

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20110274007**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Francis Martin Florey, Respondent
Registered Representative
CRD No. 5483052

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Francis Martin Florey ("Florey") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violation described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Florey hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

On July 9, 2007, Florey joined Wachovia Securities, LLC as a sales assistant in a non-registered capacity. Florey obtained his Series 7 and 66 licenses on October 26, 2009 and April 9, 2010, respectively.

From October 26, 2009 through April 8, 2011, Florey was a registered representative at the Paramus, New Jersey branch office of Wells Fargo Advisors, LLC ("Wells Fargo" or the "Firm")¹.

Florey was terminated by the Firm on April 8, 2011 for impersonating a Firm customer and improperly transferring funds from that customer's bank account to another bank account under Florey's control. Florey has not been associated with a FINRA registered broker-dealer since April 8, 2011. Pursuant to Article V, Section 4 of FINRA's By-Laws, Florey remains subject to FINRA's jurisdiction.

¹ On January 1, 2009, Wachovia Securities merged with Wells Fargo.

RELEVANT DISCIPLINARY HISTORY

In September 2011, Florey entered into a consent order with the state of New Jersey Bureau of Securities for impersonating a Firm customer and misappropriating approximately \$116,369 from that customer's bank account. Florey consented to a bar from employment in the securities industry in the state of New Jersey and was fined \$10,000.

OVERVIEW

Florey violated FINRA Rule 2010 by converting approximately \$116,369 from the joint account of customers' ("DN and NN") Wachovia Bank account when he transferred those funds to an ING Direct Bank ("ING") account that Florey established, without the customers' knowledge or authorization.

FACTS AND VIOLATIVE CONDUCT

Conversion

FINRA Rule 2010 states that "[a] member in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." It is well-established that the conversion of funds by a person subject to FINRA's jurisdiction, even if it occurs outside the scope of his employment with a member firm, constitutes a violation of FINRA Rule 2010.

On or about February 17, 2011, Florey opened a bank account in customer NN's name at ING (the "ING Account") without the customer's knowledge or authorization. After opening the account, Florey transferred \$116,369.47 from DN and NN's joint account at Wachovia Bank to the ING Account without the customers' authorization.

On March 9th and 10th of 2011, Florey attempted to transfer approximately \$1,561 and \$112, respectively, from the ING Account to an account in Florey's name at Sallie Mae, Inc. In order to transfer these funds, ING required the verification of customer NN's personal information. On or about March 10, 2011, Florey contacted ING attempting to impersonate NN. After Florey was unable to answer certain questions, ING restricted the account and notified its fraud department.

ING transferred back the funds to DN and NN's joint account at Wachovia Bank.

On January 27, 2012, Florey pled guilty to a 3rd degree felony in the state of New Jersey for the same misconduct described above. Florey was sentenced to probation for two years.

Florey violated FINRA Rule 2010 by transferring approximately \$116,369 from customers DN and NN's Wachovia Bank account to an account in the customer's name that he established at ING for his own personal use, without the customers' knowledge or authorization.

B. Florey also consents to the imposition of the following sanctions:

- A bar from association with any FINRA member in any capacity.

Florey understands that if he is barred or suspended from associating with any FINRA member, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, Florey may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

Florey specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against him;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Florey specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Florey further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Florey understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against him; and
- C. If accepted:
 - 1. this AWC will become part of his permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against him;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about his disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. Florey may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Florey may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects my right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

Florey certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit it.

8/29/2012
Date (mm/dd/yyyy)


Francis Martin Florey, Respondent

Reviewed by Counsel for Respondent:


Joseph R. Donahue, Esq.
Brickfield & Donahue
70 Grand Avenue, Suite 102
River Edge, New Jersey 07661

9/3/12
Date

Signed on behalf of the
Director of ODA, by delegated authority

Susan Light 9/6/12
Susan Light
Senior Vice President & Chief Counsel
FINRA Department of Enforcement
One World Financial Center
200 Liberty Street, 11th Floor
New York, New York 10281