

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

REBA ROSE COPE
(CRD No. 5056512),

Respondent.

Disciplinary Proceeding
No. 20090202431-01

Hearing Officer – LBB

DEFAULT DECISION

February 9, 2011

Respondent is barred from associating with any FINRA member firm in any capacity for conversion of funds, in violation of FINRA Conduct Rule 2010. Respondent is also barred for failing to respond to requests for documents and information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010.

Appearances

Gino F. Ercolino, Esq., New York, NY, for the Department of Enforcement.

No appearance by or on behalf of Respondent.

DECISION

The Department of Enforcement ("Enforcement") filed the two-cause Complaint in this disciplinary proceeding on October 12, 2010. The Complaint charges Respondent Reba Rose Cope ("Respondent") with: (1) conversion, in violation of FINRA Conduct Rule 2010; and (2) failure to respond to requests for documents and information, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010. Despite being properly served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Respondent has not filed an Answer or otherwise responded to the Complaint.

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On December 21, 2010, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions.¹ Respondent did not file a response to Enforcement's motion. Accordingly, pursuant to FINRA Rules 9215(f) and 9269, the allegations of the Complaint are deemed admitted. For the reasons set forth below, Enforcement's motion is granted.

I. Respondent

Respondent was employed by First Citizens Bank & Trust ("the Bank") as a financial service representative, beginning in October 2003. She entered the securities industry in October 2005 as an employee of First Citizens Investor Services, Inc. ("FCIS"), a FINRA member firm that was affiliated with the Bank. On April 10, 2006, Respondent completed and signed a Uniform Application for Securities Industry Registration or Transfer (Form U4), which FCIS filed with FINRA on May 18, 2006. Between June 2006 and October 2009, Respondent twice failed both the Series 6 and 63 registration examinations. She remained at FCIS until both the Bank and FCIS terminated her employment on October 20, 2009. Complaint ¶ 3; Decl. ¶ 4; CX-1. Respondent has not been affiliated with any FINRA member firm since October 2009. Complaint ¶ 6; Decl. ¶ 8.

By submitting her Form U4 in 2006, Respondent became an "associated person of a member," pursuant to section (rr) of the definitions section of Article I of FINRA's By-Laws. Although Respondent is not currently associated with a FINRA member firm, FINRA has jurisdiction to bring this proceeding because the Complaint charges Respondent with misconduct while she was associated with a FINRA member firm and with failing to respond to requests for

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion, which included the Declaration of Gino F. Ercolino, Esq. in Support of Motion for Entry of Default Decision and Request for Sanctions, and supporting documentation that was attached to counsel's Declaration. Counsel's Declaration is cited herein as "Decl. ¶ __." The supporting documentation is cited as "CX-__."

documents and information during the two-year period after the date upon which she ceased to be associated with a FINRA member firm.

II. Origin of Investigation

FCIS filed a Form U5 on October 22, 2009, reporting that it had terminated Respondent's employment for violating bank policy. FINRA Staff investigated Respondent's conduct to determine if she had violated FINRA Conduct Rule 2010. Enforcement filed the Complaint as a result of this investigation. Decl. ¶¶ 6, 7, 9.

III. Respondent's Default

On October 12, 2010, Enforcement served a copy of the Complaint and Notice of Complaint upon Respondent by certified mail, return receipt requested, and by first-class mail, to Respondent's last known address recorded in the Central Registration Depository ("CRD address"). Enforcement also sent a copy of the Complaint and Notice of Complaint to a post office box and an additional street address for Respondent that the FINRA Staff found on Lexis. Decl. ¶ 23; CX-13. The return receipt for the certified mailing to Respondent's post office box was returned to Enforcement, signed by Respondent on October 27, 2010. Decl. ¶ 25; CX-14. The certified and first-class mailings to Respondent's CRD address and the additional street address were returned, marked "Return To Sender." Decl. ¶ 26; CX-15. The first-class mailing sent to Respondent's post office box has not been returned to Enforcement. Decl. ¶ 27. Respondent failed to answer the Complaint.

On November 15, 2010, Enforcement served Respondent with the Second Notice of Complaint, along with copies of the Complaint and Notice of Complaint, by certified mail, return receipt requested, and by first-class mail, to Respondent's CRD address, post office box, and additional street address. The first-class mailing to Respondent's post office box has not been returned to Enforcement. All the other mailings were returned to Enforcement, marked "Return

To Sender.” Decl. ¶¶ 29, 31, 32. Respondent failed to answer the Complaint. Decl. ¶ 33; CX-16.

Despite being properly served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Respondent has not answered or otherwise responded to the Complaint. By failing to file a response, Respondent defaulted.

IV. First Cause of Action: Respondent Violated FINRA Conduct Rule 2010 by Converting 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 funds violates FINRA Conduct Rule 2010.³

In October 2007, a customer of the Bank instructed Respondent to use the proceeds from a maturing certificate of deposit (“CD”) to purchase two new CDs in the names of two different people. Complaint ¶ 7. Respondent purchased one of the two CDs that the customer requested. Respondent took the remaining proceeds (\$9,878.89), converted them to a cashier’s check payable to the person for whom the CD should have been purchased, and held the check in her office. Complaint ¶ 8. On December 23, 2008, Respondent cashed the cashier’s check and kept the money for her personal use. Complaint ¶ 9; Decl. ¶ 11; CX-4. In September 2009, the customer requested the proceeds of the two CDs, which should have been maturing. After finding only one CD for the customer, the Bank investigated the incident, discovered Respondent’s misconduct, and terminated her employment on October 20, 2009. The Bank

² *FINRA Sanction Guidelines* at 38 n.2 (2007).

³ *John M. Saad*, Exchange Act Rel. No. 62178, 2010 SEC LEXIS 1761 (May 26, 2010), *appeal filed*, No. 10-1195 (D.C. Cir. July 22, 2010) (barred for misappropriation of member firm’s funds by submitting false expense reports); *Dist. Bus. Conduct Comm. v. Vail*, No. C06920051, 1994 NASD Discip. LEXIS 192, at *13 (N.B.C.C. Sept. 22, 1994), *aff’d*, 52 S.E.C. 339, 342 (1995), *aff’d*, 101 F.3d 37 (5th Cir. 1996) (barred for conversion of funds of private political club); *Daniel D. Manoff*, Exchange Act Rel. No. 46708, 2002 SEC LEXIS 2684 (Oct. 23, 2002) (barred for unauthorized use of co-worker’s credit card numbers).

notified FCIS that Respondent's employment had been terminated for cause, and on October 20, 2009, FCIS also terminated Respondent's employment. Complaint ¶ 10.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated FINRA Conduct Rule 2010 by converting the funds of a customer of the Bank.

V. Second Cause of Action: Respondent Violated FINRA Procedural Rule 8210 and Conduct Rule 2010 by Failing to Respond to Requests for Documents and Information

By letter dated November 17, 2009, pursuant to FINRA Rule 8210, FINRA's Preliminary Investigations Unit ("PI Unit") directed Respondent to provide documents and information, including a signed statement, concerning the Form U5 filed by FCIS, reporting that she had misappropriated funds. The PI Unit sent the letter by certified and first-class mail to Respondent's CRD address. Her response was due on December 17, 2009. The Postal Service returned the letter sent by certified mail, marked "Return to sender, attempted, not known, unable to forward." The letter sent by first-class mail was not returned to FINRA. Complaint ¶ 16; CX-7.

By letter dated January 12, 2010, pursuant to FINRA Rule 8210, the PI Unit again directed Respondent to provide documents and information, including a signed statement, concerning the Form U5 filed by FCIS. The PI Unit sent the letter by certified and first-class mail to Respondent's CRD address and to a post office box address that FINRA staff had obtained from Lexis. The response to this letter was due on January 26, 2010. The Postal Service delivered both certified mailings on January 20, 2010, and Respondent signed for both. The Postal Service returned the letter sent by first-class mail to her CRD address, marked "Return to sender, attempted, not known, unable to forward." The letter sent by first-class mail to the post office box was not returned to FINRA. Complaint ¶ 17; CX-9.

By letter dated June 22, 2010, pursuant to FINRA Rule 8210, Enforcement directed Respondent to provide documents and information, including a signed statement, concerning the Form U5 filed by FCIS. Enforcement sent the letter by certified and first-class mail to Respondent's CRD address, the post office box, and an additional street address obtained from Lexis. The response to this request was due on July 6, 2010. On June 30, 2010, the Postal Service returned the letter sent by first-class mail to Respondent's CRD address, marked "Return to sender, attempted, not known, unable to forward." On July 1, 2010, the Postal Service returned the certified letter sent to Respondent's CRD address, marked "Return to sender, unclaimed, unable to forward." On July 7, 2010, the Postal Service returned the letter sent by first-class mail to the additional street address, marked "Return to sender, not deliverable as addressed, unable to forward." On July 8, 2010, the certified letter sent to the additional street address was returned to FINRA, marked "Return to sender, not deliverable as addressed, unable to forward." On July 20, 2010, the Postal Service returned the certified letter sent to the post office box, marked "Return to sender, attempted, not known, unable to forward." The request sent by first-class mail to the post office box was not returned to FINRA. Complaint ¶ 18; CX-11. Respondent did not respond to any of the letters. Complaint ¶ 19.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of FINRA Procedural Rule 8210. A violation of FINRA Rule 8210 is also a violation of FINRA Conduct Rule 2010.⁴

⁴ *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001) (violation of NASD Procedural Rule 8210 was a violation of NASD Conduct Rule 2110).

VI. Sanctions

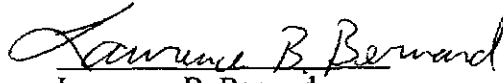
The Hearing Officer imposes separate bars for each of the causes of action. For conversion, FINRA's Sanction Guidelines recommend a bar.⁵ There are no mitigating factors. The Department of Enforcement is not seeking restitution because the Bank reimbursed the customer for the amount Respondent converted, plus interest. Decl. ¶ 12. Under these circumstances, the Hearing Officer does not order restitution. A bar is the appropriate sanction.

For a complete failure to respond to a request for information pursuant to FINRA Procedural Rule 8210, a bar is standard.⁶ There are no mitigating factors, and a bar is the appropriate sanction.

VII. Conclusion

For conversion of funds in violation of FINRA Conduct Rule 2010, Respondent Reba Rose Cope is barred from associating with any FINRA member firm in any capacity. Respondent is also barred for failing to respond to requests for documents and information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010.

The bars will be effective immediately if this decision becomes FINRA's final disciplinary action in this proceeding.


Lawrence B. Bernard
Hearing Officer

Copies to: Reba Rose Cope (*via overnight courier and first-class mail*)
Gino F. Ercolino, Esq. (*via e-mail and first-class mail*)
David R. Sonnenberg, Esq. (*via e-mail*)

⁵ FINRA Sanction Guidelines at 38 (2007)

⁶ FINRA Sanction Guidelines at 35.