

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DULCE MARIA SALAVERRIA
(CRD No. 4724934),



Respondent.

Disciplinary Proceeding
No. C07040077

Hearing Officer – DRP

DEFAULT DECISION

March 4, 2005

For falsifying a document, in violation of NASD Conduct Rule 2110, Respondent is barred from associating with any NASD member in any capacity.

Appearances

Joel R. Beck, Esq., Atlanta, GA (Rory C. Flynn, Esq., Washington DC, Of Counsel) for Complainant.

No appearance by or for Dulce Maria Salaverria.

DECISION

I. Background

On September 7, 2004, the Department of Enforcement filed a single-count Complaint in this proceeding, attached to this Decision as Exhibit A. The Complaint alleges that Dulce Maria Salaverria (Respondent or Salaverria) submitted to NASD member firm Dresdner Lateinamerika Financial Advisors LLC (DLFA) a falsified Series 7 examination score report, in violation of NASD Conduct Rule 2110.

Respondent did not file an Answer to the Complaint. Accordingly, on November 10, 2004, Enforcement filed a motion for entry of default decision, supported by the Declaration of Joel R. Beck and four exhibits. Salaverria did not file a response to the motion.

For the reasons set forth below, Enforcement's motion is granted.¹

II. Respondent's Default

On September 3, 2004, Enforcement served the Complaint and Notice of Complaint on Respondent by certified and first class mail, sent to Respondent's current residential address, as reflected in the Central Registration Depository (the CRD address).² Enforcement also emailed the Complaint and Notice of Complaint to Respondent at [REDACTED] (the email address) on September 7, 2004.³ The return receipt for the certified mailing was signed by "Maria Salaverria."⁴ Respondent did not file an Answer.

On October 5, 2004, Enforcement served the Complaint and Second Notice of Complaint on Respondent at her CRD address by certified and first class mail and overnight courier.⁵ Enforcement also sent the Complaint and Second Notice of Complaint to the email address. On October 19, 2004, Respondent sent an email to Enforcement in which she requested additional time to respond to the Complaint because she was hiring an attorney. In an email response, Beck explained that Respondent should contact NASD's Office of Hearing Officers (OHO) regarding her request for additional time, and he provided OHO's address, telephone and fax numbers.⁶

¹ The factual determinations in this Decision are based on the allegations of the attached Complaint, which are deemed admitted, and the declaration and exhibits filed by Enforcement with its motion.

² Beck Declaration ¶ 10; CX-1, p. 1.

³ Beck Declaration ¶ 11.

⁴ CX-4.

⁵ Beck Declaration ¶ 15.

⁶ *Id.* ¶ 17.

Respondent failed to file an Answer or a request for an extension of time to file an Answer. Pursuant to Rules 9138(c), 9215(f) and 9269, Respondent's failure to file an Answer to the Second Notice on or before October 22, 2004, allowed the Hearing Officer to treat as admitted the allegations in the Complaint and to issue a default decision against Respondent. Accordingly, on November 9, 2004, Enforcement served this motion for entry of a default decision on Respondent at her CRD address by first class mail and overnight courier. Enforcement also sent this motion to Salaverria at the email address.⁷

Enforcement complied with Procedural Rule 9134(b)(1) by mailing the Complaint and Notices of Complaint to Respondent's CRD address, thereby providing constructive notice of this proceeding. Moreover, as evidenced by her contact with Enforcement and OHO, Respondent had actual notice of this proceeding. By failing to file an Answer or otherwise respond to the Complaint in a timely fashion, Respondent defaulted. Pursuant to Rules 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

III. Jurisdiction

Respondent was employed by NASD member firm DLFA from January 1, 1998 until March 31, 2004.⁸ Respondent completed a Form U-4 to become registered as a general securities representative and a foreign associate, which DLFA filed on her behalf on November 4, 2003.⁹ NASD approved her registration as a foreign associate on November 4, 2003, and DLFA terminated that registration, as well as her application for registration as a general

⁷ On or about November 15, 2004, Respondent called OHO and left a voice mail message for the staff, requesting additional time to file her Answer to the Complaint and reporting that she was obtaining counsel. The staff responded by email on November 15, 2004, because Respondent had not provided a telephone number. Respondent called back the next day to give OHO staff detailed information about her attorney and to request an extension. The staff told her that she needed to file a written request for an extension, or Enforcement's pending motion for entry of a default decision would be granted. Respondent had no further contact with OHO and did not file a request for an extension, an Answer to the Complaint, or a response to this motion.

⁸ CX-1, p. 2.

⁹ Beck Declaration ¶ 5; CX-2.

securities representative, on April 29, 2004.¹⁰ Since that time, she has not been associated or registered with any NASD member.

Respondent is subject to NASD jurisdiction pursuant to Art. V, Section 4 of NASD's By-Laws, because the Complaint, which was filed within two years of the termination of Respondent's registration with DLFA, alleges misconduct that occurred while she was registered as a foreign associate and an applicant for registration as a general securities representative.

IV. Findings of Fact and Conclusions of Law

The single cause of Complaint alleges that Respondent reported a false Series 7 examination score to DLFA. On February 18, 2004, Salaverria took the Series 7 examination to qualify for registration as a general securities representative.¹¹ Although she failed the examination with a score of 56%, she reported to DLFA that she had passed with a score of 70%, and provided a false score report to support her claim.¹² DLFA officials confronted Respondent twice after they discovered her actual score through CRD, but she continued to insist that the report she submitted was accurate.¹³

Falsifying documents in an attempt to deceive a member firm is wholly inconsistent with NASD's requirement that registered individuals maintain high standards of ethical conduct and observe just and equitable principles of fair trade.¹⁴ Accordingly, the allegations in the first cause of Complaint, which are deemed admitted, are sufficient to establish for the purposes of this default decision that Respondent violated NASD Conduct Rule 2110.

¹⁰ Beck Declaration ¶¶ 6-7; CX-1, p. 2; CX-3.

¹¹ CX-1, p.4; Complaint ¶ 5.

¹² *Id.* ¶¶ 6-7.

¹³ Beck Declaration ¶ 21.

¹⁴ See, e.g., *Donald M. Bickerstaff*, Exchange Act Release No. 35,607, 1995 SEC LEXIS 982 (April 17, 1995) (confirming that document falsification constitutes a violation of Article III, Section 1 of NASD's Rules of Fair Practice, the predecessor to NASD Conduct Rule 2110).

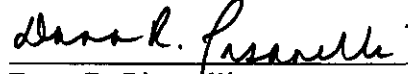
V. Sanctions

For falsification of documents, the Sanction Guidelines suggest a fine of \$5,000 to \$100,000, and, in egregious cases, a bar.¹⁵ Enforcement contends this is an egregious case, and the Hearing Officer concurs. It is an aggravating circumstance that Respondent falsified a document related to her registration with NASD.¹⁶ Moreover, she compounded her misconduct by continuing to assert the document's accuracy when confronted by her firm. Accordingly, Respondent will be barred.

VI. Conclusion

Respondent Dulce Maria Salaverria is barred from association with any member firm in any capacity for submitting a falsified examination score report to her employing member firm, in violation of NASD Conduct Rule 2110. The bar will become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.


Dana R. Pisanelli
Hearing Officer

Dated: March 4, 2005
Washington, DC

Copies to: Dulce Maria Salaverria (*via overnight and first class mail*)
Joel R. Beck, Esq. (*via electronic and first class mail*)
Rory C. Flynn, Esq. (*via electronic and first class mail*)

¹⁵ NASD Sanction Guidelines at 41 (2004 ed.).

¹⁶ Misconduct relating to NASD's qualification examination "flouts the ethical standards" of NASD. *In re Justiss*, Exchange Act Release No. 37,074, 1996 SEC LEXIS 998, at *11 (April 5, 1996).

EXHIBIT A

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Dulce Maria Salaverria
Former Associated Person
CRD No. 4724934

Respondent.

Disciplinary Proceeding
No. C07040077

Hearing Officer -

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. Respondent Dulce Maria Salaverria entered the securities industry in January 1998 when she became employed by Dresdner Lateinamerika Financial Advisors, LLC ("DLFA").
2. On or about November 4, 2003, Salaverria completed a Form U-4 to apply for registration with NASD as a general securities representative. The U-4 was filed by DLFA with the Central Registration Depository. On April 29, 2004, DLFA filed a termination notice (Form U-5) on behalf of Salaverria terminating her application for registration.
3. Salaverria is not currently registered with an NASD member, though she remains subject to NASD's jurisdiction pursuant to Article V, Section 4 of the NASD By-Laws.

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4. Paragraphs one through three are realleged and incorporated herein by reference.
5. On or about February 18, 2004, Salaverria sat for the Series 7 qualification examination at a testing center in Davie, Florida.
6. Salaverria failed the examination, with a score of 56%.

7. Salaverria subsequently reported to DLFA that she had passed the Series 7 examination with a score of 70%. Salaverria provided DLFA with a score report purporting to show that she scored 70% on the examination.
8. Salaverria knew, or should have known, that the score report she submitted to DLFA was fictitious and that it falsely represented that she passed the examination.
9. Salaverria's conduct in submitting a fictitious score report to DLFA violates NASD Conduct Rule 2110.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that the Respondent committed the violations charged and alleged herein;
- B. An order imposing sanctions upon the Respondent in accordance with NASD Rule 8310.
- C. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- D. An order imposing any other fitting sanction.

September 3, 2004.


Daniel J. Stefek, District Director
NASD, Atlanta District Office


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