FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, Complainant, v. FRANCIS M. EVANS (CRD No. 4479794), Respondent.	Disciplinary Proceeding No. 2007008128901 Hearing Officer – MC **HEARING PANEL DECISION** April 21, 2009

For falsifying signatures on documents related to a customer's annuity policies, in violation of Conduct Rule 2110, Respondent is suspended from associating with any FINRA member firm in all capacities for six months, fined $5,000, and assessed costs.

Appearances

Marcletta Kerr, Principal Regional Counsel, and UnBo Chung, Senior Regional Counsel, Chicago, IL, for the Department of Enforcement.

Paul J. Sussman, Esq., Chicago, IL, for Respondent.

DECISION

I. Introduction and Procedural History

This case concerns two deferred fixed annuity policies sold by Respondent Francis M. Evans ("Respondent") to his customer JR, an 85-year old widow. JR's daughter, SH, was the annuitant for one policy, and her son, GR, was the annuitant for the other.

The Department of Enforcement ("Enforcement") filed the Complaint on July 14, 2008. The single Cause of the Complaint alleges that the Respondent signed the names

of SH and GR, without their knowledge and consent, on the two applications for the policies and, later, on two amendments to the applications, in violation of Conduct Rule 2110. Respondent filed an Answer on August 5, 2008. In it, he admits that he signed the names of SH and GR on the documents without their consent, but denies that doing so violated Rule 2110.

A hearing was held in Chicago, IL, on February 18, 2009, before a Hearing Panel consisting of two current members of FINRA's District 8 Committee and the Hearing Officer.[1]

II. Findings of Fact

A. The Respondent

Respondent entered the securities industry when he became registered as an Investment Company and Variable Contracts Products Representative with FINRA member firm NYLife Securities LLC (the "Firm") in December 2001. Subsequently, Respondent also became registered with the Firm as a General Securities Representative.[2] Respondent continues to be employed at the Firm. He has no disciplinary history.

B. The Fixed Annuity Policies

The parties have stipulated to most of the material facts in this case.[3] Starting in February 2006, Respondent met with customer JR at her home on a number of occasions,

[1] The parties submitted eleven joint exhibits, which are referred to as "JX 1-11." Respondent submitted three exhibits, which are referred to as "RX 1-3." The hearing transcript is referred to as "Tr."

[2] JX 1, p. 2.

[3] The seven stipulations, filed on October 17, 2008, and the joint exhibits, were made part of the record of this case at the outset of the hearing. Tr. 5.

each lasting approximately two hours,[4] to review her investments and provide her with financial advice.[5] Among her investments, JR owned three variable annuity policies. For two of the policies, the beneficiaries and named annuitants were her children, but the policies were not equivalent in value. On the third policy, JR was both owner and annuitant. Respondent recommended that JR purchase new fixed annuity policies, effectively to transfer funds from the variable annuity policies to fixed annuity policies, in order to achieve, among other things, JR's goal of equalizing the proceeds that would go to her two children.[6]

At their fifth meeting, in October 2006, JR decided to follow Respondent's recommendation to purchase the deferred fixed annuity policies.[7] She designated SH as the annuitant for one policy and GR as the annuitant for the other.[8] Respondent filled out the applications with JR at her home,[9] where he obtained her signature as the owner, and then submitted the applications to the issuing company, New York Life Insurance and Annuity Corporation (the "Company").[10] A signature line for the annuitant on each application was left blank when Respondent submitted the applications.[11]

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[4] Tr. 110.

[5] Tr. 97, 110 – 114.

[6] Tr. 112 – 116.

[7] Tr. 115 – 117.

[8] JX 3, p. 1; JX 4, p. 1.

[9] Tr. 117.

[10] Tr. 116 – 117. *See* JX 3 and JX 4.

[11] Tr. 172.

Shortly thereafter, the Company returned the applications to Respondent because they were incomplete.[12] When Respondent reviewed the applications, he concluded they had been returned because information pertaining to the annuitants was missing.[13]

The parties stipulate that to complete the forms, Respondent signed SH's name in the designated space on the application for the policy designating her as the annuitant, and GR's name in the designated space on the application for the policy designating him as the annuitant, without obtaining the permission of either one of them to do so.[14] Respondent then resubmitted the applications.

C. The Amendments

Subsequently, the Company sent Respondent the policies, forms for JR to acknowledge receipt of the policies, and amendments to the policies. The amendments addressed an inconsistency on the policy applications filled out by Respondent: in the first section of the applications describing the owner, in a box titled "Relationship to Annuitant," he had written "SELF."[15] This made it appear that JR was both owner and annuitant and was inconsistent with the designation of SH and GR as the annuitants. The amendments clarified that SH was the annuitant for one policy and GR was the annuitant for the other policy.[16]

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[12] *Id.*

[13] Tr. 173.

[14] Stipulations, ¶¶ 3, 4.

[15] Tr. 174.

[16] Tr. 174, 181; JX 5 and JX 6.

In November 2006, Respondent delivered the policies to JR at her home and took with him the amendment form for each policy.[17] At Respondent's direction, JR signed the receipt for each policy on a signature line for the policy owner. Also at Respondent's direction, JR signed the amendment for each policy, which identified her as the policy owner and parent of the designated annuitants.[18] The signature lines for the annuitants were left blank.

Respondent returned to his office where he signed the names of SH and GR on signature lines for the annuitants on the amendments before submitting them to the Company.[19] He signed their names without the knowledge or consent of SH and GR.[20]

Respondent earned $9,871.89 in commissions for the sale of the two fixed annuity policies.[21]

D. The Firm's Investigation

On February 9, 2007, Susan Blood, Senior Agency Standards Consultant for the Firm, received a complaint letter signed by customer JR, which claimed, among other things, that the signatures of SH and GR on the fixed annuity application forms were forged.[22] When Ms. Blood confronted Respondent with the letter that day and asked him why JR would make such an allegation, Respondent replied that JR's allegation was true, admitted that he had signed the annuitants' names on the applications and that he had

[17] Tr. 205 – 207.

[18] Stipulations, ¶ 5.

[19] Tr. 206 – 207.

[20] Stipulations, ¶¶ 6 – 7.

[21] JX 9. Respondent earned an additional $6,000 for placing JR in the third fixed annuity policy in which she was both owner and annuitant, and on which no signatures were alleged to have been forged by him.

[22] Tr. 26. The letter made no mention of the signatures of SH and GR on the amendments.

done so out of "laziness."[23] Ms. Blood asked him if he had signed the names of people on documents on other occasions; Respondent said no.[24] Ms. Blood then asked Respondent to prepare a statement describing what he had done. He did so and gave it to her that day.[25] In the statement, Respondent wrote:

> I have made an extremely poor decision in this case. I admit that I signed [GR's] and [SH's] names as annuitants on the applications for the fixed annuities. I should have taken the proper steps to obtain the required signatures. I took these steps foolishly to expedite the transfer of funds. There was no intent to deceive anyone. This decision was made in a moment of weakness and laziness. I regret it wholeheartedly.[26]

Ms. Blood, unaware of the amendments, did not ask Respondent if he had signed the names of SH and GR on them, and Respondent volunteered nothing about having done so.[27]

Subsequently, the Firm issued a "severe reprimand" to Respondent for signing the names of SH and GR on the two fixed annuity applications.[28] The Firm imposed several sanctions. Beginning in November 2008, Respondent was placed on "enhanced supervision" for six months, after which time his supervision status will be revisited. This level of supervision entails Ms. Blood reviewing monthly all of Respondent's "paid cases," interviewing a minimum of three of Respondent's customers monthly, and conducting at least two unannounced supervisory reviews. The Firm's home office is

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[23] Tr. 27.

[24] Tr. 28.

[25] Tr. 29.

[26] JX 7, p. 2.

[27] Tr. 33. Respondent testified that he had forgotten he had signed for SH and GR on the amendments when he was questioned by Ms. Blood. Tr. 160.

[28] The terms of the "severe reprimand" are described in JX 8.

monitoring Respondent's e-mail.[29] The Firm has suspended, for two years, Respondent's ability to conduct "direct trading"[30] and, for eight months, his ability to act as an investment adviser.[31] The Firm also reversed the commissions paid to Respondent for the fixed annuity policies he had sold to JR.[32]

Subsequently, the State of Illinois imposed a $2,000 fine upon Respondent for signing the names of SH and GR on the policy applications.[33]

E. Respondent Violated Conduct Rule 2110 by Signing Others' Names, Without Their Knowledge or Consent, on Documents Related to a Customer's Annuity Policies

Conduct Rule 2110 provides that "A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade." Signing another person's name to documents without permission has been held to constitute forgery.[34] Signing others' names without proper written authority, even if done without a fraudulent purpose and ostensibly to assist a customer, is impermissible.[35]

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[29] Tr. 31 – 32.

[30] According to Respondent, direct trading allows him to make changes to a customer's account at the request of the customer. Tr. 146 – 147.

[31] Tr. 147 – 148.

[32] Tr. 49, 134 – 136.

[33] Tr. 148 – 149.

[34] *Dep't of Enforcement v. Claggett*, 2007 FINRA Discip. LEXIS 2, at *11 (NAC Sept. 28, 2007).

[35] *Dist. Bus. Conduct Comm. v. Charles Lee Bradley*, 1994 NASD Discip. LEXIS 187, at *8 (NAC Oct. 31, 1994). ("We do not believe that Bradley forged the signatures at issue for the purpose of engaging in a purposeful fraudulent activity, but for the purpose of attempting to aid his customers to transfer their accounts… We nonetheless find that signing names under any circumstances without proper written authority cannot be condoned in the securities industry.").

Forgery or falsification of documents is inconsistent with the high standards of commercial honor and just and equitable principles of trade required by Rule 2110.[36]

In his defense, Respondent insists that he intended to do nothing wrong, and did not violate Conduct Rule 2110, when he signed the annuitants' names. At the hearing, he made a number of factual assertions, not all of them consistent with each other, to support his denial of culpability. He claimed that:

- at the time he affixed the signatures on the policy applications and amendments, he believed he was merely completing the "beneficiary portion of an application" [37] as he customarily does, and was not aware that he wrote the names on signature lines;[38]

- he had never before seen an instance in which the annuitant and owner were not the same person, and the Firm had never instructed him on how to handle such a situation; [39]

- he had no idea that the signatures of the annuitants were needed or that it was wrong to sign their names; [40]

- he had nothing to gain by signing their names; [41] and

- he had no intention to mislead anyone. [42]

The Hearing Panel carefully weighed Respondent's hearing testimony, as well as the investigative testimony he had previously given on June 10, 2008,[43] giving due regard

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[36] *See, e.g., Donald M. Bickerstaff,* Exch. Act Rel. No. 35,607, 1995 SEC LEXIS 982 (Apr. 17, 1995).

[37] Tr. 143.

[38] Tr. 194.

[39] Tr. 130.

[40] Tr. 128.

[41] Tr. 128 – 129.

[42] Tr. 140.

[43] JX 11.

both to the content of the testimony and Respondent's demeanor. The Hearing Panel also carefully assessed the testimony and demeanor of witnesses Susan Blood, Robert Hodgkiss,[44] and Lawrence Dyjak,[45] and examined the exhibits introduced into evidence by the parties. Taking all of these into consideration, the Hearing Panel finds Respondent's claims unpersuasive.

First, the Hearing Panel finds, and Respondent admits, that he knew the Firm's strict blanket policy prohibited its agents from signing other peoples' names on documents related to insurance products.[46] During a routine supervisory review on August 2, 2006, a little more than two months before Respondent sold the policies to JR, he signed an acknowledgment that he had received and read the Firm's Handbook.[47] The Handbook includes the following relevant proscription in a list of prohibited acts:

> Signing another person's name (such as an applicant, insured, policyowner, beneficiary, assignee, or investor) on any document there of [sic] relating to or required for the offer and/or sale of a securities or insurance product, with or without the permission of the client.[48]

By the clear terms of this prohibition, Respondent was forbidden from signing the names of SH and GR on any document relating to the sale of a securities or insurance product, regardless of whether they were beneficiaries or had some other status in relation to the policies.

The Hearing Panel does not find credible Respondent's claim that he was unaware, when he signed the names of SH and GR on the policy applications, that he was

[44] Mr. Hodgkiss is a managing partner of the Firm.

[45] Mr. Dyjak is an employee and registered representative of the Firm, and Respondent's father-in-law.

[46] Tr. 73, 156.

[47] Tr. 35.

[48] JX 10, p. 5.

writing their names on a signature line, as opposed to signing the applications on their behalf. The Hearing Panel finds it inconsequential that Respondent's Firm did not specifically instruct him that he could not sign other persons' names on the signature line for an annuitant on an application form for an annuity. The Firm's policy forbade signing someone else's name on any document related to an insurance or securities product. The format of the application forms and the amendments makes it clear that the annuitant's signature is required. Despite his claim that he could just as easily have printed their names, Respondent chose to write them in longhand, making it appear that the annuitants had signed the forms.[49] Notably, Respondent made no notation, such as a slash followed by his initials, customarily employed to indicate that someone has signed for another. And, as Respondent acknowledges, the signed names of SH and GR appear to have been written in a handwriting style different from his own signature.[50] Furthermore, after the Company returned the incomplete applications, Respondent was on notice that the signatures of the annuitants were necessary in order for the applications to be processed.

The Hearing Panel finds it significant that when the Company sent JR's policies, receipts and amendments to Respondent, he went to her home, obtained her signatures and affixed his own in her presence. Respondent postponed, however, signing the names of SH and GR on the amendments until after he returned to his office. The Hearing Panel does not find credible Respondent's claim that the reason he did so was that he did not yet know if the annuitants' signatures were needed.[51] Furthermore, when Respondent

[49] Tr. 201.

[50] Tr. 202 – 204.

[51] Tr. 205 – 207.

signed the names of SH and GR to the amendments, he once again did so in longhand script instead of printing, so that they looked like signatures, written in a style that appears dissimilar from his own signature. These facts demonstrate that Respondent made a series of conscious choices to sign the documents with the intention of making it appear that the names of SH and GR were genuine signatures.

Furthermore, the Hearing Panel does not find credible Respondent's claim that he had nothing to gain by signing for SH and GR. Without the signatures of the annuitants, the policy applications would not have been processed,[52] as Respondent found out when the incomplete applications were returned to him. The Hearing Panel finds that the acts of signing the names of SH and GR on the policy applications and amendments were intentional, undertaken in order to complete the sale of the policies.

Similarly, the Hearing Panel does not credit Respondent's claim that he had no personal interest in making the sale. As Ms. Blood pointed out, and Respondent admitted, he earned a commission on the sale of the policies to JR.[53] Rather, the Hearing Panel finds credible Respondent's admission in the written statement he submitted to Ms. Blood, shortly after being initially confronted by her, that he signed the names of SH and GR on the policy applications "foolishly to expedite the transfer of funds."

Accordingly, the Panel finds that Respondent, by his actions, violated Rule 2110.

III. Sanctions

For forgery or falsification of documents, the Sanction Guidelines recommend a suspension for up to two years in cases in which mitigating factors exist, and a fine of

[52] Tr. 44 – 45.

[53] Tr. 48, 134.

$5,000 to $100,000. In egregious cases, a bar is recommended.[54] Enforcement, tacitly recognizing this is not an egregious case, recommends a suspension from associating with a FINRA member firm in all capacities for one year. Respondent asks for no suspension, arguing (i) that any suspension will result in the termination of his employment with the Firm, and (ii) he has already been punished sufficiently by the sanctions imposed by the Firm and the State of Illinois.

The Panel agrees that this is not an egregious case. Nonetheless, taking into consideration all of the circumstances, Respondent's misconduct was serious enough to warrant sanctions sufficient to discourage him from a similar lapse in the future and to deter others from engaging in similar misconduct.

A. Principal Considerations

The Principal Considerations noted by the Sanction Guidelines relevant to forgery or falsification of documents are (i) the nature of the documents, and (ii) whether the respondent had a good-faith but mistaken belief that he had express or implied authority to sign as he did.[55]

1. The Documents

a. The Applications

On its face, each policy application requires the properly executed signature of the annuitant in order to become effective. By its explicitly stated terms, the application is an essential document for the applicant to purchase the policy. It is noteworthy that, when asked what would have happened if he had requested SH and GR to sign, and they refused, Respondent initially conceded that JR's transfer from the variable to the fixed

[54] *FINRA Sanction Guidelines*, 39 (2007).

[55] *Id.*

annuity policies would not have occurred.[56] The importance of the applications is, therefore, an aggravating factor.

b. The Amendments

After submitting the fully executed applications for the policies to the Company, Respondent received the policies, receipts for the policies, and the amendments to the policies simultaneously. The receipts have signature lines for the policy owner and the agent. Respondent had JR sign the receipts, and he signed them as well.

Respondent considered the amendments to be part of the applications,[57] and he assumed that the name of the annuitant had to be on each amendment before it was returned to the Company.[58] Respondent's assumption was rational, for each amendment on its face requires the signatures of both named parties (the owner and the annuitant) as well as the signature of a witness. The requirement of a witness reinforces the import of the genuineness of the signatures, and the need for the signatures. The significance of the signatures, to clarify the identities of the annuitants, is an aggravating factor.

2. Good-Faith or Mistaken Belief in Authority to Sign

A good-faith, but mistaken, belief of express or implied authority to sign for another is a mitigating factor in a case of forgery or falsification of documents. Respondent contends through the testimony of witness Lawrence Dyjak, that an agent in his position, dealing with a policy in which the owner is not the same person as the annuitant, could have a good-faith belief that he might complete the portion of the

[56] Tr. 179 – 180.

[57] Tr. 164.

[58] Tr. 206 – 207.

contract pertaining to the annuitant.[59] Respondent also claims that both he and JR believed that the annuitants and beneficiaries in these policies were identical.[60] Because Respondent equated the annuitant with the beneficiary, and he had never before been required to obtain the signature of a beneficiary, he contends that he had a good-faith belief that he could sign the names of SH and GR as the annuitants.[61]

The Hearing Panel finds these contentions to be untenable. In the record of this case, there is no basis from which Respondent could infer, in good faith, that he had express or implied authority from SH and GR to sign their names as annuitants on either the policy applications or the amendments. Finally, the clarity of the Firm's prohibition against signing the name of anyone, even with consent, renders this defense unsupportable.

B. Other Aggravating and Mitigating Considerations

Enforcement cites several factors enumerated in the Guidelines' Principal Considerations in Determining Sanctions that it asserts are aggravating in this case; Respondent cites others he argues are mitigating. Applying the relevant Principal Considerations, the Hearing Panel finds some to be mitigating, and others aggravating, as set forth below.

1. Acceptance of Responsibility

Respondent, when initially confronted by the Firm, was appropriately candid and seemingly contrite when he wrote that he "made an extremely poor decision," "foolishly"

[59] Tr. 225.

[60] Tr. 123.

[61] Tr. 118 – 119.

in a moment of "weakness and laziness."[62] Respondent's admissions, coming after the Firm learned of his misconduct, however, are not mitigating.[63] Even if these admissions were to be given mitigating effect, that effect would be diminished by Respondent's testimony at the hearing that when he signed SH's and GR's names, he did not think he was doing anything wrong, had nothing to gain,[64] and did not think the forms he signed called for the signatures of the annuitants.[65] The Hearing Panel finds that in his testimony, Respondent endeavored to avoid, not accept, responsibility for his misconduct.

2. Pattern of Misconduct and Period of Time

Enforcement, citing Principal Considerations 8 and 9,[66] urges the Hearing Panel to find as aggravating the fact that Respondent's misconduct constituted a pattern over an extended period of time. The Hearing Panel, however, finds that the facts of this case do not support the conclusion that Respondent engaged in a pattern of misconduct over an extended period sufficient to amount to material aggravation in this case.

3. Injury

Respondent, citing Principal Consideration No. 11,[67] claims it is mitigating that he caused no financial injury to the investing public by his conduct. This Consideration,

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[62] JX 7, p. 2.

[63] *See Mark F. Mizenko*, Exch. Act Rel. No. 52,600, 2005 SEC LEXIS 2655, at *17 (Oct. 13, 2005) (acceptance of responsibility and acknowledgement of misconduct, to be mitigating, must occur prior to detection and intervention by the firm).

[64] Tr. 128.

[65] Tr. 166.

[66] Principal Consideration No. 8 directs the adjudicator to consider whether the misconduct consists of numerous acts reflecting a pattern of misconduct. Principal Consideration 9 focuses on whether a respondent engaged in the misconduct over an extended length of time. *Guidelines, supra* at 6.

[67] *Guidelines, supra.* at 6.

however, is not limited solely to financial injury to public customers. Rather, it directs the adjudicator also to consider the nature and extent of injury to the member firm with which a respondent is associated.[68]

The Hearing Panel finds that Respondent caused injury to the Firm. The Firm felt compelled to rescind the three fixed annuity policies Respondent sold to customer JR.[69] In addition, Respondent's misconduct led to JR's discovery and subsequent complaint that Respondent had forged the signatures of her children on two policy applications. Such an experience threatens investor confidence in the industry and in the firm that employs the person responsible.[70]

4. Intentionality

The Hearing Panel is troubled by Respondent's denial that his misconduct was intentional. The facts make clear that Respondent knowingly and intentionally wrote the names of SH and GR on signature lines in such a fashion that they appeared to be signatures. He knew his Firm prohibited its agents from signing others' names on documents.[71] The Hearing Panel deems Respondent's denial of intentionality, in the face of the clear evidence of it, to be aggravating.

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[68] *Id*.

[69] The Firm also calculated a loss of $21,000 in waived surrender fees. Tr. 153.

[70] *See Paul David Pack*, SEC Rel. No. 34,660, 1994 SEC LEXIS 2866, at *8 (Sept. 13, 1994) (forging client signatures is the type of conduct that threatens "the integrity of the industry or investor confidence") *and Dist. Bus. Conduct Comm. v. James Basil Peters*, No. C02960024, 1998 NASD Discip. LEXIS 42, at *8 (NAC Nov. 13, 1998) ("Forgery is a serious violation which can undermine the integrity of the securities markets and the confidence of individuals and institutions relying on that integrity.").

[71] *See Daniel W. Bukovcik*, No. C8A050055, 2007 NASD Discip. LEXIS 21, 2866, at *10 (NAC July 25, 2007) (respondent "knew or should have known that it was improper to sign customer names to firm documents because his Firm prohibited him from doing this and he had no written authorization to sign the documents at issue") (citing *Dist. Bus. Conduct Comm. v. Bradley*, No. C07920042, 1994 NASD Discip. LEXIS 187, at *8 (NBCC Oct. 31, 1994) ("We nonetheless find that signing names under circumstances without proper written authority cannot be condoned in the securities industry.")).

5. Discipline Imposed by the Firm

The Hearing Panel notes that Respondent has been subject to sanctions by his Firm. Although respondents are not automatically entitled to receive credit for sanctions imposed by their firms, it is permissible to grant such credit in appropriate circumstances.[72] The Hearing Panel does so here. The Firm issued a severe reprimand, placed Respondent on enhanced supervision, monitored his e-mail, and suspended his ability to conduct direct trading for two years and his ability to act as an investment adviser for eight months.

6. Aberrant Nature of Misconduct

Respondent notes that over his eight-year career in the securities industry, he has a record free of formal disciplinary history,[73] and characterizes the misconduct here as aberrational. In contrast, Enforcement insists the misconduct was not an isolated, aberrational incident because the signatures on the policy applications were written in October 2007, and the signatures on the amendments were written on November 13, 2007.

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[72] *Daniel W. Bukovcik, supra,* *17, n. 8. As noted above, Respondent urges the Hearing Panel to take into consideration the expectation that the Firm will terminate his employment if he is subjected to any suspension by FINRA. We do not, however, take such factors into consideration in determining the sanctions appropriate to a particular case. *See Dep't of Enforcement v. Mizenko,* No. C8B030012, 2004 NASD Discip. LEXIS 20, at *20, n. 16 (NAC Dec. 21, 2004) (citing *Dep't of Enforcement v. Davenport,* Complaint No. C05010017, 2003 NASD Discip. LEXIS 4, at *13-14 (NAC May 7, 2003) ("As a general matter, NASD, in determining the appropriate sanction, does not give weight to the fact that a firm terminated a respondent.")).

[73] Respondent argues that his lack of a disciplinary history should count as mitigation. That lack of a disciplinary history is not mitigating is so well-established as not to require discussion. *Jason A. Craig,* 2008 SEC LEXIS 2844, *27 (Dec. 22, 2008), citing *John D. Audifferen,* Exch. Act Rel. No. 58230, 2008 SEC LEXIS 1740 (July 25, 2008) (citing *Michael A. Rooms,* Exch. Act Rel. No. 51467 (Apr. 1, 2005) 85 SEC Docket 444, *aff'd,* 444 F.3d 1208, 1214 (10th Cir. 2006)).

Despite the seriousness of Respondent's misconduct here, the Hearing Panel finds no evidence that Respondent's misconduct was part of a larger pattern of improper activity.

IV. Conclusion

The Hearing Panel finds that Respondent violated Conduct Rule 2110 by forging signatures on two of a customer's annuity policy applications and amendments thereto. The Hearing Panel gives credit to Respondent for his compliance with the sanctions imposed by his Firm. Nonetheless, Respondent's forgeries were intentional, undertaken to expedite the processing of policies from which he expected to earn commissions, and resulted in harm to the Firm. Accordingly, the Hearing Panel suspends Respondent from associating with any FINRA member firm in all capacities for six months and imposes a fine of $5,000. Additionally, Respondent is ordered to pay the costs of the hearing in the amount of $2,542.20, which includes an administrative fee of $750 and the cost of the hearing transcript.

If this decision becomes FINRA's final disciplinary action, the six-month suspension shall begin at the opening of business on June 15, 2009, and end at the close of business on December 14, 2009.[74]

HEARING PANEL.

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By: Matthew Campbell
Hearing Officer

[74] The Hearing Panel has considered and rejects without discussion all other arguments of the parties.

Copies to:

Francis M. Evans (*via FedEx and first-class mail)*
Paul J. Sussman, Esq. (*via electronic and first-class mail)*
Marcletta Kerr, Esq. (*via electronic and first-class mail)*
UnBo Chung, Esq. *(via electronic and first-class mail)*
Marc P. Dauer, Esq. *(via electronic mail)*
David. R. Sonnenberg, Esq. (*via electronic mail)*