

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

BETTY LYNN SALEH,
(CRD No. 2146402)

Respondent.

DISCIPLINARY PROCEEDING
No. 2008012738001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. This case involves a pattern of violations of NASD and FINRA rules and the antifraud provisions of the federal securities laws by Respondent Betty Lynn Saleh during the period from about November 2004 through April 2009 (the relevant period), arising from her activities as a registered representative with a FINRA member firm. During the relevant period, with no apparent benefit to her customers while accumulating large commissions, Saleh engaged in a pattern of unsuitable transactions, exercised widespread discretion without written authorization and, in certain circumstances, engaged in unauthorized trading. Saleh usually began with unsuitable recommendations to her customers that they purchase variable annuities and, subsequently, that they make unsuitable partial and full annuity withdrawals to make other investments. Initially, Saleh switched the variable annuity withdrawal proceeds into new annuities, which often were unauthorized and unapproved transactions. Over time, and as

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scrutiny of her variable annuity business increased, Saleh began using the variable annuity withdrawals and surrenders as a source of funds to switch investors into offerings of closed end funds (CEFs), unit investment trusts (UITs), reverse convertible securities, and an occasional mutual fund. Even though these pooled and structured products are intended for long term investing, Saleh held the products for less than a year before she switched her customers into similar investments, often in a new offering, earning concessions and commissions as her clients' losses mounted.

2. As alleged below, Saleh accomplished these transactions through deceitful practices, including falsifying documents with forged signatures and false contact information, mismarking tickets, destroying transaction documents, and causing false entries on customer statements. Saleh also often made misstatements or omissions directly to customers, her firms, and the variable annuity issuers, including that many of the variable annuity transactions constituted annuity exchanges, thus avoiding additional supervisory review, and that she was not being compensated for the transactions she recommended.

3. Saleh carefully chose the customers who were subjected to her misconduct, picking those customers who were unsophisticated and/or very trusting. As alleged below, among Saleh's victim customers were a conservative retiree with little investment expertise who developed dementia and cancer; a successful older businessman who owned and operated a heavy machinery transportation company and was not a sophisticated investor; and an attorney who relied fully on Saleh's management of his pension plan. All of these customers placed their trust in Saleh and were either too naïve or too trusting to realize fully the impact of Saleh's transactions in their investment portfolios. They also generally were not aware of the fee, commission and concession charges they were paying Saleh as she aggressively recommended

high-commission annuities, surrendered and switched the annuities, often using forgeries, and then traded the annuity proceeds in the three individual customers' portfolios to substantial losses in the CEFs, UITs, mutual funds and reverse convertible securities.

4. By virtue of this conduct, Saleh violated Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 promulgated thereunder, and, during respective periods as noted below, NASD Conduct Rules 2110, 2120, 2310, 2510(b), and 3110, and FINRA Rules 2010 and 2020.

RESPONDENT AND JURISDICTION

5. From June 10, 1991 through December 21, 2001, Saleh was registered with a FINRA member firm. From December 21, 2001 through October 24, 2004, Saleh was registered with Wachovia Securities, LLC (formerly known as First Union Securities, and now known as Wells Fargo Advisors, LLC), a FINRA member. From October 29, 2004 through June 25, 2009, Saleh was registered with Wedbush Morgan Securities, Inc., (now known as Wedbush Securities, Inc.), a FINRA member. Saleh presently is not registered.

6. Although Saleh has not been associated with a FINRA member firm since June 25, 2009, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the date upon which she ceased to be associated with a FINRA member firm and (2) the Complaint charges her with misconduct committed while she was associated with a FINRA member.

GENERAL ALLEGATIONS

Customer BN

7. Customer BN first opened an account with Saleh approximately 20 years ago and followed her as she moved from firm to firm. From the commencement of their business

relationship, BN placed his account and investment choices under Saleh's control. By November 2005, Saleh had essentially all of BN's liquid net worth under her management. BN, born in 1926, was a career chemical engineer, and holds a masters degree from Tuskegee University. Since he retired in or about 1991, BN's annual income from his pension and social security benefits is approximately \$25,000.00. BN has always been a conservative investor, with an investment objective of growth and a low risk tolerance. His investment accounts comprise a trust account, which held the funds BN received when he retired, an Individual Retirement Account, and an account he inherited in 2002 from his sister, DN. BN's accounts invested under Saleh's control represent his life savings and the entirety of BN's liquid net worth. Saleh's transactions in BN's trust and two retirement accounts are set forth, respectively, in Schedules A1, A2, A3 to this Complaint.

8. Before 2004, BN relied on his investment portfolios primarily for large purchases and extraordinary expenses. In 2005, BN was diagnosed with early dementia; he also presently suffers from a life-threatening illness. Since approximately 2004, BN has relied on funds in his investment portfolios to cover his increasing medical and living expenses, which Saleh knew.

9. On or about November 8, 2005, BN executed a Durable Power of Attorney (POA1) granting his son, PN, authority to make decisions on his investment accounts. At or about that time, Saleh was aware that BN's capacity to make investment decisions had diminished, and she solicited PN to become involved with decision making in his father's accounts. At that time, PN had no significant investment experience. As his father did, PN placed his father's accounts and investment choices under Saleh's control. In or about November 2007, RN-H, BN's daughter, also was designated as an authorized agent on her

father's accounts. RN-H also had no significant investment experience and placed her father's accounts and investment choices under Saleh's control.

10. Between about December 2004 and February 2009, Saleh engaged in a pattern of unsuitable transactions in BN's accounts. During this period, Saleh recommended and caused BN to surrender funds in whole or in part from approximately ten annuities, and to reinvest the proceeds in either a new annuity from a different issuer, or in over 50 issues, mostly initial public offerings (IPOs) in which, for the most part, Saleh's firm participated as an underwriter. These latter investments included, but were not limited to, CEFs, UITs, and structured products such as reverse convertible securities, and an occasional Class A share mutual fund, which generally are designed for long term investing. Saleh then engaged in excessive and short term trading as she routinely sold the CEF, UIT and reverse convertible securities in less than one year, and immediately used the proceeds to invest in new but similar positions, often IPOs, generating concessions and commissions on the round trip transactions. During this period, after withdrawing funds from annuities, Saleh engaged in over 100 purchases and 150 sales of long term investment products, mostly IPOs, in BN's accounts, with an average holding period of approximately 231 days, 162 days, and 182 days in his trust and two retirement accounts, respectively. Saleh's excessive and short term trading in BN's accounts generated at least about \$97,000.00 in commissions and concessions while BN suffered at least about \$260,000.00 in realized market losses, net of income.

11. Separately, in November 2005, even as she was aware of his declining health, Saleh also recommended and effected an unsuitable switch from mutual funds to a variable annuity product in BN's trust account that he also owned in his retirement accounts. Shortly before BN executed POA1, Saleh arranged for BN to transfer to her firm his remaining outside

holdings - nine stock and bond mutual funds, of which seven were Class A funds, with a market value of approximately \$300,000.00. At that time, due to his declining health, Saleh assisted BN to designate his son with power of attorney over BN's investment accounts. On or about November 4, 2005, only four days before BN executed POA1, Saleh's firm received the fund positions into BN's living trust account and Saleh promptly liquidated the mutual funds. On or about November 9, 2005, the day after BN executed POA1, Saleh used the proceeds of the mutual fund sales to purchase in BN's trust account a \$300,000 variable annuity product that he also held in his two retirement accounts. To effect the transaction, Saleh placed or caused to be placed BN's purported signature on the annuity's transaction documents, without BN's or PN's knowledge, authorization, or consent. Saleh then caused BN's annuity purchase to be invested in variable annuity subaccounts that were substantially similar to the mutual fund investments that she had liquidated only five days before. Shortly thereafter, Saleh began taking withdrawals in BN's two retirement accounts from the same variable annuity product she had just purchased in the trust account. In connection with these transactions, Saleh failed to disclose to BN or PN that the annuity subaccounts were substantially similar to the mutual funds that she liquidated, or that she was taking annuity withdrawals in BN's retirement accounts at or about the same time that she had purchased the same product in BN's trust account. She also failed to disclose to BN or PN the features and risks of the new annuity, or the compensation she received as a result of the switch from equity mutual funds to a variable annuity.

Customer DH

12. Customer DH was referred to Saleh approximately ten years ago by his nephew, customer SH. DH, born in 1942, is a retired businessman who owned and operated a heavy machinery transportation company in Chicago, Illinois. DH's accounts invested with Saleh

mainly comprised a living trust account and an IRA. DH transferred his accounts as Saleh changed firms, and at all times placed his accounts and investment choices under Saleh's control. DH's accounts invested under Saleh's control represent his life savings and the entirety of DH's liquid net worth, and he relies upon them to support himself in retirement, which Saleh knew. DH's investment objective was moderate growth up until 2004, when it became more conservative as he moved into retirement. Between approximately November 2004 and June 2009, DH took income withdrawals of approximately \$193,000.00 from the accounts under Saleh's control. Saleh's transactions in DH's trust, IRA, and Roth IRA accounts are set forth in Schedules B1, B2, and B3 to this Complaint.

13. Between about January 2005 and April 2009 of the relevant period, Saleh engaged in a pattern of unsuitable transactions in DH's accounts. During this period, Saleh recommended and caused DH to surrender funds in whole or in part from approximately 17 annuities, and to reinvest the proceeds in either a new annuity from a different issuer, or in over 50 issues, mostly IPOs in which Saleh's firm participated, including, but not limited to, CEFs, UITs, and structured products such as reverse convertible securities, which generally are designed for long term investing. Saleh then engaged in excessive and short term trading as she routinely sold the CEF, UIT and reverse convertible securities in less than one year, and immediately used the proceeds to invest in new positions, often IPOs, generating concessions and commissions on the round trip transactions. During this period, after withdrawing funds from annuities, Saleh engaged at least 200 purchases and sales of CEFs, UITs and reverse convertible securities in DH's accounts, with an average holding period of approximately 165 days in both the trust and retirement accounts. While Saleh usually spoke with DH concerning the short term trading, these conversations often occurred after the trade or the close of the

market. Saleh's excessive and short term trading in DH's accounts generated at least about \$62,000.00 in commissions and concessions while DH suffered at least about \$170, 000.00 in realized market losses, net of income.

14. Between February 2005 and April 2006, Saleh also recommended and caused DH to take partial withdrawals from six annuities; Saleh then used the proceeds to purchase three new variable annuities from different issuers. In October and November 2005, Saleh also recommended to DH and caused a full surrender of a variable annuity policy and used the proceeds to purchase immediately another variable annuity policy with a different issuer.

15. On or about February 6, 2009, February 25, 2009, February 26, 2009, and April 23, 2009, Saleh engaged in unauthorized trading in DH's accounts when she executed six short term transactions in IPO CEFs and UITs without DH's prior knowledge, authorization, or consent.

Conduct Common to BN and DH

16. Saleh recommended and effected the switch transactions and short term trading alleged in paragraphs 10 and 11 with respect to BN, and in paragraphs 13 through 15 with respect to DH, with no apparent benefit to the customers and without a reasonable basis to believe that the transactions would benefit the customers or were consistent with each customer's financial position, investment goals and objectives. Saleh knew or should have known that these transactions provided no additional benefit to the customers, decreased liquidity, and caused each customer's portfolio to become unduly concentrated in variable annuities and in equities subject to market risk. In connection with the foregoing transactions, Saleh generated substantial sales commissions and concessions, caused the customers to lose the annuities' benefits that each had

purchased and paid for, and to assume greater market risk, in particular in connection with the short term trading.

17. Certain of the foregoing variable annuity transactions, those reflected on Schedules A2 and A3 (BN) and B2 and B3 (DH), were effected in tax-qualified accounts for which Saleh's firm served as custodian. Saleh was able to effect these transactions without the customer's knowledge, authorization, or consent, by obtaining necessary signatures directly from the firm's custodian to authorize the transactions, and then by re-using the custodian's signatures on subsequent transactions.

18. To facilitate the transactions alleged in paragraphs 10 through 14, Saleh created or caused to be created and submitted to the annuity issuer documents that reflected false signatures and false signature guarantees and medallion stamps when Saleh knew or should have known that the annuity issuer would rely on the guarantee or medallion stamp as evidence that the signatures were genuine.

19. In at least seven instances in connection with BN's transactions described in paragraphs 10 and 11, and in at least eight instances in connection with DH's transactions described in paragraphs 13 and 14, Saleh placed or caused to be placed the customer's or his agent's signatures on annuity withdrawal forms, prospectus receipts, or firm disclosure documents without the knowledge, authorization, or consent of the customer or his agent, as reflected on Schedule D to this Complaint.

20. Following the annuity transactions described in paragraphs 10, 11, 13, and 14, Saleh routinely destroyed or caused the false insurance documents alleged in paragraphs 17 to 19 to be destroyed and not to be maintained in the firm's books and records.

21. Saleh also entered or caused false information to be entered into the firm's electronic account records for BN's and DH's accounts to reflect as "interest" the receipt of funds in connection with annuity surrenders. Once entered into the firm's system, the firm provided this false information to the customers and their agents on customer statements, as Saleh knew or should have known would occur.

22. In certain instances, Saleh caused the firm's books and records for DH's accounts to reflect false and inaccurate information, including telephone numbers and addresses, so that she could conduct business in DH's accounts in a state in which she was not licensed.

23. Saleh failed to disclose to either customer or his agents that the annuity transactions were surrenders that included principal withdrawals, causing the customer and agents to believe that funds coming out of the annuities represented interest or return on investment. She also failed to disclose that surrender fees applied to certain of the transactions, *that the surrenders would result in the loss of policy benefits for which the customer had paid*, or that the customer's funds could be subject to greater market risk when invested outside of the annuities in equities or traded funds. Saleh also failed to disclose to either customer or his agents that the customer's transactions were resulting in investment losses. To induce each customer and his agents to approve the annuity withdrawals, to invest the proceeds into the CEFs, UITs, and reverse convertible securities, mostly IPOs, and then subsequently to approve excessive and short term transactions, Saleh falsely represented to the customer or his agents that she would not receive compensation in connection with the recommended transactions and failed to disclose that she received a concession on the opening IPO transactions. Saleh often discounted the commission charged upon the liquidation of an IPO position so that it would appear to the customer or his agents that she was not compensated for the IPO transactions.

Customer SH

24. Customer SH is an attorney in Los Angeles who began working with Saleh in 2000. From at least the time he became Saleh's customer, SH's investment objective has been growth and his risk tolerance has been medium. SH has a busy real estate and business litigation practice, and at all times placed his accounts and investment choices under Saleh's control. SH transferred his accounts as Saleh changed firms and referred several family members to Saleh, including DH.

25. SH opened approximately nine accounts with Saleh, including an account for a defined benefit pension plan (Pension Account), in which, as Saleh knew, an employee of SH also is enrolled. Certain of Saleh's transactions in SH's Pension Account are set forth in Schedule C to this Complaint.

26. Between January 2005 and February 2009, Saleh engaged in a pattern of unsuitable transactions in SH's Pension Account. Among those transactions, in January 2005, Saleh purchased a variable annuity in the Pension Account without SH's prior knowledge, authorization or consent, in the approximate amount of \$175,000.00.

27. Because Saleh had not told SH about the annuity purchase before executing the transaction, Saleh failed to disclose to SH any of the risks associated with investing pension assets in the variable annuity, including that SH's Pension Account would receive no benefit from the deferral of taxes on the annuity's return or the increased costs associated with the insurance product. When SH's accountant later questioned the suitability of the transaction, Saleh represented to SH that the annuity's principal guarantee outweighed the additional costs of using an insurance product in a qualified account. As a result of Saleh's representation, SH understood the variable annuity not to be subject to any market risk. Saleh failed to disclose to

SH that the principal guarantee was limited to a death benefit. Less than three years later, in August and September 2007, Saleh recommended and caused SH to fully surrender the foregoing variable annuity. In connection with the variable annuity surrender, Saleh failed to disclose to SH that the issuer would and did assess a substantial surrender penalty for early termination of the annuity contract.

28. Upon surrender, Saleh recommended to SH that he immediately reinvest the annuity proceeds in four initial public offerings of CEF and UIT funds in which the firm participated and which had substantially similar characteristics to the variable annuity's subaccount options. Less than one year later, in June 2008, Saleh subsequently recommended and caused SH to sell the foregoing CEF and UIT funds and to invest the proceeds immediately in IPOs of reverse convertible securities. At that time and through February 2009, Saleh recommended that SH purchase and hold reverse convertible preferred notes in his Pension Account and failed to disclose fully to SH the nature and characteristics of the notes, including, but not limited to, the risk that the principal value of the investment is not guaranteed and is subject to market risk of the reference asset, and that the customer could suffer a loss of principal on the investment.

29. Saleh recommended and effected the transactions alleged in paragraphs 26 to 28 without a reasonable basis to believe that the transactions would benefit SH or were consistent with SH's financial position, investment goals and objectives. In connection with the foregoing transactions, Saleh generated sales commissions and concessions, caused SH to forego the annuities' benefits in which SH had invested, and to suffer greater market risk and decreased liquidity.

FIRST CAUSE OF ACTION
(Unsuitable Recommendations)
(Violation of NASD Conduct Rules 2310 and 2110 and
FINRA Rule 2010)

30. The Department realleges and incorporates by reference paragraphs 1 through 29 above.

31. During the period from about December 2004 through February 2009, Saleh recommended to customer BN and to PN on BN's behalf, and effected for BN's accounts at least approximately 390 purchases and sales of securities, as set forth in Schedules A1, A2, and A3 to this Complaint.

32. During the period from about January 2005 through April 2009, Saleh recommended to customer DH, and effected for DH's accounts at least approximately 301 purchases and sales of securities, as set forth in Schedules B1, B2, and B3 to this Complaint.

33. During the period from January 2005 through June 2009, Saleh recommended to customer SH, and effected for SH's accounts at least approximately 29 unsuitable purchases and sales of securities, as set forth in Schedule C to this Complaint.

34. Saleh made the foregoing recommendations without a reasonable basis to believe that the recommendations and resultant transactions would benefit the customers or were consistent with the customers' financial position, investment goals and objectives, based upon the information known to her about their other security holdings and their financial situations and needs. The annuity transactions were unsuitable for each of the customers because the costs of the annuities outweighed the benefits. With respect to BN's and DN's annuities, the transactions were unsuitable because of undue concentration in variable annuities and equities, lack of liquidity, and high fees and costs. With respect to BN's, DN's, and SH's annuities placed in

qualified retirement accounts, the customers received no benefit from tax-deferred earnings while incurring additional and unnecessary costs.

35. In the accounts of BN, DH, and SH, Saleh also engaged in a pattern of withdrawing funds from annuities, primarily to raise cash with which she generated production credits, often with IPOs in which her firm participated. In that regard, Saleh routinely applied the withdrawal proceeds immediately to purchase CEFs, UITs mutual funds or reverse convertibles, which often had substantially similar investment objectives as the annuity subaccounts from which the funds were withdrawn. Saleh then engaged in unsuitable excessive and short term trading by selling those positions within one year to purchase similar funds, causing the customers' to incur costs with no substantial benefit, and for their portfolios to suffer undue concentration in equities and resulting market risk and losses.

36. With respect to BN, DH and SH, the recommendations to purchase reverse convertible securities were unsuitable because the transactions were effected in a retired customer's account on which the customer relied for income, or in a retirement or pension account and because there existed a risk of loss of substantially the entire investment should the security to which the note is linked decline in value.

37. With respect to conduct alleged above that occurred before December 15, 2008, the aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2310 and 2110. With respect to conduct that occurred on or after December 15, 2008, the aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2310 and FINRA Rule 2010.

SECOND CAUSE OF ACTION
(Unsuitable Switching)
(Violation of NASD Conduct Rules 2310 and 2110)

38. The Department realleges and incorporates by reference paragraphs 1 through 37 above.

39. At various times during the period from in or about December 2004 through August 2007, Saleh recommended and caused customers BN and DH to surrender variable annuities in whole or in part and to purchase other variable annuities. In or about November 2005, Saleh recommended and caused BN to liquidate mutual funds and purchase a variable annuity, as described above in paragraph 11. The foregoing transactions are as set forth on Schedules A1, A2, and A3 (BN), and B1 and B2 (DH) to this Complaint, respectively.

40. Saleh made the recommendations described in paragraph 39 above without a reasonable basis to believe that the transactions would benefit customers BN and DH, respectively, or were consistent with the customers' financial position, investment goals and objectives. The transactions were unsuitable because the costs of the transactions outweighed any benefit to the customers and the transactions resulted in decreased liquidity.

41. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2310 and 2110.

THIRD CAUSE OF ACTION
(Forgery)
(Violation of NASD Conduct Rule 2110)

42. The Department realleges and incorporates by reference paragraphs 1 through 41 above.

43. Without the knowledge, authorization or consent of customer BN or PN, Saleh placed or caused to be placed false customer signatures on at least eight variable annuity documents requiring a signature relating to transactions reflected on Schedule D to this Complaint.

44. Without the knowledge, authorization or consent of customer DH, Saleh placed or caused to be placed false customer signatures on at least seven firm records and variable annuity documents requiring a signature relating to transactions reflected on Schedule D to this Complaint.

45. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110.

FOURTH CAUSE OF ACTION
(Falsification)
(Violation of NASD Conduct Rule 2110)

46. The Department realleges and incorporates by reference paragraphs 1 through 45 above.

47. During the relevant period, Saleh placed or caused to be placed false and inaccurate information on firm and issuer documents relating to customers BN and DH, including, but not limited to, false addresses, false telephone numbers, false customer signatures, false signature guarantees and false medallion stamp signature guarantees, tickets mismarked as unsolicited, and, mismarked transaction documents to omit to disclose that the transactions were annuity exchanges. Saleh then submitted the documents to her firm and to issuers, knowing that they would rely upon the accuracy of the documents and the information stated thereon as to the customers and the transactions.

48. As alleged above in paragraph 21, Saleh entered or caused false information to be entered into the firm's electronic account records to reflect annuity partial surrenders as "interest" payments. Once entered into the firm's system, the firm provided this false information to BN and DH on customer statements, as Saleh knew or should have known would occur.

49. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110.

FIFTH CAUSE OF ACTION
(Unauthorized Transactions)
(Violation of NASD Conduct Rule 2110 and FINRA Rule 2010)

50. The Department realleges and incorporates by reference paragraphs 1 through 49 above.

51. On or about February 6, 2009, February 25, 2009, February 26, 2009, and April 23, 2009, Saleh executed six purchases and sales of securities in DH's accounts, as set forth as Transaction Nos. 207 through 210 on Schedule B1 and Nos. 98 and 99 on Schedule B2 to this Complaint, without DH's knowledge, authorization or consent.

52. On or about January 31, 2005, Saleh effected the purchase of a variable annuity in SH's Pension Account without SH's prior knowledge, authorization or consent, in the approximate amount of \$175,000.00, as set forth as Transaction No. 1 in Schedule C to this Complaint.

53. With respect to conduct alleged above concerning SH, the aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110. With respect to conduct concerning DH, the aforementioned acts, practices and conduct constitute separate and distinct violations of FINRA Rule 2010.

SIXTH CAUSE OF ACTION
(Exercising Discretion Without Written Authorization)
(Violation of NASD Conduct Rules 2110 and 2510(b) and
FINRA Rule 2010)

54. The Department realleges and incorporates by reference paragraphs 1 through 53 above.

55. During the period from about December 2004 through February 2009, Saleh effected approximately 390 purchases and sales of securities in the accounts of customer BN, as set forth in Schedules A1, A2, A3, and D to this Complaint, without receiving from the customer or his authorized persons prior written authorization to exercise discretion and without the firm's written acceptance of the accounts as discretionary.

56. During the period from about January 2005 through April 2009, Saleh effected approximately 301 purchases and sales of securities in the accounts of customer DH, as set forth in Schedules B1, B2, B3, and C to this Complaint, without receiving from the customer or his authorized persons prior written authorization to exercise discretion and without the firm's written acceptance of the accounts as discretionary.

57. In the alternative to paragraph 51, on or about February 6, 2009, February 25, 2009, February 26, 2009, and April 23, 2009, Saleh effected approximately six purchases and sales of securities in the account of customer DH, as set forth Transaction Nos. 207 through 210 on Schedule B1 and Nos. 98 and 99 on Schedule B2 to this Complaint, without receiving from DH prior written authorization to exercise discretion and without the firm's written acceptance of the account as discretionary.

58. During the period from about January 2005 through June 2009, Saleh effected approximately 13 purchases and sales of securities in the account of customer SH, as set forth in

Schedule C to this Complaint, without receiving from SH prior written authorization to exercise discretion and without the firm's written acceptance of the account as discretionary.

59. With respect to conduct alleged above that occurred before December 15, 2008, the aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2510(b) and 2110. With respect to conduct alleged above that occurred on or after December 15, 2008, the aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2510(b) and FINRA Rule 2010.

SEVENTH CAUSE OF ACTION

(Fraud)

(Violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, NASD Conduct Rules 2120 and 2110, and FINRA Rules 2020 and 2010)

60. The Department realleges and incorporates by reference paragraphs 1 through 59 above.

61. Saleh intentionally or recklessly engaged in the conduct referenced in paragraphs 7 through 29 above, as a scheme and course of business to enhance her commissions without regard to the consequences to the customers or the firm with which she was associated. She failed to disclose material, transaction-related information to the customers or the firm, including the failure to disclose that the certain annuity transactions constituted annuity exchanges, and that customers would incur surrender penalties and decreased liquidity. She further failed to disclose to customers that investing the proceeds of the annuity surrenders in closed end funds, structured products and UITs caused the customers to give up certain benefits for which they had paid or that investment options within the annuities were substantially similar to the products in which Saleh invested the annuity surrender proceeds. She further failed to disclose that withdrawing funds from the annuities and investing the proceeds in CEFs, UITs and structured

products increased the investors' risk of loss of principal, or that the subsequent short-term trading further increased the risk of loss. With respect to transactions in structured products, Saleh failed to disclose to customers that there existed a risk of loss of substantially the entire investment should the security to which the note is linked decline in value. Saleh further misrepresented the basis of her compensation when she told the customers that she was not earning a commission or otherwise "being paid" for transactions involving initial public offerings when, in fact, she was paid a concession by the offeror.

62. Saleh concealed the foregoing course of conduct from the customers and the firm by causing the transaction records to reflect inaccurate information regarding the customers' investments in variable annuities, including, but not limited to, false addresses, false phone numbers, false customer signatures, mismarking solicited transactions as unsolicited, false representations that the transactions did not constitute an exchange of a variable annuity, and false representations that surrender proceeds constituted "interest."

63. Saleh, by engaging in the conduct referenced in paragraphs 7 through 29 and 61 and 62 above, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, with scienter: 1) employed devices, schemes or artifices to defraud; 2) made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or 3) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon any person.

64. The aforementioned acts, practices and conduct are inconsistent with high standards of commercial honor and just and equitable principles of trade.

65. As a result of the foregoing conduct, Respondent Saleh willfully violated Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder. With respect to conduct alleged above that occurred before December 15, 2008, the aforementioned acts, practices and conduct also constitute separate and distinct violations of NASD Conduct Rules 2120 and 2110. With respect to conduct alleged above that occurred on or after December 15, 2008, the aforementioned acts, practices and conduct also constitute separate and distinct violations of FINRA Rules 2020 and 2010.

EIGHTH CAUSE OF ACTION
(Causing the Firm to Have Inaccurate Books and Records)
(Violation of NASD Conduct Rules 2110 and 3110)

66. The Department realleges and incorporates by reference paragraphs 1 through 65 above.

67. During the relevant period, Saleh placed or caused to be placed and reflected in her member firm's books and records false information, including, but not limited to, false addresses, false telephone numbers, false customer signatures, false signature guarantees and false medallion stamp signature guarantees, tickets mismarked as unsolicited, and, further, mismarked transaction documents to omit to disclose that the transactions were annuity exchanges. Saleh also destroyed or caused false documents to be destroyed and not to be maintained in her firm's books and records. Saleh also entered or caused false information to be entered into the firm's electronic account records to reflect annuity partial surrenders as "interest" payments. Saleh also mismarked certain solicited transactions as "unsolicited."

68. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3110, by causing the firm to have and maintain inaccurate records regarding securities transactions.

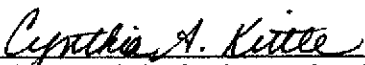
RELIEF REQUESTED

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 Saleh be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- B. order that Saleh bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- C. make specific findings that Respondent Saleh willfully violated Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder.

FINRA DEPARTMENT OF ENFORCEMENT

Date: September 30, 2010


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