

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant

vs.

DAVID E. COOK
Registered Representative
(CRD No. 2503250)

Respondent

**Disciplinary Proceeding
No. C8A050030**

Hearing Officer

COMPLAINT

Upon information and belief, Complainant **alleges** as follows:

1. David E. Cook ("Respondent Cook") entered the securities industry in December 1994 as a General Securities Representative with a member of NASD. On September 9, 1997, Respondent Cook became a General Securities Principal. Respondent Cook was registered in the above capacities with Bethany Financial Advisory, Inc. ("Bethany") from November 1996 through January 2003. In April 2003, Respondent Cook joined Horwitz & Associates, Inc. ("Member") as a registered representative. On April 8, 2004, the Member filed a Uniform Termination Notice for Securities Industry Registration (Form U-5) that disclosed that Respondent Cook voluntarily terminated his employment. Respondent Cook is not currently registered with another member of NASD. Pursuant to Article V, Section 4 of the NASD's By-Laws, Respondent Cook is subject to the jurisdiction of NASD.

FIRST CAUSE FOR COMPLAINT
NASD Conduct Rule 2110
Falsification

2. Paragraph number 1 is re-alleged and incorporated herein by reference.

3. Between the approximate dates of October 27, 2000 and January 5, 2001, Respondent Cook affixed the signature of public customer BV to three separate Individual Retirement Account distribution forms and submitted the forms to a clearing firm to cover margin calls in the customer BV's accounts without the customer BV's knowledge or consent.

4. Between the approximate dates of June 8, 2000 and October 27, 2000, Respondent Cook affixed the signature of public customer HH to three separate individual Retirement Account distribution forms and submitted the forms to a clearing firm to cover margin calls in the customer BV's accounts without the customer HH's knowledge or consent.

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

SECOND CAUSE FOR COMPLAINT
NASD Conduct Rule 2110 and IM 2310-2
Unauthorized Transactions/Misuse of Customer Funds or Securities

6. Paragraphs numbers 1 - 5 are re-alleged and incorporated herein by reference.

7. Between the approximate dates of October 27, 2000 and January 5, 2001, Respondent Cook caused three distributions from customer BV's Individual Retirement Account to cover margin calls in customer BV's margin accounts without customer BV's knowledge or consent.

8. Between the approximate dates of June 8, 2000 and October 27, 2000, Respondent Cook caused three distributions from customer HH's Individual Retirement Account

to cover margin calls in customer HH's margin accounts without customer HH's knowledge or consent.

9. Such acts, practices and conduct constitute separate and distinct violation of NASD Conduct Rule 2110 and IM 2310-2 by Respondent Cook.

THIRD CAUSE FOR COMPLAINT
NASD Conduct Rule 2110
Sending Falsified Documents in Response to NASD's Request for Information

10. Paragraphs numbers 1 – 9 are re-alleged and incorporated herein by reference.

11. On or about May 3, 2001, in response to a NASD request for information, Respondent Cook submitted to NASD staff three separate falsified IRA distribution forms purportedly signed by Customer HH and falsely claimed Customer HH authorized IRA distributions to cover margin calls.

12. On or about June 19, 2001, in response to a NASD request for information, Respondent Cook submitted to NASD staff three separate falsified IRA distribution forms purportedly signed by Customer BV and falsely claimed Customer BV authorized IRA distributions to cover margin calls.

FOURTH CAUSE FOR COMPLAINT
NASD Conduct Rule 2110 and NASD Procedural Rule 8210
Failure to Respond to Requests for Information

13. Paragraphs numbers 1 - 12 are re-alleged and incorporated herein by reference.

14. On or about March 2, 2004, NASD staff sent to Respondent Cook a request that he provide certain information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested to Respondent Cook's address of record as contained in

the records of the Central Registration Depository ("CRD address"). On March 11, 2004, Cook's attorney responded to the first request for information and requested additional time in which to respond. NASD staff agreed, and set a new deadline of March 31, 2004. By that date, no response was received.

15. On or about April 5, 2004, NASD staff sent to Respondent Cook a request that he provide the information initially requested on March 2004, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent Cook's CRD address. The first class mailing to the CRD address was not returned.

16. On April 16, 2004, Respondent Cook sent a letter in response to the second request for information and informed NASD staff that he is leaving the securities industry. Respondent Cook did not provide the requested information.

17. Respondent Cook has failed to respond to the requests for information described in Paragraphs 13 and 16 above to date, and the dates for responding to the requests have passed.

18. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rule 2110 and Procedural Rule 8210 by Respondent Cook.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent Cook committed the violations charged and alleged herein;
- B. An order imposing sanctions upon Respondent Cook in accordance with NASD Procedural Rule 8310;
- C. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Procedural Rule 8330;
- D. An order requiring Respondent Cook to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- E. An order imposing any other fitting sanction.

April 28, 2005

Date



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April 28, 2005

Date



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