

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

CHERYL JIMERSON
(CRD No. 1379935),

Respondent.

Disciplinary Proceeding
No. E102004089201

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Cheryl Jimerson effected unauthorized transactions in the accounts of two unrelated customers, GS and JV. Jimerson also engaged in a pattern of unsuitable excessive trading and unsuitable short term trading of mutual funds in one of JV's accounts. Finally, Jimerson also failed to appear for an on-the-record interview ("OTR").

JURISDICTION

2. Jimerson first became registered with FINRA, formerly known as National Association of Securities Dealers or NASD, as a General Securities Representative ("GSR") through an association with a member firm on or about July 23, 1985.
3. From April 12, 2001, through October 10, 2002, Jimerson was registered with FINRA as a GSR through an association with member firm Investprivate, Inc. (BD No. 103737) ("Investprivate").

4. From December 4, 2002 through October 5, 2005, Jimerson was registered with FINRA as a GSR through an association with member firm Westrock Advisors, Inc. (BD No. 114338) ("Westrock"). Jimerson was associated with Westrock beginning on or about October 8, 2002.
5. Jimerson is currently not registered through or associated with any FINRA member firm.
6. On March 14, 2007, Westrock filed a Form U-5 amendment with respect to Jimerson. The Form U-5 amendment set forth an initial disclosure of a customer complaint received by Westrock.
7. Pursuant to Article VI, Section 3 of FINRA's By-Laws and the 9510 series of NASD's Procedural Rules, Jimerson's registration was suspended:
 - a. on August 2, 2006, for failing to pay an arbitration award in NASD Arbitration Case No. 05-05162 or to satisfactorily respond to an NASD request to provide information concerning the status of compliance with the award; and
 - b. on December 28, 2006, for failing to pay an arbitration award in NASD Arbitration Case No. 05-05146 or to satisfactorily respond to an NASD request to provide information concerning the status of compliance with the award.
8. Pursuant to Article V, Section 4 of FINRA's By-Laws, Jimerson remains subject to FINRA's jurisdiction.

FIRST CAUSE OF COMPLAINT
Unauthorized Transactions – Customer GS
(Violation of NASD Conduct Rule 2110)

9. Paragraphs 1 through 7 are re-alleged and incorporated herein by reference.
10. On or about February 5, 2004, while registered through Westrock, Jimerson effected the following transactions without the prior knowledge, authorization or consent from GS:

- a. the purchase of 194.357 shares of FT-Franklin Rising Dividends Class A fund,
- b. the sale of 46.111 shares of Smith Barney Shearson Aggressive Growth Fund class A,
- c. the sale of 150 shares of Provident Capital Trust IV 9.45% Preferred Callable, and
- d. the sale of 145 shares of Royal Bank of Scotland Group Non Cumulative Series E 9.00% Preferred Spon ADR.

By reason of the foregoing, Jimerson violated NASD Conduct Rule 2110.

SECOND CAUSE OF COMPLAINT
Unauthorized Transactions – Customer JV
(Violation of NASD Conduct Rule 2110)

- 11. Paragraphs 1 through 9 are re-alleged and incorporated herein by reference.
- 12. On or about April 12, 2004, while registered through Westrock, Jimerson effected the following transactions without the prior knowledge, authorization or consent of customer JV:
 - a. the sale of 60 shares of Forest Pharmaceutical stock,
 - b. the sale of 300 shares of General Electric stock, and
 - c. the purchase of JP Morgan Small Cap Equity Fund Class A.

By reason of the foregoing, Jimerson violated NASD Conduct Rule 2110.

THIRD CAUSE OF COMPLAINT
Excessive Trading – Customer JV
(Violation of NASD Conduct Rules 2310 and 2110)

- 13. Paragraphs 1 through 11 are re-alleged and incorporated herein by reference.
- 14. Jimerson was the primary broker servicing JV's accounts at Investprivate (from April 2001 through October 2002) and Westrock (from October 2002 through June 2004). In or about October 2002, when Jimerson changed firms from Investprivate to Westrock, customer JV transferred his accounts from Investprivate to Westrock.

15. Prior to April 2001, Jimerson had serviced JV's accounts at another broker-dealer where Jimerson was registered.
16. Customer JV opened three accounts at Westrock: an Individual Retirement Account ("IRA") account, a Roth IRA account and a securities account.
17. As set forth on Westrock new account documentation, JV's:
 - a. stated investment objectives were: Return Objective – Current Income and Capital Appreciation, Primary Risk Profile – Moderate.
 - b. annual income was approximately \$100,000, his liquid assets \$200,000 and his net worth (exclusive of residence) \$1 million.
18. At the time the accounts were opened, JV was 46 years old.
19. During the period from in or about October 2002 through May 2004, Jimerson recommended purchase and sale transactions in JV's IRA account. JV relied upon and followed Jimerson's recommendations.
20. Additionally, Jimerson exercised discretionary authority with respect to some transactions in the account even though JV had not executed any document permitting such discretion.
21. During the period from in or about October 2002 through May 2004, the trading in JV's IRA account generated total commissions and fees of \$38,639. The average monthly equity during that period was \$54,724.
22. For the period of approximately October 2002 through May 2004, the cost-to-equity ratio for JV's IRA account, which is calculated by dividing the total of all transaction costs incurred in an account by the average equity in the account, was 42.16 percent annualized.
23. The turnover rate in an account measures the number of times during a given period that the securities in the account are replaced by new securities, and is calculated by dividing the total

cost of purchases by the average equity in the account. During the period of approximately October 2002 through May 2004, the annualized turnover rate for JV's IRA account was 7.967.

24. The level of activity in JV's IRA account was inconsistent with JV's objectives and financial situation.

25. Jimerson engaged in a pattern of unsuitable excessive trading activity in JV's IRA account in light of JV's objectives, financial situation and needs.

By reason of the foregoing, Jimerson violated NASD Conduct Rules 2310 and 2110.

FOURTH CAUSE OF COMPLAINT
Unsuitable Mutual Fund Transactions – Customer JV
(Violation of NASD Conduct Rules 2310 and 2110)

26. Paragraphs 1 through 25 are re-alleged and incorporated herein by reference.

27. During the period from in or around October 2002 through May 2004, Jimerson

recommended the following short-term mutual fund trades in JV's IRA account at Westrock:

- American Funds Amcap Fund Class A (purchased February 12, 2004 and sold March 11, 2004);
- American Funds Balanced Fund Class A (purchased January 27, 2003 and sold on February 24, 2003, purchased again on July 7, 2003 and sold on August 19, 2003);
- Delaware Small Cap Value Fund Class A (purchased January 30, 2004 and sold on March 4, 2004);
- Dreyfus Premier Emerging Markets Fund (purchased May 30 and June 4, 2003, sold on September 25, 2003);
- Eaton Vance Income Fund Class A (purchased March 19, 2003 and sold on April 10, 2003);
- Eaton Vance WW Health Science Fund Class A (purchased December 5, 2003 and sold on December 22 2003 and January 12, 2004);
- Evergreen Special Value Fund Class A (purchased February 3, 2004 and sold on March 4, 2004);
- FT Mutual Beacon Class A (purchased October 14, 2003 and sold on November 17, 2003);
- FT Franklin Rising Dividends Class A (purchased June 23, 2003 and sold on July 31, 2003, purchased again on December 4, 2003 and sold on January 30, 2004);

- Goldman Sachs High Yield Income Fund Class A (purchased December 22, 2002 and sold on February 13, 2003);
- Goldman Sachs Small Corp. Class A (purchased on September 25, 2003 and sold on October 31, 2003);
- JP Morgan Capital Growth Fund Class A (purchased on October 14, 2003 and sold on December 19, 2003 and January 30, 2004);
- Liberty Small Cap. Fund Class A (purchased September 5, 2003 and sold on September 18, 2003);
- Lord Abnett Bond Debenture Fund (purchased December 9, 2002 and sold on February 13, 2003);
- Mutual Series Mutual Beacon Class A (purchased April 30, 2004 and sold on May 18, 2004);
- Pioneer Fund Class A (purchased May 8, 2003 and sold on July 7, 2003); and
- Putnam High Yield Tr Class A (purchased March 27, 2003 and sold on April 24, 2003).

28. In her handling of JV's IRA account, Jimerson employed a pattern of short-term trading of mutual funds.
29. The short-term mutual fund trading in JV's IRA account often followed a pattern whereby Jimerson sold mutual fund(s) after holding the fund(s) for a short period of time. The proceeds from the sale were then utilized to purchase securities of another asset class, such as preferred stock. Then, Jimerson sold the securities of the other asset class and again purchased mutual funds.
30. None of the funds in JV's IRA account was held longer than 114 days. In most instances, the funds were held 60 days or less.
31. As a result of Jimerson's short term trading of mutual funds, customer JV incurred excessive sales charges. During the period of October 2002 to May 2004, JV incurred approximately \$19,314 in sales charges for mutual fund transactions.
32. A schedule of the transactions in JV's account is annexed hereto as Exhibit A.
33. Jimerson effected these transactions without having reasonable grounds for believing that the transactions were suitable for JV on the basis of JV's financial situation and needs.

By reason of the foregoing, Jimerson violated NASD Conduct Rules 2310 and 2110.

FIFTH CAUSE OF COMPLAINT

Failure to Appear

(Violations of NASD Procedural Rule 8210 and NASD Conduct Rule 2110)

34. Paragraphs 1 through 40 are re-alleged and incorporated by reference.
35. By letters dated June 10, 2004 and March 7, 2005, the staff of FINRA's District No. 10 office (the "Staff") requested, respectively, that Jimerson provide information and appear for an OTR. Both of the requests were sent to Jimerson's then current work address (at Westrock) and to the last current residential address as reflected on the Central Registration Depository, P.O. Box 425, [REDACTED] (the "CRD Address").
- Jimerson responded to the request for information and appeared for an OTR.

The First Request

36. By letter dated April 5, 2007, the Staff requested, pursuant to Rule 8210, that Jimerson appear on Wednesday, April 18, 2007, for an OTR. The letter further requested that Jimerson contact the Staff by April 13, 2007 to either confirm Jimerson's appearance on April 18, 2007 or to reschedule if Jimerson was unable to appear on the scheduled date.
37. The request was sent by certified and first class mail to the CRD Address and four additional addresses that the Staff obtained from searching Lexis and internet sources. The additional addresses are: (i) [REDACTED] (the "P.O. Box 425 Address"); (ii) [REDACTED] (the "P.O. Box 598 Address"); (iii) [REDACTED] (the "New York Address") and (iv) Prudential Douglas Elliman Real Estate, [REDACTED] [REDACTED] (the "PDERE Address").

38. The certified mailing to the CRD Address was returned marked "Return to Sender, Unclaimed, Unable to Forward." The first class mailing to the CRD Address was not returned. The certified and first class mailings to the P.O. Box 425 Address were not returned. The certified mailing to the P.O. Box 598 Address was returned marked "Return to Sender, Unclaimed, Unable to Forward." The first class mailing to the P.O. Box 598 Address was returned marked "Return to Sender, Attempted – Not Known, Unable to Forward." The certified mailing to the New York Address was returned marked "Return to Sender." The first class mailing to the New York Address was returned marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward." The return receipt card for the certified mailing to the PDERE Address was returned having been signed for by a "Pat Harris." The first class mailing to the PDERE address was not returned.
39. Jimerson never contacted the Staff as requested by April 13, 2007. Jimerson failed to appear on April 18, 2007.

The Second Request

40. By letter dated April 18, 2007, the Staff requested, pursuant to Rule 8210, that Jimerson appear on Tuesday, May 1, 2007 for an OTR (the "Second Request").
41. The Second Request was forwarded by certified and first class mail to: (i) the CRD Address, (ii) the P.O. Box 425 Address, (iii) the P.O. Box 598 Address; (iv) the New York Address; and (v) the PDERE Address.
42. The certified mailing to the CRD Address was returned marked "Return to Sender, Unclaimed, Unable to Forward." The first class mailing to the CRD Address was not returned. The certified mailing to the P.O. Box 425 Address was not returned marked "Return to Sender, Unclaimed, Unable to Forward." The certified mailing to the P.O. Box

598 Address was returned marked "Return to Sender, Unclaimed, Unable to Forward." The first class mailing to the P.O. Box 598 Address was not returned. The certified mailing to the New York Address was returned marked "Return to Sender, Addressee Unknown." The first class mailing to the New York Address was not returned. The return receipt card for the certified mailing to the PDERE Address was returned having been signed for on April 21, 2007 by an "Annalisa Strada." The first class mailing to the PDERE address was not returned.

43. Jimerson never contacted the Staff as requested by April 26, 2007. Jimerson failed to appear on May 1, 2007.

By reason of the foregoing, Jimerson violated NASD Procedural Rule 8210 and Conduct Rule 2110.

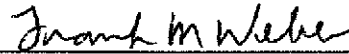
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more sanctions provided under NASD Procedural Rule 8310(a), including monetary sanctions, be imposed.
- B. order that Jimerson, pursuant to NASD Procedural Rule 8310(a), disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.
- C. order that the Jimerson bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

Dated: August 23, 2007

FINRA DEPARTMENT OF ENFORCEMENT



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