

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFFREY ROBERT SIMBRIC
(CRD No. 4859279),

Respondent.

Disciplinary Proceeding
No. 2011026168901

Hearing Officer – MC

DEFAULT DECISION

April 23, 2012

Respondent Jeffrey Robert Simbric is barred from associating with any FINRA member firm in any capacity for providing a customer with falsified correspondence, in violation of FINRA Rule 2010. Because of the imposition of the bar, no additional sanctions are imposed for failing to appear for an on-the-record interview, in violation of FINRA Rules 2010 and 8210, or for misrepresenting facts to his FINRA member employer firm, in violation of FINRA Rule 2010.

Appearances

Helen G. Barnhill, Senior Regional Counsel, and Jacqueline D. Whelan, Regional Chief Counsel, Denver, Colorado, for the Department of Enforcement.

No appearance by or on behalf of Respondent.

DECISION

I. Introduction

When Respondent Jeffrey Robert Simbric sold three fixed indexed annuity contracts to a married couple who were his customers, he provided them with a brochure stating that the issuing company would give the customers a ten percent bonus on the initial premiums they paid for the contracts. However, when the company's confirmation letters informed the customers that the bonus was eight percent, the customers complained to Simbric and asked him to persuade the company to pay them the larger bonus the brochure had promised. The company

refused. Nevertheless, Simbric prepared and sent letters to the customers, fabricated to make them appear to be from the company, falsely representing to the customers that they had received the ten percent bonus. When Simbric's employer's chief compliance officer wrote Simbric asking about the letters, Simbric denied knowing who sent them. When FINRA staff sent a request pursuant to Rule 8210 for Simbric to provide on-the-record testimony, he failed to appear.

The Department of Enforcement filed the attached three-cause Complaint on December 2, 2011. The first cause alleges that Simbric violated FINRA Rule 2010 when fabricated and sent customers a letter with false information on October 2, 2010. The second cause of action alleges that he violated FINRA Rules 2010 and 8210 when he failed to appear and testify in an on-the-record interview. The third cause of action alleges that he violated Rule 2010 when he made misrepresentations to his employer firm.

Despite being served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Simbric has not filed an Answer or otherwise responded to the Complaint.

On February 28, 2012, Enforcement filed a Motion for Entry of Default Decision ("Default Motion") supported by the Declaration of Helen G. Barnhill and four exhibits.¹

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

On November 8, 2004, Simbric entered the securities industry and registered as an Investment Company and Variable Contracts Products Representative ("IR") through a FINRA member firm. He resigned on May 12, 2008, and for a time did not associate with any other

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its Default Motion, which included the Declaration of Helen G. Barnhill in Support of Motion for Entry of Default Decision, and the exhibits attached to the Declaration. The Declaration will be referred to as "Decl." or "Barnhill Declaration." The exhibits are referred to as "CX-__."

member firm.² Simbric became associated with CCF Investment, Inc. (“CCF”) on May 11, 2010, and shortly thereafter became registered as an IR through CCF. On January 6, 2011, CCF filed an amended Uniform Termination Notice for Securities Industry Registration (“Form U5”), disclosing that it had discharged Simbric.³ Since then, Simbric has not been registered or associated with a FINRA member firm. Pursuant to Article V, Section 4 of FINRA’s By-Laws, however, FINRA retains jurisdiction over Simbric for the purposes of this disciplinary proceeding because the Complaint (i) was filed within two years of the effective date of the termination of his registration with CCF; and (ii) charges him with misconduct that occurred while he was registered or associated with a FINRA member firm, and with failing to provide on-the-record testimony when requested to do so within two years after the termination of his registration.⁴

B. Default

Enforcement served the Complaint and Notice of Complaint by certified and first-class mail on Simbric at his residential address as recorded in the Central Registration Depository (“CRD address”) on December 2, 2011. The Postal Service returned the certified mailing to FINRA marked “unclaimed.” The Postal Service did not return the first-class mailing.⁵

Enforcement served the Complaint and Second Notice of Complaint by certified and first-class mail, again to Simbric’s CRD address, on January 6, 2012. As before, the Postal Service returned the certified mailing to FINRA marked “unclaimed.” This time, the Postal

² Complaint ¶ 2.

³ Complaint ¶ 2; CX-1, p. 2; CX-1d, pp. 1-2.

⁴ Complaint ¶ 3.

⁵ Decl. ¶ 12; CX-3.

Service returned the first-class mailing marked “no mail receptacle.” Simbric has not filed an Answer or otherwise responded to the Complaint.⁶

By serving the Complaint, Notice of Complaint, and Second Notice of Complaint upon Simbric by certified mail at his CRD address, Enforcement complied with the requirements of Rule 9134 and provided him with constructive notice that the Complaint had been filed.⁷ By failing to file an Answer, Simbric defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), and for the reasons set forth below, the Default Motion is granted.

C. Simbric Violated FINRA Rule 2010 When He Falsified Correspondence, Sent It to His Customers, and Made Material Misrepresentations to His Employer

The VBs, Simbric’s customers, purchased three fixed indexed annuity contracts. The issuing company sent the VBs letters confirming the initial premium amounts and informing them that they had received an eight percent premium “bonus,” or increase in value of the premium they actually paid.⁸

Simbric had previously sent the VBs an out-of-date brochure about the contracts, in which the issuing company promised a ten percent bonus on the first premium paid on the contracts. However, the ten percent bonus was no longer available.⁹ The VBs called Simbric about the discrepancy between the ten percent premium bonus advertised in the brochure and the eight percent premium bonus paid by the issuing company, and asked him to try to persuade the

⁶ Decl. ¶ 13; CX-4.

⁷ *Dep’t of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent’s most recent CRD address) (citing *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

⁸ Complaint ¶ 5.

⁹ Complaint ¶ 6.

company to award them the previously offered ten percent bonus. Simbric attempted to do so but was unsuccessful.¹⁰

Instead of informing the VBs that the company had declined to increase the bonus, Simbric fabricated three letters, making it appear that they came from the issuing company, stating that the VBs would receive the ten percent bonus on their initial premium payments. The company had no knowledge of the letters. Two of the letters were dated May 3, 2010; the third was dated October 2, 2010.¹¹

The VBs complained to CCF, and on December 6, 2010, CCF's Chief Compliance Officer ("CCO") sent Simbric a letter outlining their complaint. The CCO asked Simbric to respond in writing to questions concerning who had sent the letters purporting to be from the company. In his response, Simbric falsely stated that he did not know who had sent the letters to the VBs. Two days later, Simbric sent another letter to CCF, recanting the earlier one and admitting that he had created and sent the letters to the VBs. The following day, CCF terminated Simbric's employment.¹²

FINRA Conduct Rule 2010 provides that an associated person "shall observe high standards of commercial honor and just and equitable principles of trade." A Rule 2010 violation is committed if a respondent's misconduct occurs in the course of his business and violates just and equitable principles of trade.¹³ The Rule imposes ethical standards as well as legal obligations. The Rule may be violated when a respondent engages in misconduct in the

¹⁰ Complaint ¶ 7.

¹¹ Complaint ¶ 8. The first cause of action charges Simbric only with the fabrication of the October 2 letter, because the two earlier letters were dated May 3, 2010, when Simbric was not associated with any FINRA member firm, and Enforcement concluded FINRA lacked jurisdiction. See Default Motion, p. 8, n. 14.

¹² Complaint ¶¶ 9-10.

¹³ *Dep't of Enforcement v. Shvarts*, No. CAF980029, 2000 NASD Discip. LEXIS 6, at *17-18 (N.A.C. June 2, 2000).

course of conducting securities business. It may also be violated when a respondent engages in unethical conduct that is not securities-related¹⁴ but reflects on the person's "ability both to comply with regulatory requirements fundamental to the securities business and to fulfill his fiduciary responsibilities in handling other people's money."¹⁵ Falsifying documents is misconduct that "adversely reflects on a person's ability to comply with regulatory requirements" and violates the mandate of Rule 2010.¹⁶

By creating and sending the October 2, 2010, letter that falsely purported to be from the company that issued the annuity contracts to his customers, Simbric violated FINRA Rule 2010, as alleged in the first cause of action of the Complaint.

Furthermore, by untruthfully responding to CCF's questions when he wrote that he did not know who created the letters he fabricated and sent to the VBs, Simbric again violated FINRA Rule 2010, as alleged in the third cause of action of the Complaint.

D. Simbric Violated FINRA Rules 2010 and 8210 When He Failed to Appear for an On-the-Record Interview

On March 9, 2011, FINRA staff sent a Rule 8210 request for information and documents to Simbric at his CRD address by certified and first-class mail. The Postal Service returned the receipt for the certified mailing signed with the initials "SS." On March 16, 2011, Simbric responded to the request.¹⁷

On or about April 21 and 28, 2011, to further its investigation, FINRA staff unsuccessfully attempted to call Simbric to schedule a date for him to provide on-the-record

¹⁴ *Id.* at *16 ("Conduct Rule [2010] is not limited to securities-related conduct; instead, it covers all unethical business-related conduct.").

¹⁵ *Id.* at *35 (quoting *James A. Goetz*, Exch. Act Rel. No. 39796, 1998 SEC LEXIS 499, at *11 (Mar. 25, 1998)).

¹⁶ *Dep't of Enforcement v. Taylor*, No. C8A050027, 2007 NASD Discip. LEXIS 11, at *22-23 (N.A.C. Feb. 27, 2007).

¹⁷ The first-class letter was returned marked "return to sender, not deliverable as addressed, unable to forward." Complaint ¶ 14.

testimony. On May 5, 2011, FINRA staff sent a Rule 8210 request to Simbric at his CRD address by certified and first-class mail requesting that he appear for an on-the-record interview (“OTR”) at FINRA’s Denver offices on June 6, 2011. The Postal Service returned the first-class mailing marked “return to sender, not deliverable as addressed, unable to forward.” However, Simbric accepted delivery of the certified mailing and signed the return receipt.¹⁸ Simbric subsequently advised FINRA staff he was unable to appear for the OTR on June 6. Between June 3 and July 8, 2011, FINRA staff had several conversations with Simbric in which he stated he would contact the staff about rescheduling the OTR after consulting with counsel. However, FINRA staff was unsuccessful in its effort to set a new date for the OTR with Simbric.¹⁹

On July 22, 2011, FINRA staff sent a second Rule 8210 request for Simbric to appear at an OTR scheduled for August 22, 2011. As before, the staff sent the request by certified and first-class mail to Simbric’s CRD address. The Postal Service returned both mailings marked “return to sender, not deliverable as addressed, unable to forward.”

The staff called Simbric on July 20 and August 3, 2011, and left messages reminding him of the August 22 OTR. Simbric did not return the calls.²⁰ Despite these efforts to communicate with him, Simbric failed to appear for the OTR on August 22, 2011.²¹ By failing to appear at the OTR, as the second cause of action of the complaint alleges, Simbric violated FINRA Rules 2010 and 8210.

¹⁸ Complaint ¶ 15.

¹⁹ Complaint ¶ 16.

²⁰ Complaint ¶ 17.

²¹ Complaint ¶ 19. FINRA staff sent a final communication to Simbric on August 25, 2011, by certified mail to his CRD address. The Postal Service returned the certified mail delivery receipt to FINRA, signed with the initials “SS,” just like the return receipt for the March 9 Rule 8210 request to which Simbric had responded. *Id.* at ¶¶ 14, 18.

III. Sanctions

Enforcement recommends the imposition of a bar in all capacities for Simbric's fabrication of the October 2, 2010, letter to his customers. As noted by Enforcement, FINRA's Sanction Guidelines for forgery or falsification of records recommend imposition of a fine of \$5,000 to \$100,000, suspension for up to two years if there are mitigating factors, or, in egregious cases, a bar.²² In this case, the record supplies no evidence of mitigating circumstances. Simbric fabricated letters to make them appear to come from the company that issued the annuity contracts for his customers, in which he made false representations designed to deceive them about the premium bonus they had received. The dishonesty inherent in this misconduct "adversely reflects" upon Simbric's "ability to comply with regulatory requirements."²³ For these reasons, to deter Simbric and others from similar misconduct, Enforcement's recommendation of a bar in all capacities is appropriate.

If the sanction for fabricating the letter is less than a bar, Enforcement recommends a two-year suspension in all capacities and a \$10,000 fine for Simbric's failure to appear for his OTR as alleged in the second cause of action. Enforcement's recommendation is predicated on its conclusion that Simbric's response to the March 9, 2011, Rule 8210 request for information, which "substantially assisted with the staff's investigation," should be considered mitigating in determining the appropriate sanction for failing to appear for the OTR.²⁴ The Sanction Guidelines recommend a bar as standard when an individual does not respond to a Rule 8210 request in any manner. When there is a partial response, a bar is standard unless the respondent

²² *FINRA Sanction Guidelines*, p. 37 (2011).

²³ *Dep't of Enforcement v. Taylor*, *supra*.

²⁴ Default Motion, pp. 8-9.

demonstrates that the information provided constitutes substantial compliance with the request.²⁵ Here, although Simbric has not made such a showing, Enforcement properly treats his earlier response as a partial response and concedes that it substantially assisted the investigation.²⁶ Under these circumstances, Enforcement's position is reasonable.

To determine sanctions for Simbric's misrepresentations to his firm, alleged in cause three of the Complaint, Enforcement turns for guidance to the FINRA Sanction Guidelines for making misrepresentations. When the misrepresentations result from negligence, the Guidelines recommend a fine of \$2,500 to \$50,000 and suspension in any or all capacities for up to 30 business days. For intentional misconduct, the Guidelines recommend a fine of \$10,000 to \$100,000 and suspension in any or all capacities for up to two years or, in egregious cases, a bar.²⁷ In this case, Enforcement characterizes Simbric's misrepresentations as egregious because they were knowing and intentional, but suggests he mitigated the misconduct when, two days later, he told his firm the truth and admitted that he fabricated the letters.²⁸ Therefore, Enforcement recommends a six-month suspension in all capacities and a \$10,000 fine for Simbric's false statements to his firm.

Under the circumstances of this case, Enforcement's sanction recommendations for the second and third causes of action are reasonable and appropriately remedial. However, because of the bar imposed upon Simbric for falsifying correspondence to customers, as described in the

²⁵ *Sanction Guidelines*, p. 33.

²⁶ See *Kent M. Houston*, Exch. Act Rel. No. 66014, 2011 SEC LEXIS 4491, at *23-25 (Dec. 20, 2011) (when in the course of a FINRA investigation a person responds to a Rule 8210 request for information then subsequently fails to appear for an OTR, the sanctions analysis should not presume unfitness for a complete failure to respond, since the person did respond in some manner).

²⁷ *Sanction Guidelines*, p. 88.

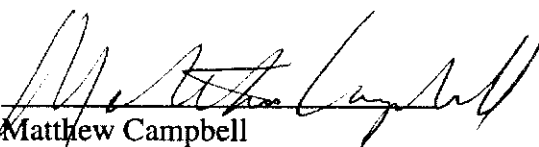
²⁸ Default Motion, p. 10.

first cause of the Complaint, it is unnecessary to impose additional sanctions for the misconduct described in the second and third causes of action.

IV. Conclusion

Respondent Jeffrey Robert Simbric is barred from associating with any FINRA member firm in any capacity for violating FINRA Conduct Rule 2010 by creating and sending customers falsified correspondence, as alleged in the first cause of action of the Complaint. In light of the bar, no additional sanctions are imposed for failing to appear for an on-the-record interview, in violation of FINRA Rules 2010 and 8210, or for misrepresentations to his firm, in violation of Rule 2010, as alleged in the second and third causes of action of the Complaint.

If this decision becomes FINRA's final disciplinary action, the bar shall be effective immediately.


Matthew Campbell
Hearing Officer

Copies to:

Jeffrey Robert Simbric (*via FedEx and first-class mail*)
Helen G. Barnhill, Esq. (*via electronic and first-class mail*)
Jacqueline D. Whelan, Esq. (*via electronic 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.

Jeffrey Robert Simbric
(CRD No. 4859279).

Respondent.

DISCIPLINARY PROCEEDING
No. 2011026168901

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Jeffrey R. Simbric ("Simbric" or "Respondent") created and provided a client, the VBs, with a letter purporting to be from an annuity company in order to conceal his earlier error in providing them with an out of date brochure promising a premium bonus payment amount that was no longer available. In addition, in violation of FINRA Rule 2010, Simbric denied sending the VBs the letter when confronted by his employing member firm. Finally, Simbric failed to appear for testimony in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. On November 8, 2004, Simbric entered the securities industry when he became registered as an Investment Company and Variable Contracts Products Representative ("IR") through PF. He remained with that firm until on or about May 12, 2008, when he was permitted to resign. He did not associate or register with a member firm again until May 11, 2010, when he

associated with CCF Investment, Inc. ("CCF"). Several weeks later, on May 27, 2010 he became registered as an IR through CCF. CCF filed a Form U5 voluntarily terminating Simbric's registration on November 5, 2010. This form reflects that the termination was to take effect on December 31, 2010. However, on January 6, 2011, CCF amended Simbric's Form U5 to disclose that Simbric had been discharged on December 9, 2010 for conduct which is the subject of this Complaint.

3. Although Respondent is no longer registered or associated with a FINRA member, he 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 effective date of termination of Respondent's registration with CCF, namely, January 6, 2011, the date CCF filed an amendment to Simbric's Form U5, disclosing for the first time, the misconduct the subject of this Complaint, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

BACKGROUND

4. The Department realleges and incorporates by reference paragraphs 1 and 3 above.
5. Between approximately April and September 2010, Simbric's customers, the VBs, purchased three AV fixed indexed annuity contracts with initial premium payments in the amounts of \$71,409.30, \$226,001.55, and \$10,222.75. AV sent them three letters confirming these initial premium amounts: two were dated April 23, 2011 and one was dated September 28, 2010. The letters also confirmed that the VBs received an 8% bonus on their initial

premiums and set forth the amount of the initial premiums plus the premium bonuses which totalled \$77,122.04, \$244,081.67 and \$11,040.57.

6. The VBs noted that the 8% bonus amounts referenced in the letters conflicted with representations in a brochure previously provided by Simbric stating that AV would pay 10% premium bonus payments for these contracts. The brochure Simbric provided was out of date and the 10% bonus payment was no longer available at the time of the VBs' purchases. The annuity contracts they purchased provided that all premiums received in the first contract year would receive a bonus of 8%.
7. The VBs called Simbric to complain about the discrepancy and asked if Simbric could persuade the annuity company to pay the 10% bonus. Simbric attempted to negotiate a 10% bonus, but the company declined.
8. Simbric then prepared and sent three letters to the VBs purporting to have been prepared and sent by AV. Two of those letters were dated May 3, 2010, and one was dated October 2, 2010. The letters confirmed the amount of the initial premiums paid by the VBs and represented that a 10% bonus premium was being paid. These letters also set forth Simbric's calculation of the premium plus a 10% bonus payment, two of which were incorrect. Simbric admitted to preparing and sending the falsified letters because he believed that doing so "would make it whole for them." AV had no knowledge of the letters prepared by Simbric and did not approve of them.
9. On December 6, 2010, CCF's Chief Compliance Officer (CCO) sent Simbric a letter indicating he was being placed on suspension while CCF conducted its investigation of the VBs' Complaint. CCF had sent the purported AV letters described above to Simbric earlier that day. The letter advised Simbric that the firm's investigation concerned the allegation

that he told the VBs the annuities they were purchasing provided for a 10% bonus when in actuality the bonus was 8%. The CCO's letter also stated that the firm had received copies of the above-referenced letters, which he described as communications prepared by someone other than AV indicating the amount invested and the accounts were credited with a 10% bonus.

10. The CCO's letter asked Simbric to respond to specific questions in writing, including the following: "[w]ho sent the Letters to the clients using [AV] likeness but not on [AV] official letterhead?" That same day, Simbric wrote back, "regarding the letters, I do not know who sent them (unknown whom sent them), other than the lady [KJ] (who said she would take care of it.)" Two days later, on December 8, 2010, Simbric sent the firm a letter which stated, "I want to admit that I made a mistake with my clients, The [VBs]. I try to amend and make whole of their problem by writing the letters, which was wrong and a lapse in judgment. I want to apologize for my error in judgement. [sic]" Because he denied any knowledge of the letters, Simbric's initial response to the CCO's letter was materially untruthful. On December 9, 2010, CCF sent Simbric a letter terminating his employment.

FIRST CAUSE OF ACTION

(Providing a Customer with Falsified Correspondence – FINRA Rule 2010)

11. The Department realleges and incorporates by reference paragraphs 1 and 3, and 5 through 10 above.
12. By sending the VBs the falsified letter from AV dated October 2, 2010, Simbric violated FINRA Rule 2010.

SECOND CAUSE OF ACTION

(Failure to Appear for an On-the-Record Interview – FINRA Rules 8210 and 2010)

13. The Department realleges and incorporates by reference paragraphs 1 and 3, 5 through 10 and 12 above.
14. On March 9, 2011, FINRA sent a Rule 8210 request for information and documents via certified and first class mail to Simbric's residential CRD address: [REDACTED]
[REDACTED] A "SS" signed the Domestic Return Receipt for the certified mailing. The first class letter was returned with the notation "return to sender, not deliverable as addressed, unable to forward." Simbric received the request. On March 16, 2011, he responded to the staff's March 9, 2011 request.
15. The staff decided to take Simbric's on-the-record testimony ("OTR"). On or about April 21, 2011 and April 28, 2011, the staff examiner called Simbric to try to schedule a mutually agreeable date, with no success. Accordingly, on May 5, 2011, the staff examiner sent Simbric a request pursuant to Rule 8210 to appear for an OTR in Denver on June 6, 2011. The request was sent to his CRD residential address via first class and certified mail. The 8210 request letter sent via first-class mail was returned marked "return to sender, not deliverable as addressed, unable to forward." Simbric accepted delivery of the certified mailing and signed the Domestic Return Receipt on May 18, 2011. The 8210 letter asked Simbric to confirm his intention to appear on the date and time listed in the letter and, if he was unable to appear, to provide an alternative date. It further noted "unless and until a postponement is agreed to, you are still obligated to appear on the date and at the time specified in this letter."

16. On or about May 10, 2011, Simbric advised the staff that he could not appear on June 6th for his OTR. Thereafter, the staff examiner attempted to speak with Simbric by telephone on or about June 3, 2011, June 29, 2011 and July 8, 2011. Notwithstanding several conversations in which Simbric stated that he would contact the staff after speaking with counsel, the staff was never able to discuss the rescheduling of the OTR with Simbric.
17. On July 22, 2011, the staff sent Simbric another Rule 8210 request noticing an OTR for August 22, 2011. Both the certified and first-class mailings were sent to Simbric's residential CRD address. Both letters were returned to the staff marked "return to sender, not deliverable as addressed, unable to forward." In order to further inform Simbric about the August OTR, the staff telephoned Simbric on or about July 20, 2011, and August 3, 2011, and left messages advising him that it had set a date of August 22, 2011 for the OTR. Simbric never returned these calls.
18. Throughout the period that the staff was attempting to obtain Simbric's testimony, FINRA staff did not become aware of a more current residential address for Simbric. The examination staff's last communication with Simbric was sent to his CRD address on August 25, 2011, and the certified mail delivery receipt was signed by SS, who previously accepted delivery of mail sent to Simbric at that address in March, 2011.
19. Simbric did not appear for his OTR on August 22, 2011.
20. Such acts, practices and conduct constitute a violation of FINRA Rules 8210 and 2110 by Simbric.

THIRD CAUSE OF ACTION

(Misrepresentation to a Member Firm Employer – FINRA Rule 2010)

21. The Department realleges and incorporates by reference paragraphs 1 and 3, 5 through 10, 12

and 14 through 20 above.

22. As set forth above, on December 6, 2010, CCF sent Simbric a letter asking if he knew who sent the VBs the fictitious letters. Simbric wrote back to CCF that he did not know who sent them, which was untrue because, in fact, he was the person who sent them. Therefore, Simbric materially misrepresented to his employer his involvement in the attempt to conceal from the VBs the accurate premium bonus they would receive as a result of the annuity transactions.

23. Such, acts, practices and conduct constitute a violation of FINRA Rule 2010 by Simbric.

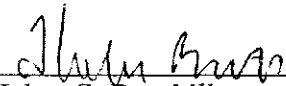
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- C. 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 2, 2011



Helen G. Barnhill
Senior Regional Counsel
Jacqueline D. Whelan
Regional Chief Counsel
FINRA Department of Enforcement
4600 S. Syracuse St., Suite 1400
Denver, CO 80237

(303) 446-3111; Fax: (303) 620-9450
helen.barnhill@finra.org