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REGISTRATION & DISCLOSURE

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

Department of Enforcement,

Complainant,

v.

GINA SIMS
(CRD No. 4718520),

Respondent.

DISCIPLINARY PROCEEDING
No. 2008012948801

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In multiple transactions between October 2006 and February 2008, Gina Sims ("Sims"), while employed at Allstate Financial Services, LLC ("Allstate" or the "Firm"), deposited checks totaling \$6,000 that she obtained from three Firm customers ("WQ," "NP" and "GP"¹) for the purposes of paying their variable life and automobile insurance premiums, into her personal bank account.
2. Sims failed to respond to requests by the Department of Enforcement ("Enforcement") of FINRA made between November and December 2008 that she appear and testify.

¹ GP and NP were related individual who bought two separate variable life insurance policies from Sims on the same day in October 2006.

RESPONDENT AND JURISDICTION

3. Sims entered the financial industry at Allstate in August 1996. Sims has been registered with FINRA² since October 2003. Sims was employed as an insurance agent at Allstate between August 1996 and March 21, 2008. Sims is not currently employed in the financial industry.

4. From October 2003 through March 2008, Sims was Series 6 and 63 licensed.

5. Sims is subject to FINRA's jurisdiction pursuant to Article V, § 4 of NASD's By-Laws because this Complaint is being filed within two years after the effective date of termination of her association with the Firm.

FACTS

Sims' Misappropriation in Connection with the Purchase of an Auto Insurance Policy

6. On or around April 30, 2007, WQ purchased an auto insurance policy from Sims, who was employed as an Allstate agent. At that time, WQ wrote a check payable to Allstate in the amount of \$928.78. Sims received the check from WQ. The check was endorsed "For Deposit." This check was deposited in Sims' personal bank account and not used to pay this premium.

Sims' Misappropriation and Conversion in Connection With the Purchase of Variable Life Insurance Policies

7. On or about October 25, 2006, customers NP and GP entered into a contract with Allstate for the purchase of two variable life insurance policies. NP and GP made their purchases from Sims, who was employed as an Allstate insurance agent.

8. On or around October 25, 2006, NP wrote a check payable to Allstate in the

² References to FINRA in this Complaint also include its predecessor firm, NASD.

amount of \$591.24. Sims received the check from NP. The check was endorsed "Deposit Only Allstate." This check was deposited in Sims' personal bank account.

9. On or around October 25, 2006, NP wrote a check payable to Allstate in the amount of \$159. Sims received the check from NP. This check was not endorsed upon deposit. This check was deposited in Sims' personal bank account.

10. On or around October 25, 2006, NP wrote a check payable to Allstate in the amount of \$319.94. Sims received the check from NP. The check was endorsed "For Deposit Allstate." The check was deposited in Sims' personal bank account.

11. On or around October 25, 2006, NP wrote a check payable to Allstate in the amount of \$426.25. Sims received the check from NP. This check was not endorsed upon deposit. This check was deposited in Sims' personal bank account.

12. On or around October 25, 2006, NP wrote a check payable to Allstate in the amount of \$48.50. Sims received the check from NP. This check was not endorsed upon deposit. This check was deposited in Sims' personal bank account.

13. None of the checks issued by NP on October 25, 2006 were used to pay any insurance premiums.

14. On or around January 15, 2007, GP wrote a check payable to Allstate in the amount of \$591.24. Sims received the check from GP. The check was endorsed "Dep Only." This check was deposited in Sims' personal bank account and never used to pay insurance premiums.

15. On or around January 27, 2007, NP wrote a check payable to Allstate in the amount of \$636.00. Sims received the check from NP. The check was endorsed "Allstate Dep Only." This check was deposited in Sims' personal bank account and never used to pay

insurance premiums.

16. On or around April 30, 2007, GP wrote a check payable to Allstate in the amount of \$591.24. Sims received the check from GP. The check was endorsed "For Deposit." This check was deposited in Sims' personal bank account and never used to pay insurance premiums.

17. On or around October 3, 2007, GP wrote a check payable to Allstate in the amount of \$1120. Sims received the check from GP. The check was endorsed "G Sims Allstate." This check was deposited in Sims' personal bank account and never used to pay insurance premiums.

18. On or around February 5, 2008, GP wrote a check payable to Allstate in the amount of \$665.10. Sims received the check from GP. The check was endorsed "Dep Allstate Gina Sims." This check was deposited in Sims' personal bank account and never used to pay insurance premiums.

19. On March 21, 2008, Allstate terminated Sims' employment.

20. On or around March 28, 2008, NP and GP reported Sims' misappropriation to the Firm.

21. The Firm reimbursed NP and GP.

Failure to Appear and Testify

22. On or about November 4, 2008, Enforcement sent a letter pursuant to NASD Procedural Rule 8210 requiring Sims to appear and testify before Enforcement on November 26, 2008. The letter was sent to Sims' CRD Address, via first class mail and certified mail, return receipt requested. The certified letter was returned "unclaimed" by the post office. The postal authorities did not return the first class letter.

23. On November 24, 2008, Sims contacted Enforcement and requested a postponement of the testimony. Sims claimed that she had just returned from traveling outside the country. Sims agreed to contact Enforcement no later than Monday December 1, 2008 to reschedule the testimony.
24. Sims did not contact Enforcement on or after Monday December 1, 2008.
25. On December 5, 2008, Enforcement sent a letter pursuant to NASD Procedural Rule 8210 requiring Sims to appear and testify before Enforcement on December 22, 2008. The letter was sent to Sims' CRD Address, via first class mail and certified mail, return receipt requested. The certified receipt was signed by "Gina Sims" on December 9, 2008. The postal authorities did not return the first class letter.
26. Sims did not appear to testify on December 22, 2008, as requested or otherwise respond to the letter.

FIRST CAUSE OF ACTION

**Conduct Inconsistent with Just and Equitable Principles of Trade
Misappropriation of Customer Funds
(NASD Conduct Rule 2110)**

27. Enforcement repeats and re-alleges and incorporates by reference paragraphs 1 through 20 above.
28. By engaging in the foregoing conduct, Sims violated NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION

**Improper Use and Conversion of Customer Funds
(NASD Conduct Rules 2330(a) and 2110)**

29. Enforcement repeats and re-alleges and incorporates by reference paragraphs 1 through 5 and paragraph 7 through 20 above.

30. By engaging in the foregoing conduct, Sims violated NASD Conduct Rule 2330(a) and NASD Conduct Rule 2110.

THIRD CAUSE OF ACTION

Failure to Appear and Testify (NASD Procedural Rule 8210 and NASD Conduct Rule 2110)

31. Enforcement repeats and re-alleges and incorporates by reference paragraphs 1 through 25 above.

32. By engaging in the foregoing conduct, Sims violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA 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 imposing sanctions upon the Respondent in accordance with FINRA Rule 8330;

FINRA DEPARTMENT OF ENFORCEMENT

DATED: _____

7/23/09

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