

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SUSAN MAGOUIRK
(CRD No. 4207160),

Respondent.

Disciplinary Proceeding
No. 20080146442

Hearing Officer – RSH

DEFAULT DECISION

May 21, 2010

For conversion of customer funds and forgery, in violation of Rule 2110, the Respondent was barred from associating with any FINRA member in any capacity.

Appearances

Robert Moreiro, Principal Counsel, New York, NY, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

I. Introduction

The FINRA Department of Enforcement filed a Complaint against Respondent Susan Magouirk charging her with violating Conduct Rule 2110 by converting customer funds and forging letters of authorization so that she could convert the funds.¹

Enforcement filed the Complaint with the Office of Hearing Officers on December 16, 2009. Magouirk did not answer or otherwise respond to the Complaint. Consequently, on March 25, 2010, Enforcement filed a Motion for Entry of Default

¹ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. On December 15, 2008, the first phase of new consolidated FINRA Rules went into effect. See, Regulatory Notice 08-57. With respect to this decision, unless otherwise noted, the relevant FINRA Rules are identical to the corresponding NASD Rules.

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Decision, supported by the Declaration of Robert Moreiro and seven exhibits. Magouirk did not reply to the motion.²

II. Jurisdiction

Magouirk was employed as a cashier by FINRA member firm UBS Financial Services ("UBS") from August 12, 2004, to July 22, 2008. As a cashier, she was an associated person of UBS. On or about July 22, 2008, UBS terminated her employment for misappropriating customer funds. She has not been associated with a FINRA member firm since then.³

Although Magouirk is not currently associated with a FINRA member firm, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years following the termination of her association with a FINRA member firm and (2) the Complaint charges her with misconduct that occurred while she was associated with a FINRA member firm.⁴

III. Respondent's Default

On December 15, 2009, Enforcement served the Notice of Complaint and Complaint on Magouirk by personal service to her residential address. When the Complaint was served, Magouirk confirmed her identity to the process server.⁵ Magouirk did not respond to the Complaint by January 13, 2010, the deadline specified in the Notice of Complaint.⁶

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

³ CX-1-CX-4; Moreiro Decl., ¶¶ 4-6.

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

⁵ Moreiro Decl., ¶ 8; CX-5.

⁶ Moreiro Decl., ¶ 9.

On January 26, 2010, Enforcement served the Second Notice of Complaint and Complaint on Magouirk by personal service at her Residential Address.⁷ The Second Notice of Complaint required Magouirk to file an answer to the Complaint by February 12, 2010. To date, Magouirk has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.⁸

By failing to answer the Complaint, Magouirk defaulted. 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.

IV. Violations

A. Conversion of Customer Funds

The Complaint's First Cause of Action alleges that Magouirk violated Conduct Rule 2110 by converting \$65,000 from MA's account, which was held at UBS. According to the Complaint, Magouirk was a UBS cashier who was responsible for entering check requests, receiving letters of authorization ("LOA"), and verifying customer signatures on LOAs. She had direct access to customer funds. On or about May 13, 2008, Magouirk, without permission or authority, caused a check in the amount of \$15,000 to be drawn on MA's account. She then obtained possession of the check and used it for her own benefit. On or about July 11, 2008, Magouirk, without permission or authority, caused a check in the amount of \$50,000 to be drawn on MA's account. She then obtained possession of that check and used it for her own benefit.

⁷ Moreiro Decl., ¶ 10; CX-7.

⁸ Moreiro Decl., ¶ 11.

⁹ Moreiro Decl., ¶ 12; CX-8. (Magouirk received letters of authorization and LOAs and verified the

FINRA Sanction Guidelines ("Guidelines") define conversion as "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."⁹

The facts alleged in the Complaint establish that Magouirk converted \$65,000 from a customer. The conversion of customer funds violates Conduct Rule 2110 because such conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade.¹⁰

B. Forgery

The Second Cause of Action in the Complaint alleges that Magouirk violated Conduct Rule 2110 by forging MA's signature on two LOAs in order to obtain the \$65,000 that Magouirk converted from MA's account.

The facts alleged in the Complaint establish that Magouirk forged MA's signature. It is well-established that forgery violates Conduct Rule 2110.¹¹

V. Sanctions

A. Conversion

For conversion, the Guidelines recommend a bar, regardless of the amount converted.¹² Magouirk will therefore be barred from associating with any FINRA member firm in any capacity.¹³

B. Forgery

For forgery, the FINRA Sanction Guidelines direct adjudicators to consider imposing a suspension for up to two years where mitigating factors exist, or a bar in

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

¹⁰ *Department of Enforcement v. Patel*, 2001 NASD Discip. LEXIS 42 at *24 (N.A.C. May 23, 2001).

¹¹ *Donald M. Bickerstaff*, Exchange Act Rel. No. 35,607, 1995 SEC LEXIS 982 (Apr. 17, 1995).

¹² FINRA Sanction Guidelines 38 (2007), www.finra.org/sanctionguidelines.

¹³ UBS reimbursed the entire \$65,000 to MA's account; therefore, restitution is not ordered.

egregious cases. The principal considerations in determining sanctions include: (i) the nature of the documents forged, and (ii) whether the respondent had a good-faith, but mistaken, belief of express or implied authority.¹⁴

In this case, there do not appear to be any mitigating factors. The documents forged were important forms to authorize and cause transfers of customer funds. Magouirk forged the forms so that she could convert money from a customer's account. There is no evidence that Magouirk had any belief that she had authority to sign the forms. This is an egregious case and Magouirk should be barred for her conduct.

VI. Order

For converting customer funds, and forging documents, in violation of Conduct Rule 2110, Magouirk is barred from associating with any FINRA member in any capacity. The bar shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.



Rochelle S. Hall
Hearing Officer

Copies to: Susan Magouirk (*via overnight courier and first class mail*)
Robert Moreiro, Esq. (*via electronic and first class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David C. Sonnenberg, Esq. (*via electronic mail*)

¹⁴ FINRA Sanction Guidelines 39 (2007).

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SUSAN MAGOUIRK
(CRD No. 4207160),

Respondent.

Disciplinary Proceeding
No. 20080146442

COMPLAINT

The Department of Enforcement alleges:

JURISDICTION

1. Respondent was employed with UBS Financial Services, Inc. ("UBS" or the "Firm"), a FINRA registered broker/dealer, from on or about August 12, 2004 through on or about July 25, 2008 as a cashier. During her employment, Respondent was an associated person with the Firm. Her employment was terminated for purportedly forging a customer's signature on two letters of authorization ("LOA") and misappropriating customer funds. Since her employment termination, Respondent has not been associated with any FINRA registered broker/dealer.
2. As a cashier, Respondent was responsible for entering check requests, receiving LOAs and verifying customer signatures on LOAs. As demonstrated by her misconduct in this matter, Respondent had direct access to customer funds. Thus,

Respondent's responsibilities are within the ambit of the securities business and she was an associated person of the Firm.

3. Although Respondent is not currently associated with a FINRA registered broker/dealer, she remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws in that the misconduct occurred while Respondent was an associated person with a FINRA registered broker/dealer and a complaint was filed within two years following the date Respondent ceased to be associated with a FINRA registered broker/dealer.

FIRST CAUSE OF ACTION

(Conversion - NASD Rule 2110)

4. Enforcement realleges and incorporates by reference paragraphs 1-3 above.
5. During all relevant times, MA was a member of the public and maintained an account at the Firm.
6. On or about May 13, 2008, Respondent without permission or authority, wrongfully caused a check in the amount of \$15,000 to be drawn from MA's account held at the Firm. Respondent then obtained possession of that check and used it for Respondent's own benefit.
7. On or about July 11, 2008, Respondent without permission or authority, wrongfully caused a check in the amount of \$50,000 to be drawn from MA's account held at the Firm. Respondent then obtained possession of that check and used it for Respondent's own benefit.
8. The above acts, practices and conduct constitute a violation of NASD Rule 2110.

SECOND CAUSE OF ACTION

(Forgery - NASD Rule 2110)

9. Enforcement realleges and incorporates by reference paragraphs 1-8 above.
10. During all relevant times, MA was a member of the public and maintained an account at the Firm.
11. On or about May 13, 2008, Respondent forged MA's signature on a letter of authorization ("LOA") to disburse \$15,000 from MA's account held at the Firm.
12. On or about July 11, 2008, Respondent forged MA's signature on a letter of authorization to disburse \$50,000 from MA's account held at the Firm.
13. The above acts, practices and conduct constitute a violation of NASD Rule 2110.

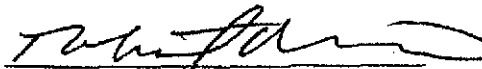
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- B. order that the Respondent bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

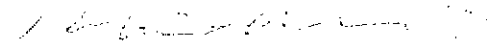
FINRA DEPARTMENT OF ENFORCEMENT

Date: 12-14-09



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To: Susan Magouirk



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