

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KAREN LEE CHAFE
(CRD No. 1935625),

Respondent.

Disciplinary Proceeding
No. 2012031147601

Hearing Officer – RLP

DEFAULT DECISION

May 8, 2014

Respondent is suspended from association with any FINRA member firm in any capacity for one year and fined \$5,000 for violating NASD Conduct Rule 2110 and FINRA Rule 2010 by falsifying variable annuity withdrawal request forms and IRA distribution request forms.

Appearances

William Brice La Hue, Esq., Atlanta, GA, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

I. Introduction

Respondent Karen Lee Chafe's employer firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on January 24, 2012, notifying FINRA that Chafe had been discharged for altering client documents. As a result of the ensuing investigation, FINRA's Department of Enforcement ("Enforcement") initiated this proceeding on January 15, 2014.¹

¹ Declaration of William Brice La Hue in Support of Motion for Entry of Default Decision ("La Hue Decl."), ¶ 5; Complainant's Exhibit ("CX")-1, at 2, 5.

In its complaint, Enforcement alleged that from 2006 through 2012, Chafe altered variable annuity withdrawal request forms and IRA distribution request forms for 14 customers by obscuring information on the forms, adding new information, and submitting the forms to her firm or the annuity company as authentic and genuine, thereby causing her firm and the annuity company to maintain inaccurate books and records. The complaint alleged that Chafe thereby violated NASD Conduct Rule 2110 (for conduct taking place before December 15, 2008) and FINRA Rule 2010 (for conduct taking place on or after December 15, 2008).²

Chafe did not answer the complaint. Consequently, on April 15, 2014, Enforcement filed a motion for entry of a default decision, together with the declaration of William Brice La Hue and six exhibits. Chafe did not respond to the motion.³

II. Jurisdiction

Chafe entered the securities industry in December 1988 and was registered with FINRA as an investment company and variable contracts products representative in March 1989. In December 2002, Chafe became associated with Berthel, Fisher & Company Financial Services, Inc. (“Berthel”), a FINRA member firm. She remained there until she was discharged on January 24, 2012. Although Chafe thereafter was associated with another FINRA member firm in a non-registered capacity until February 2014, she is not registered or associated with a

² In 2007, NASD consolidated with the member regulation function of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (“FINRA”). FINRA began formulating a consolidated rulebook and, as part of that process, in December 2008, NASD Rule 2110 was superseded by FINRA Rule 2010. This decision refers to the rules that were in effect at the time of Respondent’s misconduct. Accordingly, NASD Rule 2110 applies to conduct before December 15, 2008, and FINRA Rule 2010 applies to conduct on or after December 15, 2008. These rules are available at www.finra.org/Industry/Regulation/FINRARules.

³ On March 19, 2014, the Office of Hearing Officers received two emails from Chafe. Reading those emails as indications that Chafe did not intend to answer the complaint or respond to a motion for entry of default decision, the Hearing Officer issued an order on March 20, 2014. The order reminded Chafe that her response to a motion for entry of default decision would be due on or before May 1, 2014, and that, should she choose not to file a response, she would waive her right to a hearing, allegations in the complaint would be deemed admitted, liability might be established, and appropriate sanctions might be assessed.

FINRA member at present.⁴ She remains subject to FINRA's jurisdiction, however, because the complaint: (1) was filed within two years after the effective date of termination of Chafe's registration by Berthel; and (2) charges Chafe with misconduct committed while she was registered through Berthel.⁵

III. Respondent's Default

On January 15, 2014, Enforcement served the notice of complaint and complaint on Chafe by first-class and first-class certified mail addressed to her residential address as reflected in FINRA's Central Registration Depository ("CRD Address"). The notice sent by first-class mail was not returned. The notice sent by first-class certified mail was returned marked "return to sender, unclaimed, unable to forward." As set forth in the notice, Chafe was required to file her answer by February 12, 2014. She failed to do so.⁶

On February 14, 2014, Enforcement served a second notice of complaint and complaint on Chafe, again by first-class and first-class certified mail addressed to her CRD Address. The first-class mailing was not returned. A receipt for the certified mailing was returned bearing a delivery date of February 18, 2014, and a printed signature "Karen Chafe." Chafe nevertheless did not file an answer to the complaint by March 3, 2014, the deadline set forth in the second notice. To date, Chafe has not filed an answer nor sought to extend the time for doing so.⁷

⁴ La Hue Decl. ¶¶ 6-9; CX-2, at 2-4, 6.

⁵ See Article V, Sec. 4(a), FINRA By-Laws, *available at* www.finra.org/Industry/Regulation/FINRARules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

⁶ La Hue Decl. ¶¶ 10-13; CX-2, at 1; CX-3, at 13; CX-4.

⁷ La Hue Decl. ¶¶ 14-18; CX-5, at 2; CX-6.

Chafe received both actual and constructive notice of this proceeding and, therefore, the Hearing Officer finds that Chafe has defaulted by failing to answer the complaint.⁸ Therefore, the Hearing Officer deems the allegations in the attached complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

IV. Findings of Fact and Conclusions of Law

Beginning no later than January 2006, while she was associated with Berthel, Chafe engaged in a practice of modifying and resubmitting forms requesting the withdrawal of funds from annuity contracts, distributions from IRAs, or modifications of arrangements for periodic distributions from IRAs. In lieu of obtaining new forms executed contemporaneously by customers, Chafe reused old forms, whiting out or otherwise obscuring existing information, writing over the obscured information, and adding new information concerning one or more of the following matters:

- Distribution/withdrawal amounts;
- Tax withholding instructions;
- Withdrawal funding instructions;
- Payment methods; and
- Application dates.

Chafe then submitted the altered forms as originals to Berthel or the annuity company.⁹

Chafe continued this practice until January 2012. Over that six-year period, Chafe submitted altered forms on behalf of 14 customers at least 61 times.¹⁰ Indeed, Chafe admitted as much in a response to a FINRA information request, stating: “I freely admit that I reused forms

⁸ See FINRA Rules 9134(a)(2), (b)(1), and (b)(3); *Dep't of Enforcement v. Moore*, No. 2008015105601, 2012 FINRA Discip. LEXIS 45, at *19-21 (NAC July 26, 2012) (respondent had constructive notice of complaint mailed to his CRD address); see also Notice to Members 99-77, available at www.finra.org/Industry/Regulation/Notices/1999/P004087.

⁹ Complaint ¶¶ 5-8; see La Hue Decl. ¶ 20. Schedule A, appended to the complaint, describes in more detail the customers and forms involved, the dates forms were altered, and the information that was altered.

¹⁰ Complaint ¶¶ 5, 7; Schedule A.

instead of obtaining new forms each time as it was easier, that I whited out dates and amounts and blanked out the signature areas.”¹¹ Although Chafe did not have authorization from her customers to submit altered forms, her customers did authorize the pertinent withdrawals and distributions.¹²

FINRA Rule 2010 (formerly NASD Conduct Rule 2110) requires members to observe high standards of commercial honor and just and equitable principles of trade. Falsifying customer documents runs afoul of these standards and hence violates FINRA Rule 2010 and its predecessor.¹³ Accordingly, the Hearing Officer concludes that when, on 15 occasions between January 2006 and April 2008, Chafe submitted to an annuity company, purportedly as new original forms filed on behalf of four customers, withdrawal forms she had reused and altered, she violated NASD Rule 2110. Thereafter, when, on 46 occasions between January 2009 and January 2012, Chafe submitted to the annuity company or Berthel, purportedly as new original forms filed on behalf of 13 customers, withdrawal and distribution request forms she had reused and altered, she violated FINRA Rule 2010.

V. Sanctions

In cases involving forgery or falsification of records, FINRA’s Sanction Guidelines recommend a fine of \$5,000 to \$100,000 and a suspension of up to two years in cases where mitigating factors exist. Guideline-specific considerations are: (1) the nature of the documents

¹¹ Complaint ¶ 9; La Hue Decl. ¶ 20.

¹² La Hue Decl. ¶ 21.

¹³ *E.g., Dep’t of Enforcement v. Skiba*, No. E8A2004072203, 2010 FINRA Discip. LEXIS 6, at *13 (NAC Apr. 23, 2010).

forged or falsified, and (2) whether the respondent had a good-faith, but mistaken, belief of express or implied authority.¹⁴

Here, the documents were important customer documents authorizing the withdrawal of funds from variable annuity contracts and IRAs. Moreover, while Chafe's customers authorized the withdrawals, they did not authorize her to submit altered forms in order to effect those withdrawals.

The Hearing Officer views as aggravating the substantial number of alterations (61) made to documents submitted on behalf of a significant number of customers (14) over a lengthy period of time (6 years).¹⁵ However, the Hearing Officer also has considered that the falsified documents were consistent with Chafe's customers' wishes and that there is no indication that Chafe had an intent to harm her customers or that she did harm her customers.

On balance, this is a serious violation and, therefore, the Hearing Officer concludes that a one-year suspension and a \$5,000 fine adequately remedy Chafe's misconduct.

VI. Order

Respondent Karen Lee Chafe is suspended from associating with any FINRA member firm in any capacity for one year and is fined \$5,000 for violating NASD Conduct Rule 2110 and FINRA Rule 2010 by falsifying customer documents.

¹⁴ FINRA Sanction Guidelines, at 37 (2011), available at <http://www.finra.org/Industry/Enforcement/SanctionGuidelines/index.htm>.

¹⁵ FINRA Sanction Guidelines, at 6 (Principal Considerations 8, 9).

If this decision becomes FINRA's final disciplinary action, the suspension shall begin at the opening of business on June 16, 2014, and end at the close of business on June 15, 2015. The fine shall be due and payable if Chafe should reenter the securities industry.


Rada Lynn Potts
Hearing Officer

Copies to:

Karen Lee Chafe (*via email, overnight courier, and first-class mail*)
William Brice La Hue, Esq. (*via email and first-class mail*)
David B. Klafter, Esq. (*via email*)
Jeffrey D. Pariser, Esq. (*via email*)

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KAREN LEE CHAFE,
(CRD No. 1935625)

Respondent.

Disciplinary Proceeding
No. 2012031147601

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. At various times during the period from at least January 2006 into January 2012, Karen Lee Chafe (Chafe) altered variable annuity withdrawal forms and IRA distribution/withdrawal request forms for 14 customers by obscuring information, adding new information to the forms, and then submitting the forms as authentic and genuine, thereby causing her FINRA member firm to maintain inaccurate books and records, in violation of NASD Conduct Rule 2110 and FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. Chafe entered the securities industry in December 1998, when she was employed by a FINRA member firm. Chafe was registered as an investment company and variable contracts products representative in March 1989. Chafe was employed by three other FINRA member firms from January 1992 through December 2002. In December 2002, Chafe was employed by Berthel, Fischer & Company Financial Services, Inc. (Berthel) she remained with Berthel until January 2012. Chafe is not currently associated with any FINRA member firm.

3. Although Respondent is no longer registered or associated with a FINRA member, 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 effective date of termination of Respondent's registration with Berthel, namely January 24, 2012 (2) the Complaint charges Chafe with misconduct committed while she was registered with a FINRA member.

**CAUSE OF ACTION
NASD Conduct Rule 2110 and FINRA Rule 2010
(Falsification of Documents)**

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.
5. During the period from at least January 2006 into January 2012, Chafe, while associated with Berthel, used correction fluid or another masking technique to obscure information on multiple variable annuity withdrawal forms and IRA distribution forms.
6. Chafe then wrote over the obscured information and altered the forms adding new information in one or more of the following categories:
 - The distribution amount;
 - Tax withholding instructions;
 - Withdrawal funding instructions;
 - The method of payment of the distributions; and
 - The application dates.
7. In total, Chafe altered at least 61 forms involving 14 customers, as more fully described on **Schedule A** attached hereto and made a part hereof.
8. Chafe reused distribution/withdrawal request forms instead of obtaining new forms executed by customers. The recycled distribution/withdrawal request forms were altered in various ways as noted above, and were not re-executed by the respective customer. Chafe then submitted the distribution/withdrawal forms as original to Berthel or the annuity company.

9. Chafe admitted to FINRA staff that she altered distribution/withdrawal request forms in the manner outlined above for several years thereby causing Berthel and the annuity company to maintain inaccurate books and records.
10. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 (for conduct prior to December 15, 2008) and FINRA Rule 2010 (for conduct commencing on December 15, 2008) by Respondent Chafe.


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 Respondent bear such costs of the proceedings as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: 1/15/2014


William Brice La Hue, Senior Regional Counsel
FINRA Department of Enforcement
Atlanta District Office
One Securities Centre, Suite 500
3490 Piedmont Road, N.E.
Atlanta, Georgia 30305
Phone: (404) 239-6111; Fax: (404) 264-1586
E-Mail: brice.lahue@finra.org
and teresa.reich@finra.org (senior paralegal)

David B. Klafter, Acting Regional Chief Counsel
FINRA - Enforcement Department
Crystal Corporate Center
2500 N. Military Trail, Suite 302
Boca Raton, Florida 33431-6324
Phone: (561) 443-8110; Fax: (561) 443-7998
E-Mail: david.klafter@finra.org

Authorized House Counsel
Admitted in NY and NJ Only

SCHEDULE A

NO.	CUSTOMER INITIALS	ALTERED FORM	DATE ALTERED	ALTERED ITEM(S)
1	J.B.	Allianz Withdrawal Request	03/26/08	Date
2			03/19/09	Section 1- Withdrawal amount (Percentage to an Amount)
3	R.B.	Premiere Select IRA One-Time Distribution Request Form	12/16/10	Date
4			02/02/11	Date, Dollar Amount, Section 5- Payment Method (Bank Routing Number), Section 7- Withholding Election
5			05/03/11	Dollar Amount, Section 5- Payment Method (Letter D), & Section 7- Withholding Election (Percentage), & Date
6			11/21/11	Date & Dollar Amount
7	L.B.	Premiere Select IRA One-Time Distribution Request Form	12/16/10	Date & Dollar Amount
8			04/13/11	Date & Dollar Amount
9			08/03/11	Date
10			08/28/11	Date & Section 3- Distribution Instructions (Full Distribution)
11	T.C.	Allianz Withdrawal Request Form	01/03/07	Date & Dollar Amount
12			06/03/07	Date & Dollar Amount
13	R.E.	Premiere Select IRA Periodic Distribution Request Form	10/06/10	Top of page 1 (changing existing periodic distribution) and Dollar Amount
14			04/08/11	Top of page 1 (changing existing periodic distribution), Section 5- Funding Your Periodic Distributions (Payments), Dollar Amount, and Date
15	C.E.	Premiere Select IRA Periodic Distribution Request Form	04/08/11	Date & Section 5-Funding Your Periodic Distributions
16			05/04/11	Date & Top of Page 1 delete existing periodic distribution
17		Premiere Select IRA One-Time Distribution Request Form	11/12/11	Date & Dollar Amount
18	H.H.	Premiere Select IRA One-Time Distribution Request Form	01/25/11	Dollar Amount & Section 7- Withholding Election (State Tax Withheld)
19			02/20/11	Date & Dollar Amount
20			03/11/11	Date & Dollar Amount
21			03/18/11	Date & Dollar Amount
22	N.L. & L.L.	Allianz Withdrawal Request Form	04/17/08	Date
23			01/05/10	Date & Dollar Amount
24	P.L.	Allianz Withdrawal Request Form	11/23/10	Date
25			08/31/11	Date & Dollar Amount
26	S.M.	Allianz Withdrawal Request Form	03/31/10	Dollar Amount
27			05/03/10	Date & Dollar Amount
28			10/07/10	Date & Dollar Amount
29			10/07/10	Date & Dollar Amount
30			02/14/11	Date & Dollar Amount
31			02/28/11	Date & Dollar Amount

NO.	CUSTOMER INITIALS	ALTERED FORM	DATE ALTERED	ALTERED ITEM(S)
32			08/03/11	Date
33			10/03/11	Date
34			11/08/11	Date & Dollar Amount
35	L.U.	Allianz Withdrawal Request Form	01/24/06	Date & Dollar Amount
36			10/24/06	Date
37			01/04/07	Date & Dollar Amount
38			02/04/07	Date & Dollar Amount
39			02/04/07	Dollar Amount
40			07/27/07	Date
41			09/25/07	Date
42			12/05/07	Date
43			01/09/08	Date & Dollar Amount
44			01/09/08	Date & Dollar Amount
45			04/01/08	Date
46			01/02/09	Date & Dollar Amount
47			04/04/09	Date
48			05/04/09	Date & Dollar Amount
49			08/03/09	Date & Dollar Amount
50			09/28/09	Date
51			11/05/09	Date & Dollar Amount
52			11/05/09	Date & Dollar Amount
53			10/05/10	Date & Dollar Amount
54			12/14/10	Date & Dollar Amount
55			01/04/12	Date & Dollar Amount
56	G.P.	Premier Select IRA Periodic Distribution Request	12/22/10	Section 2- Distribution Request - Payment Method bank information changed.
57			04/29/11	Date, Section 2 - Distribution Request (Type of Request) & Funding for the Periodic Distribution Requested Section (Letter C)
58	A.R.	Premiere Select IRA Periodic Distribution Request Form	04/08/11	Date, Section 5- Funding Your Periodic Distributions (Type of Request); Section 6- Payment Method (Routing Number & Checking Account Number)
59	R.Y.	Premiere Select IRA One-Time Distribution Request Form	01/05/11	Date
60			02/25/11	Date & Dollar Amount
61			05/05/11	Date & Dollar Amount