

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT

Complainant,

v.

MARIA TERESA TAUSSI
(CRD No. 4263416)

Respondent.

Disciplinary Proceeding
No. 2005002322601

Hearing Officer – AWH

DEFAULT DECISION

February 6, 2007

Formerly registered representative converted firm funds, in violation of NASD Conduct Rule 2110, and failed to respond to NASD staff requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110. Respondent barred for conversion of funds and failure to respond to requests for information.

Appearances:

William St. Louis, Esq., for the Department of Enforcement.

No appearance by or for Maria Teresa Taussi.

DECISION

Background

On August 23, 2006, the Department of Enforcement ("Enforcement") filed the Complaint in this proceeding, alleging that Maria Teresa Taussi converted firm funds, in violation of NASD Conduct Rule 2110, and failed to respond to requests for information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. Taussi did not file an Answer to the Complaint, or to a Second Notice of Complaint. As a result, Enforcement filed a Motion for Entry of Default Decision on December 14, 2006, to which Taussi did not respond. Accordingly, pursuant to Procedural Rules 9215(f) and

9269, Enforcement's Motion will be granted, and the allegations in the Complaint, which is attached to this Decision, will be deemed admitted.

Findings of Fact¹

Respondent

Taussi's first and only registration with NASD was through member firm Advantage GFC, LLC ("Advantage") as a General Securities Representative from March 14, 2002, until her termination on August 15, 2005. On the Form U-5, Advantage noted that she was terminated because she "embezzled firm money." Taussi is not currently associated with any member firm.

Conversion of Firm Funds

During 2005, in addition to her other responsibilities, Taussi served as the Office Manager of Advantage. On August 11, 2005, Taussi was confronted by a senior Advantage manager who had determined that firm funds had been embezzled when checks were made payable to "Cash," but check stubs indicated that they were purportedly for payments to vendors. Taussi then executed two documents in which she admitted converting funds totaling at least \$80,000 from Advantage. One stated:

I improperly took for my own benefit, monies from [Advantage] . . . I did this by writing many of the checks to cash and hiding them by recording them in the checkbook as checks payable to some other regular vendor of the company, thus making it appear that regular vendor bills had been paid.

¹ All findings of fact are based upon the admitted allegations in the Complaint, the Declaration of William St. Louis in Support of Motion for Entry of Default Decision, and the 17 exhibits attached thereto.

Failure to Respond to Requests for Information

On September 30, 2005, pursuant to Procedural Rule 8210, Enforcement sent Taussi a request to provide a written statement concerning the alleged embezzlement and copies of personal bank account statements. The request was sent both by first-class and certified mail to Taussi's residential address listed in the Central Registration Depository ("CRD" address). A second letter seeking the same information was sent by certified mail to her CRD address and an Equifax address. Both certified mail receipts were returned bearing an illegible signature of a person who signed as "agent" for Taussi. By letter dated November 17, 2005, Taussi replied to the request on the letterhead of a law office. In that letter she denied any embezzlement, and stated that she would provide the requested bank account statements "as soon as available." However, she did not provide the bank account statements during the following three months.

On February 15 and 28, and on April 19, 2006, pursuant to Procedural Rule 8210, Enforcement Staff again sent requests for copies of her personal bank statements, and responses to additional questions concerning the alleged embezzlement. The requests were sent by regular and certified mail to her CRD address and Equifax address. A copy was also sent to the attorney noted on the letterhead of the November 17, 2005 letter. The certified mailings from February 28 and April 19 were returned, marked unclaimed. The first-class mailings were not returned. Taussi did not respond to any of the requests.

Service of the Complaint

On August 23, 2006, Enforcement served Taussi with the Complaint and Notice of Complaint by both first-class and certified mail, sent to her CRD address, her Equifax address, and the CRD address with her apartment number added. A courtesy copy was

also sent to her attorney. The certified mailings and the first-class mailings were not returned. The certified mailing delivery receipts were not returned, but the United States Postal Service website states that the mailings were delivered. Taussi did not file an Answer.

On September 27, 2006, Enforcement served the Complaint and Second Notice of Complaint on Taussi by first-class and certified mail sent to her three known addresses. The certified mailings were returned, marked "Unclaimed," and the first-class mailings were returned, marked "Attempted, Not Known." Taussi did not file an Answer to the Complaint.

Discussion and Conclusions

Jurisdiction

Article V, Section 4 of the NASD By-Laws provides for a two-year period of retained jurisdiction over a registered person after the effective date of the person's termination of registration. During this period of retained jurisdiction, NASD may file a complaint based upon conduct that occurred while the individual was registered through a member firm, or based upon such person's failure to provide information requested pursuant to NASD Procedural Rule 8210, if the request was made, and the complaint is filed, during the foregoing period of retained jurisdiction.

Enforcement filed the Complaint on August 23, 2006, within two years of the termination of Taussi's registration. The Complaint alleges misconduct while Taussi was registered with an NASD member firm, as well as failures to provide information during the period of retained jurisdiction. Therefore, NASD has jurisdiction over this proceeding.

Respondent's Default

Enforcement properly served the Complaint on Taussi by sending it via first-class and certified mail to her CRD address. Pursuant to NASD Procedural Rule 9134, the mailings provide constructive notice of the instant proceeding. Because Taussi failed to file an answer to the Complaint, Procedural Rules 9215(f) and 9269 authorize entry of a default decision against her. Accordingly, the allegations in the Complaint are deemed admitted.

Conversion of Firm Funds

Conversion is “an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it.”² Conversion of firm funds to a representative’s own use is an intentional disregard for the “high standards of commercial honor and just and equitable principles of trade,” mandated by NASD Conduct Rule 2110.³

Taussi issued and cashed checks made out to “Cash” that amounted to at least \$80,000. She had no right to those funds, and her use of them for her own benefit amounted to conversion of those funds, in violation of NASD Conduct Rule 2110.

Failures to Provide Information

Procedural Rule 8210 authorizes NASD to require any person subject to its jurisdiction to provide information and testimony related to any matter under investigation. The Rule serves as a key element in NASD’s oversight function and

² NASD SANCTION Guidelines, p. 38 n.2 (2006 ed.).

³ See *District Business Conduct Comm. For Dist. No. 2S, v. Frank Bernard Varites*, No. LA-4293, 1991 NASD Discip. LEXIS 16 (Jan. 22, 1991).

allows NASD to carry out its regulatory functions without subpoena power.⁴ When an individual fails to respond to information requests, NASD's ability to perform its regulatory responsibilities is subverted.⁵ A violation of Procedural Rule 8210 is also a violation of Conduct Rule 2110.⁶

Taussi received actual notice of the first request for information and documents, and she received constructive notice of the subsequent requests for information and documents. Although she wrote to the Staff, denying any embezzlement, her complete failures to comply with the initial and subsequent requests for documents and the subsequent requests for information plainly constitute violations of Procedural Rule 8210 and Conduct Rule 2110.

Sanctions

Conversion of Funds

The NASD Sanction Guideline for conversion of funds provides that a bar is standard, regardless of the amount of funds converted.⁷ Here, there are no mitigating circumstances that would warrant a lesser sanction. Accordingly, Taussi will be barred for conversion of firm funds.

⁴ See *Joseph G. Chiulli*, Exchange Act Release No. 42,359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for NASD effectively to conduct its investigations, and emphasizing that NASD members and associated persons must fully cooperate with requests for information); *Dep't of Enforcement v. Benz*, No. C01020014, 2003 NASD Discip. LEXIS 11, at *18 (OHO Mar. 4, 2003) ("Because NASD has no subpoena power, timely and full compliance with information requests is essential to NASD's self-regulatory function.").

⁵ *Joseph P. Hannan*, Exchange Act Release No. 40,438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

⁶ *Dep't of Enforcement v. Baxter*, No. C07990016, 2000 NASD Discip. LEXIS 3, at *25 (NAC Apr. 19, 2000).

⁷ SANCTION GUIDELINES p. 38.

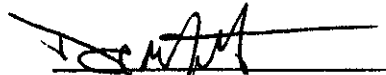
Failure to Provide Information

For failure to provide information and documents in response to requests made pursuant to Rule 8210, NASD Sanction Guidelines provide that a bar is standard where, as here, the individual fails to provide any information or documents.⁸ There are no mitigating circumstances that would warrant a sanction less than a bar for her complete failure to provide documents or responses to additional requests for information. Accordingly, Taussi will be barred for failing to respond in any manner to requests for information made pursuant to Procedural Rule 8210.

Conclusion

Maria Teresa Taussi is barred from association with any NASD member firm in any capacity for converting firm funds, in violation of NASD Conduct Rule 2110, and for failing to provide information and documents in response to NASD staff requests, in violation of Procedural Rule 8210 and Conduct Rule 2110. The bars shall become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.


David M. FitzGerald
Deputy Chief Hearing Officer⁹

Copies to:
Via First Class Mail & Overnight Courier
Maria Teresa Taussi

Via First Class Mail & Electronic Mail
William St. Louis, Esq.
Mark P. Dauer, Esq.
Rory C. Flynn, Esq.

⁸ SANCTION GUIDELINES p. 35.

⁹ The Deputy Chief Hearing Officer issues this Order in the absence of the Hearing Officer, pursuant to Rule 9235(b).

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

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MARIATERESA TAUSSI
(CRD No. 4263416),

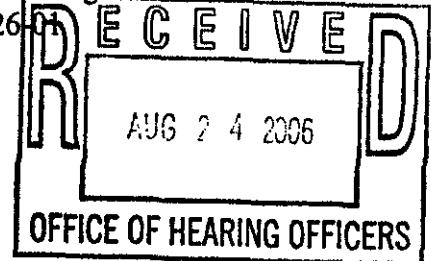
Respondent.

Disciplinary Proceeding

No. 20050023226-01

Hearing Officer

COMPLAINT



Upon information and belief, the Department of Enforcement ("Complainant") alleges as follows:

JURISDICTION

1. Respondent Mariateresa Taussi ("Respondent") first became registered with NASD as a General Securities Representative through an association with Advantage GFC, LLC (BD No. 31974) ("Advantage"), a member firm, in or around March 14, 2002.
2. On August 15, 2005, Advantage filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") terminating Respondent's registration. The termination was labeled "Discharge" and the firm said she was discharged because she "embezzled firm money."
3. Upon information and belief, Respondent is not currently registered with NASD, nor is she otherwise employed in the securities industry. However, Respondent remains subject to the jurisdiction of NASD pursuant to Article V, Section 4 of its By-Laws.

FIRST CAUSE OF COMPLAINT
(Conversion)
Violation of NASD Conduct Rule 2110

4. Paragraphs 1 through 3 of this Complaint are re-alleged and incorporated herein by reference.
5. During 2005, Respondent served as, *inter alia*, Advantage's Office Manager.
6. In 2005, Advantage detected that at least 29 checks totaling over \$80,000 issued in 2005 were made payable to "Cash" when in fact the documents associated with these checks indicated that they were purportedly for payments to vendors.
7. Advantage determined that these funds had been embezzled.
8. On or about August 11, 2005, Respondent was confronted by a senior Advantage manager and she confessed to having embezzled monies from Advantage.
9. On August 11, 2005, Respondent executed two documents in which she admitted her misconduct. In one document, signed by Respondent, she stated, *inter alia*:

I improperly took for my own benefit, monies from [Advantage]
I did this by writing many of the checks to cash and hiding them by
recording them in the checkbook as checks payable to some other
regular vendor of the company, thus making it appear that regular vendor
bills had been paid.
10. Respondent converted funds totaling at least \$80,000 from Advantage by cashing checks that were issued to "Cash" and hid such misconduct by falsely recording that these checks had been paid to vendors.

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

SECOND CAUSE OF COMPLAINT

(Failure to Respond)

Violation of NASD Procedural Rule 8210 and Conduct Rule 2110

11. Paragraphs 1 through 10 of the Complaint are re-alleged and incorporated herein by reference.
12. By letter dated October 19, 2005 the Staff requested that Respondent provide by November 2, 2005: (i) a written statement responding to certain questions concerning the alleged embezzlement, and (ii) copies of her personal bank account statements.
13. The letter was sent to:
 - a. Respondent's last known residential address as reflected in the records of NASD's Central Registration Depository is: [REDACTED] (the "CRD Address"), and
 - b. an address for Respondent the Staff obtained from Equifax [REDACTED] [REDACTED] (the "Equifax Address").
14. By letter dated November 17, 2005, Respondent replied to the Staff's questions but did not provide the requested documents although she said she would (the "Respondent's November 17, 2005" letter).
15. Respondent's November 17, 2005 Letter bore an address for Respondent that was similar to the CRD Address: [REDACTED] (the "Apartment Address").
16. Respondent's November 17, 2005 Letter was signed only by Respondent but was written on the letterhead of a law office.

February 15, 2006 Letter

17. By letter dated February 15, 2006, the Staff requested that Respondent provide written responses, by February 24, 2006, to certain additional questions concerning the alleged

embezzlement and re-stated its request for copies of her personal bank account statements.

18. The letter was sent by regular mail and certified mail to the Apartment Address.
19. The Staff did not receive any of the mailings back from the postal authorities and Respondent did not respond.

February 28, 2006 Letter

20. By letter dated February 28, 2006, the Staff again requested that Respondent provide written responses, by March 14, 2006, to certain additional questions concerning the alleged embezzlement and re-stated its request for copies of her personal bank account statements.
21. The letter was sent by regular mail and certified mail to Respondent at the Apartment and Equifax Addresses.
22. The certified mailings to both the Apartment and Equifax Addresses were returned marked "Return to Sender – Unclaimed - Unable to Forward."
23. The Staff did not receive any of the regular mailings back from the postal authorities and Respondent did not respond.

April 19, 2006 Letter

24. By letter dated April 19, 2006, the Staff again requested that Respondent provide written responses, by May 3, 2006, to certain additional questions concerning the alleged embezzlement and re-stated its request for copies of her personal bank account statements.
25. The letter was sent by regular mail and certified mail to Respondent at the CRD, Apartment, and Equifax Addresses.

26. The letter was also sent to the attorney noted on the letterhead of Respondent's November 17, 2005 Letter.
27. All of the certified mailings were returned marked "Return to Sender – Unclaimed - Unable to Forward."
28. The Staff did not receive any of the regular mailings back from the postal authorities and Respondent did not respond.

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

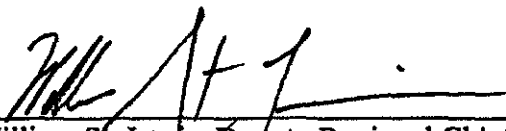
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that the Panel:

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

Dated: August 23, 2006

DEPARTMENT OF ENFORCEMENT



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