in which she admitted that she lacked the authority to sign her customer's name to the form. She explained that she signed the form because she could not reach her customer and she needed to get the form and payment to the insurance company so that the policy would not be canceled. In addition, the Hearing Officer finds that the nature of the forged document is significant. The importance of the form to the insurance company is apparent from the fact that it would have canceled the policy if it did not receive the form and payment timely. On the other hand, Hanes' misconduct was not egregious. Enforcement notes that the customer was not harmed, and the evidence supports the conclusion that this was a single, isolated incident.¹¹ For these reasons, the Hearing Officer finds that the

⁹ FINRA Sanction Guidelines 39 (2007), available at www.finra.org/sanctionguidelines.

¹⁰ *Id.*

¹¹ *Id.* at 6 (Principal Considerations in Determining Sanctions, Nos. 8, 9, 11).

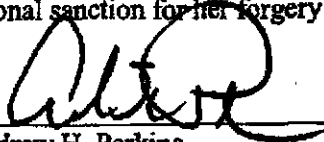
appropriate sanctions for this violation is an 18-month suspension from associating with any member firm in any capacity and a \$10,000 fine.

B. Failure to Respond to Requests for Information

The Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Procedural Rule 8210.¹² Here, the Respondent failed to respond in any manner to two written requests that she provide information regarding her forgery of her customer's signature. There are no mitigating factors that would justify a sanction less than a bar.

IV. Order

Debra L. Hanes is barred from associating with any member firm in any capacity for failing to respond in any manner to FINRA's requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA. In light of the bar imposed for this violation, the Hearing Officer will not impose an additional sanction for her forgery violation.


Andrew H. Perkins
Hearing Officer

Copies to:

Debra L. Hanes (by FedEx, next day delivery, and first-class mail)
John S. Han, Esq. (by electronic and first-class mail)
Mark P. Dauer, Esq. (by electronic mail)
David R. Sonnenberg, Esq. (by electronic mail)

¹² FINRA Sanction Guidelines 35.

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

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REGISTRATION & DISCLOSURE

Department of Enforcement,

Complainant,

v.

Debra L. Hanes (CRD No. 5272382)

Respondent.

DISCIPLINARY PROCEEDING
No. 2007011071701

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Debra L. Hanes forged the signature of an insurance customer on an insurance application form, without the customer's knowledge, authorization or consent. She also failed to provide information requested by FINRA staff pursuant to NASD Rule 8210.

RESPONDENT AND JURISDICTION

2. Respondent entered the securities industry in January 2007 as an associated person of FINRA member Country Capital Management Company (CCMC). In June 2007, she registered with FINRA through CCMC as a Limited Representative -- Investment Company and Variable Contracts Products.
3. Respondent ceased her association with CCMC on October 22, 2007. Since that time, she has not become associated with any FINRA member. Respondent nevertheless remains subject to FINRA's jurisdiction for purposes of this Complaint, pursuant to Article V, Section 4(a)(i) of the FINRA By-Laws.

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**FIRST CAUSE OF ACTION
Forgery (Rule 2110)**

4. The Department realleges and incorporates by reference paragraphs 1 through 3, above.
5. On or about June 28, 2007, CCMC's insurance affiliate issued an insurance policy for Respondent's customer D.M.
6. On or about July 31, 2007, Respondent signed D.M.'s name on an "Amendment to Life Insurance Application" form, without D.M.'s knowledge, authorization or consent, and submitted it to CCMC's insurance affiliate in order to prevent the cancellation of D.M.'s policy.
7. By signing D.M.'s name without authorization, as described in paragraph 6 above, Respondent violated NASD Rule 2110.

**SECOND CAUSE OF ACTION
Failure to Provide Information (Rules 8210 and 2110)**

8. The Department realleges and incorporates by reference paragraphs 1 through 7, above.
9. On or about January 8, 2008, FINRA staff sent a letter (First 8210 Request) by First Class and Certified Mail to Respondent at her most recent address as reflected in CRD, [REDACTED] (CRD Address). The staff also sent the First 8210 Request to an alternate address that Respondent had previously disclosed, [REDACTED] (Lotus Address). The First 8210 Request required Respondent to provide information pursuant to NASD Rule 8210 concerning the matters alleged in paragraph 6, above. The due date for the First 8210 Request was January 22, 2008.
10. FINRA staff never received from Respondent any response to the First 8210 Request.

11. On or about January 24, 2008, FINRA staff sent a letter (Second 8210 Request) by First Class Mail and Certified Mail to Respondent at the CRD address and the Lotus Address. The letter included a copy of the First 8210 Request and, again pursuant to Rule 8210, requested that Respondent respond to the questions in the First 8210 Request by February 7, 2008.
12. FINRA staff never received from Respondent any response to the Second 8210 Request.
13. By failing to respond to the staff's requests for information, Respondent committed separate and distinct violations of NASD Rules 8210 and 2110.

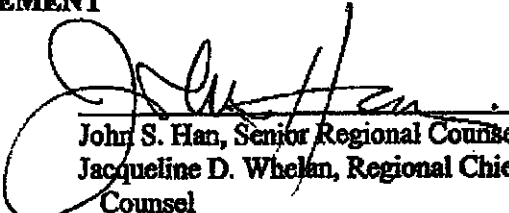
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), 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 FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: April 15, 2009



John S. Han, Senior Regional Counsel
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Counsel

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