

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Margaret Kopecki
(CRD No. 1260147),

Respondent.

DISCIPLINARY PROCEEDING
No. 2011030781201

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between approximately August 2009 and September 2009 (the "Relevant Period"), GP, an elderly customer of LPL Financial Corporation ("LPL" or the "Firm") agreed to provide \$75,000 to Margaret Kopecki ("Respondent") to sponsor a community outreach program. However, Respondent used approximately \$18,293 of GP's funds for Respondent's personal use and to pay Respondent's personal expenses, unrelated to the outreach program and without the customer's permission. By converting GP's funds, Respondent violated NASD Rule 2330(a) and FINRA Rule 2010.

2. Respondent also improperly deposited and commingled GP's funds in Respondent's bank account. By comingling customer funds with her own funds, Respondent violated FINRA Rule 2010.

3. In addition, Respondent willfully failed to amend her Uniform Application for Securities Industry Registration or Transfer ("Form U4") to disclose an unsatisfied judgment entered against her. As a result, Respondent violated FINRA Rules 2010 and 1122, and Article V, Section 2 of the FINRA By-Laws.

RESPONDENT AND JURISDICTION

4. Respondent entered the securities industry in March 1981 with a FINRA-regulated entity in a non-registered capacity, where she remained until September 1983. From approximately August 1983 to February 1985, Respondent was employed in non-registered capacities with at least two other FINRA-regulated entities. In February 1985, Respondent joined another FINRA-regulated entity and was approved as a General Securities Representative ("GSR") in July 1985. From October 1985 to April 2010, Respondent was employed as a GSR with various other FINRA-regulated entities. In June 2010, Respondent became a GSR with Independent Financial Group ("IFG") where she remained until September 14, 2012. Respondent is not currently associated with any FINRA-regulated entity.

5. Although Respondent is no longer registered or associated with a FINRA-regulated entity, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the effective date of termination of Respondent's registration with IFG, namely, September 14, 2012.

BACKGROUND AND FACTS

Respondent's Conversion and Commingling of Customer's Funds

6. Beginning in or around 1995 and continuing to 2009, Respondent hosted and sponsored an annual community outreach program. Each year Respondent planned and coordinated the program and established committees to assist her.

7. In 2009, Respondent scheduled her annual community outreach program for September 5 (the "2009 Outreach"), decided that it would be held at a church in Winnetka, Illinois and called the event, "The Greatest Story Ever Told."

8. Respondent estimated that the 2009 Outreach would cost between \$75,000 and \$90,000.

9. However, Respondent did not have sufficient funds to cover the expenses of the program.

10. In or around August 2009, Respondent spoke with GP, an elderly LPL customer for whom Respondent was the assigned registered representative. During the conversation, Respondent told GP that she did not have enough money to pay for the event. GP offered Respondent \$75,000 to sponsor the 2009 Outreach.

11. On or about September 1, 2009, GP gave Respondent a check for \$50,000 (the "September 1 Check") drawn on a third-party bank account held by GP.

12. GP provided the September 1 Check to Respondent to sponsor the 2009 Outreach.

13. On August 31, 2009, Respondent's checking account was overdrawn and had a debit balance of approximately \$1,309.71.

14. On September 1, 2009, Respondent deposited the September 1 Check into her checking account at FTB, a third-party bank which increased the balance in the account to \$48,862.29.

15. The next day, Respondent used the funds given to her by GP to purchase eleven cashier's checks totaling \$39,709.17.

16. Respondent used four of the cashier's checks totaling \$32,200 to pay expenses related to the September 2009 Outreach.

17. Respondent used the other seven cashier's checks totaling \$7,509.17 to pay Respondent's personal financial obligations, unrelated to the 2009 Outreach, as follows:

DATE	CHECK NUMBER	AMOUNT	PURPOSE
09/02/09	15419655	\$55.82	Federal Tax expense
09/02/09	15419690	\$78.40	Dry cleaning
09/02/09	15419683	\$120.00	Dog grooming
09/02/09	15419671	\$300.00	Carpet cleaning
09/02/09	15419660	\$364.95	Yard work
09/02/09	15419649	\$3,090.00	Office rental
09/02/09	15419620	\$3,500.00	Medical expense
	Total	\$7,509.17	

18. Respondent did not have permission or authority from GP to use the funds for her personal use and benefit.

19. On or about September 16, 2009, GP gave Respondent an additional check for \$25,000 (the "September 16 Check") to sponsor the 2009 Outreach.

20. On September 17, 2009, Respondent deposited the September 16 Check into her FTB account. At the time, Respondent's FTB account was overdrawn. When the September 16 Check was deposited, it increased the balance in the FTB account to approximately \$21,996.51.

21. On September 18, 2009, FTB returned a personal check for \$3,114.86 to Respondent's FTB account and charged the account a \$37.00 insufficient funds fee. The ending balance in Respondent's FTB account on September 18 was \$25,064.37, which included the \$25,000 GP provided to Respondent for the 2009 Outreach.

22. On September 25, 2009, Respondent used the money in the FTB account that GP had given Respondent for the 2009 Outreach to purchase two cashier's checks totaling \$6,675.00.

23. Respondent used one of the cashier's checks for \$3,735 for an expense related to the September 2009 Outreach.

24. Respondent used the other cashier's check for \$2,940 to pay Respondent's office rent expense, which was unrelated to the 2009 Outreach.

25. Respondent did not have permission or authority from GP to use the funds to pay her office rent.

26. As demonstrated in the chart below, between September 21, 2009 and September 29, 2009, Respondent issued personal checks against the FTB account totaling \$7,844.82 for expenses unrelated to the 2009 Outreach.

DATE PRESENTED	CHECK NUMBER	CHECK DATE	AMOUNT	PURPOSE
09/21/09	2703	09/18/09	\$3,000.00	Respondent's brother
09/24/09	2706	09/23/09	\$1,500.00	Glass store
09/25/09	2705	09/21/09	\$271.71	Gardening expense
09/25/09	2706	09/25/09	\$1,766.05	Respondent's brother
09/25/09	2708	09/23/09	\$203.96	Gardening expense
09/28/09	2702	09/17/09	\$767.92	Medical expense
09/28/09	2709	09/24/09	\$95.18	Dry cleaning
09/29/09	2710	09/24/09	\$240.00	Rug store
		Total	\$7,844.82	

27. Respondent did not have permission or authority from GP to use the funds to pay her personal expenses.

28. By September 29, 2009, Respondent's FTB account had a balance of \$656.77.

29. In total, between September 2, 2009 and September 29, 2009, Respondent used at least \$18,293 of GP's funds for her personal use without permission or authority from GP.

Willful Failure to Update Form U4 to Disclose Material Information

30. On June 18, 2010, in connection with her registration with IFG, Respondent signed and submitted an initial Form U4 in which she agreed to timely update the form whenever changes occurred that made her previous answers inaccurate.

31. On May 30, 2012, Respondent was served with a complaint and summons in a civil matter seeking \$7,452.47 plus costs and fees. The summons required Respondent to file a written appearance with the Cook County, Illinois, Circuit Court ("Circuit Court") by June 11, 2012. The summons warned Respondent that if she failed to file the written appearance, a Judgment by Default may be taken against her.

32. On June 25, 2012, a default judgment for \$9,302.47 was entered by the Circuit Court against Respondent in favor of the plaintiffs.

33. On or around July 6, 2012, the Circuit Court sent Respondent a postcard notifying her that a default judgment was entered against her on June 25, 2012.

34. Respondent acknowledged that in early July 2012 she received the postcard notifying her of the default judgment. Respondent was required to amend her Form U4 within 30 days of her receipt of notice of the default judgment.

35. Between early July 2012 and September 14, 2012, when Respondent's association with IFG terminated, Respondent did not amend her Form U4 to report the civil judgment.

FIRST CAUSE OF ACTION
Conversion
(NASD Rule 2330(a) and FINRA Rule 2010)

36. The Department realleges and incorporates by reference paragraphs 1 through 35, above.

37. NASD Rule 2330(a) states that “no member or person associated with a member shall make improper use of a customer’s securities or funds.”

38. FINRA Rule 2010 states that, “A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.”

39. Between September 2, 2009 and September 29, 2009, Respondent used at least \$18,293 of GP’s funds for Respondent’s personal benefit.

41. Respondent did not have permission or authority from GP to use GP’s funds for Respondent’s personal benefit.

42. Based on the foregoing, Respondent violated NASD Rule 2330(a) and FINRA Rule 2010 by converting at least \$18,291.99 from an elderly customer of her FINRA-regulated employer.

SECOND CAUSE OF ACTION
Commingling of Customer Funds
(FINRA Rule 2010)

43. The Department realleges and incorporates by reference paragraphs 1 through 42, above.

44. On or about September 1, 2009, Respondent received a \$50,000 check from GP to sponsor the 2009 Outreach. Respondent deposited the check into her personal bank account commingling GP’s funds with her own personal funds.

45. On September 16, 2009, Respondent received a \$25,000 check from GP to sponsor the 2009 Outreach. Respondent deposited the check into her personal bank account commingling GP's funds with her own personal funds.

46. Based on the foregoing, Respondent violated FINRA Rule 2010 by commingling customer funds with her own personal funds.

THIRD CAUSE OF ACTION
FAILURE TO DISCLOSE AN UNSATISFIED CIVIL JUDGMENT
(Article V, Section 2 of the FINRA By-Laws and FINRA Rules 1122 and 2010))

47. The Department realleges and incorporates by reference paragraphs 1 through 46, above.

48. Article V, Section 2(c) of the FINRA By-Laws requires that registrations filed with FINRA be kept current at all times and that amendments must be filed with FINRA "not later than 30 days after learning of the facts or circumstances giving rise to the amendment."

49. FINRA Rule 1122 provides, "No member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof."

50. Question 14M of the Form U4 asks, "Do you have any unsatisfied judgments or liens against you?" If an affirmative answer is given to Question 14M, the registered person is required to provide details about the lien or judgment.

51. On June 25, 2012, a default judgment for \$9,302.47 was entered by the Circuit Court against Respondent. In early July 2012 Respondent received written notice from the Circuit Court of the entry of the default judgment against Respondent.

52. Between July 2012 and September 14, 2012, when Respondent's association with IFG terminated, Respondent did not amend her Form U4 to report the civil judgment.

53. Although Respondent was aware of her obligation to amend her Form U4 to report the judgment within 30 days of her receipt of written notification of the judgment, Respondent willfully failed to do so.

54. By willfully failing to amend her Form U4 to disclose the existence of the judgment described above, Respondent willfully violated Article V, Sec. 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. make specific findings that Respondent's conduct, as alleged in the Third Cause of Action, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: 9/3/14



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