

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Denver Kalkofen (CRD No. 1530241),

Respondent.

**DISCIPLINARY PROCEEDING
NO. 20080151687**

HEARING OFFICER -

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From March 1998 through January 2009, Denver Kalkofen ("Kalkofen" or the "Respondent") converted approximately \$2.4 million by inducing at least 24 customers to give her checks for investment purposes, which she used to gamble and pay her personal expenses, in violation of NASD Rule 2110 and FINRA Rule 2010.

2. In addition, between November 2008 and March 2009, Kalkofen failed to provide information, as requested by FINRA, in violation of NASD Rules 8210 and 2110 and FINRA Rules 8210 and 2010.

JURISDICTION

3. In June 1986, Kalkofen became employed by ING Financial partners, Inc. ("ING" or the "Firm") registering as an Investment Company Products/Variable Contracts Limited Representative in July 1986. She remained employed there until her termination on October 3, 2008.

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4. Respondent is no longer associated with a FINRA member. FINRA retains jurisdiction over Respondent pursuant to Article V, Section 4 of the FINRA By-Laws.

FIRST CAUSE OF ACTION

(CONVERSION – NASD RULE 2110 AND FINRA RULE 2010)

5. The Department re-alleges and incorporates by reference paragraphs 1 through 4 above.

6. Between March 1998 and January 2009, Respondent requested and received checks from her customers to invest in a fictitious company, “Denuer.” At Kalkofen’s instruction, the checks were made payable to “cash” or “Denuer.”

7. Between March 1998 and January 2009, Respondent deposited the checks into her personal checking account and then used the funds to gamble at numerous casinos and to pay personal expenses she charged on her credit cards.

8. On May 16, 2009, Respondent pled no contest in the Circuit Court of Calhoun County in State of Wisconsin, to four felony counts of theft in a business setting in excess of \$10,000, Wisconsin Statute Sec. 973.20(1)(b) and two felony counts of issuing securities for improper purposes, Wisconsin Statute Sec. 551.501(2). Respondent was sentenced, in part, to seven years in prison, eight years of extended supervision upon release, and payment of restitution.

9. As a result of the conduct described in paragraphs 6 and 7 above, Kalkofen violated NASD Rule 2110 and FINRA Rule 2010.

SECOND CAUSE OF ACTION

(FAILURE TO PROVIDE INFORMATION—NASD RULES 8210 AND 2110 AND FINRA RULES 8210 AND 2010)

10. The Department re-alleges and incorporates by reference paragraphs 1 through 9 above.

11. On November 10, 2008, FINRA sent a letter to Respondent pursuant to NASD Rule 8210, requesting that she provide, among other things, a written signed statement in response to allegations that she misappropriated customer checks for her personal use. The letter was sent to Respondent's last known residential address, as reflected in the Central Registration Depository ("CRD"), by certified mail return receipt requested and first class mail. The letter requested that Respondent respond no later than November 24, 2008.

12. Neither letter was returned to FINRA, but a signed return receipt was recorded for "D. Kalkofen" on November 13, 2008.

13. On December 9, 2008, FINRA sent another letter to Respondent pursuant to NASD Rule 8210 which informed Respondent that it was a second request for the information requested by FINRA's letter dated November 10, 2008, to which no response had been received, and requested additional information on four of her customers. The letter was sent to Respondent's last known residential address, as reflected in the CRD, by certified mail return receipt requested and first class mail. The letter required a response no later than December 24, 2008.

14. Neither letter was returned to FINRA, but a signed return receipt was recorded for "D. Kalkofen" on December 15, 2008.

15. On February 13, 2009, FINRA sent a letter to Respondent pursuant to FINRA Rule 8210, requesting that she provide, among other things, a written statement regarding the termination of her employment with ING for misappropriating customer funds. The letter was sent to Respondent's last known residential address as reflected in the CRD, by certified mail return receipt requested and by first class mail. The letter required a response no later than March 2, 2009.

16. Neither letter was returned to FINRA, but the green return receipt card was signed for by her stepson-in-law, on February 18, 2008.

17. On or about March 5, 2009, FINRA received a phone call from Respondent's criminal defense attorney indicating that Respondent would not be cooperating with FINRA's investigation.

18. On or about March 20, 2009, Respondent's attorney sent FINRA a letter indicating that Respondent would not cooperate with FINRA's investigation.

19. No responses to any of FINRA's 8210 requests have been received from Respondent.

20. By virtue of the foregoing, Respondent has violated, and is continuing to violate, NASD Rules 8210 and 2110 and FINRA Rules 8210 and 2010.

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 Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Dated: January 29, 2010


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