

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DORIA SABIA-FLORENCE
(CRD No. 1136269),

Respondent.

Disciplinary Proceeding
No. 2007008458901

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

January 29, 2009

**Respondent is barred for conversion of customer funds, in violation of
Conduct Rules 2330(a) and 2110.**

Appearances

Mark J. Fernandez, Senior Regional Counsel, New Orleans, LA (Mark P. Dauer, Of Counsel) for the Department of Enforcement.

No appearance by or for Doria-Sabia-Florence.

DECISION

I. Introduction

The Department of Enforcement ("Enforcement") charged Doria-Sabia-Florence ("Sabia-Florence") with conversion of customer funds, in violation of NASD Conduct Rules 2330(a) and 2110.

Enforcement filed the Complaint with the Office of Hearing Officers on September 23, 2008. Sabia-Florence did not answer or otherwise respond to the Complaint. Consequently, on December 16, 2008, Enforcement filed a Motion for Entry of Default Decision, supported by the Declaration of Mark J. Fernandez ("Fernandez Decl.") and 13 exhibits. Sabia-Florence did not reply to the motion.

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Sabia-Florence entered the securities industry and registered as a General Securities Representative in 1983. In June 1997, she associated with Merrill Lynch, Pierce, Fenner & Smith ("Merrill Lynch"), a FINRA member firm. On February 20, 2007, Merrill Lynch discharged her for misappropriating funds from multiple customer accounts. Sabia-Florence's registration with FINRA was terminated effective March 20, 2007.¹ She has not since been associated with a FINRA member firm.

FINRA's has jurisdiction of this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's Bylaws, because (1) the Complaint was filed within two years following the termination of her registration with FINRA and (2) the Complaint charges her with misconduct that commenced while she was associated with Merrill Lynch.²

B. Origin of Underlying Investigation

FINRA commenced the investigation that led to the Complaint in this proceeding on March 23, 2007, following FINRA's receipt of the Form U5 filed by Merrill Lynch, which reported that it had discharged her on February 20, 2007, because she had misappropriated customer funds. FINRA staff investigated Sabia-Florence's conduct to determine if she had violated NASD Conduct Rules 2110 and 2330(a).

C. Respondent's Default

On September 23, 2008, Enforcement sent the Notice of Complaint and Complaint to Sabia-Florence by first-class certified mail (return receipt requested) at her residential address recorded in the Central Registration Depository ("CRD"). In addition, Enforcement served her with a copy of the Notice of Complaint and Complaint at the Federal Correction

¹ Ex. 1, at 2. Merrill Lynch filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on Sabia-Florence's behalf on March 20, 2007. Ex. 2.

² See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: Bylaws").

Institution in Marianna, Florida ("FCI Marianna") because, on July 28, 2008, the U.S. District Court for the Southern District of Georgia had sentenced her to a five-year term of imprisonment at that facility. She began serving her sentence on September 9, 2008.³ Enforcement sent the Notice of Complaint and Complaint to her at FCI Marianna by first-class certified mail in accordance with FCI Marianna's instructions for sending mail to inmates.⁴ Sabia-Florence did not respond to the Complaint by October 21, 2008, the deadline specified in the Notice of Complaint.

On October 24, 2008, Enforcement served Sabia-Florence with copies of the Second Notice of Complaint and Complaint by first-class certified mail. Enforcement sent the mailings to her at her CRD address and at FCI Marianna.⁵ Enforcement again followed FCI Marianna's inmate mailing instructions.⁶ The Second Notice of Complaint required Sabia-Florence to file an answer to the Complaint by November 11, 2008. To date, Sabia-Florence has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.⁷

Sabia-Florence defaulted by failing to answer the Complaint.⁸ Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's motion for entry of a default decision.

³ On September 19, 2008, the FINRA staff performed a search on the U.S. Department of Justice, Federal Bureau of Prisons inmate-locator system that Florence was in fact incarcerated at FCI Marianna. [DX-5] Fernandez Decl. ¶ 28.

⁴ Ex. 6; Ex. 7.

⁵ Ex. 11.

⁶ Fernandez Decl. ¶ 36.

⁷ *Id.* ¶ 39.

⁸ *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (NASD Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

D. Conversion of Customer Funds

The Complaint alleges that Sabia-Florence converted \$115,100 from three customers from February 2004 through February 2007.

1 Conversion of Funds Belonging to Customers SS and JS

According to the Complaint, on or about February 6, 2004, Sabia-Florence completed and forged a letter of authorization ("LOA"), instructing Merrill Lynch to transfer \$9,600 from the joint account of Merrill Lynch customers SS and JS to a Merrill Lynch account owned by Sabia-Florence's sister and her husband ("DK Account"). Neither SS nor JS authorized this transfer. Later, Sabia-Florence received and deposited in her own bank account \$9,500 of the funds she took from SS and JS's joint account.

2 Conversion of Funds Belonging to Customer HA

On or about October 13, 2005, Sabia-Florence completed and submitted an LOA, directing that \$25,000 be transferred from the Merrill Lynch account owned by customer HA to the DK Account. HA did not authorize this transfer. After the transfer was complete, Sabia-Florence deposited a check drawn on the DK Account in the sum of \$24,500 into her personal bank account. Sabia-Florence used the funds for her own benefit.

On or about March 8, 2006, Sabia-Florence completed and submitted an LOA, directing that another \$25,000 be transferred from the Merrill Lynch account owned by customer HA to the DK Account. HA did not authorize this transfer. After the transfer was complete, Sabia-Florence deposited two checks drawn on the DK Account in the sum of \$6,000 each into her personal bank account. Sabia-Florence used the funds for her own benefit.

Also in October 2006, Sabia-Florence fraudulently induced HA to give her \$30,000. Sabia-Florence falsely represented that she would use the funds to purchase a bond for HA's account. Instead, Sabia-Florence deposited the \$30,000 directly into her personal bank account and used the funds for her personal benefit.

On or about February 12, 2007, Sabia-Florence once again completed and submitted an LOA to Merrill Lynch, directing that \$25,500 be transferred from HA's account to the DK Account. HA did not authorize this transfer. After the transfer was complete, Sabia-Florence received \$28,000 from the DK Account, which she deposited into her personal bank account. Sabia-Florence used the funds she received from the DK Account for her own benefit.

The facts alleged in the Complaint establish that Sabia-Florence converted a total of \$115,100 from her customers, in violation of Conduct Rules 2330(a) and 2110.

III. Sanctions

The FINRA Sanction Guidelines for conversion of customer funds recommend a bar, regardless of the amount converted.⁹ Here, there is no evidence of any mitigating factors that would justify a lesser sanction. Sabia-Florence failed to observe the fundamental prohibition against the misuse of customer funds. Accordingly, the Hearing Officer will bar her from associating with any member firm in any capacity.

IV. Order

Doria-Sabia-Florence is barred from association with any member firm in any capacity for conversion of customer funds, in violation of NASD Conduct Rules 2330(a) and 2110.¹⁰ The bar will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.



Andrew H. Perkins
Hearing Officer

⁹ FINRA Sanction Guidelines 38 (2007), available at <http://www.finra.org/RegulatoryEnforcement/index.htm> (then follow "FINRA Sanction Guidelines" hyperlink)..

¹⁰ Merrill Lynch reimbursed the customers for their losses. Accordingly, the Hearing Officer did not order restitution.

Copies to:

Doria-Sabia-Florence (by FedEx, next-day delivery, and first-class mail)

Mark J. Fernandez, Esq. (by electronic and first-class mail)

Mark P. Dauer, Esq. (by electronic mail)

David R. Sonnenberg, Esq. (by electronic mail)