

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

Department of Market Regulation,

Complainant,

v.

Fabio Migliaccio
(CRD No. 2590550),

Respondent.

Disciplinary Proceeding
No. 20070113664-03

Hearing Officer: RSH

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

February 15, 2011

INTRODUCTION

Disciplinary Proceeding No. 20070113664-03 was filed on April 19, 2010, by the Market Regulation Department of the Financial Industry Regulatory Authority ("FINRA" or "Complainant"). Respondent Fabio Migliaccio ("Migliaccio") submitted an Offer of Settlement ("Offer") to Complainant on January 14, 2011. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Migliaccio has consented, without admitting or denying the allegations of the Complaint, and solely for the purpose of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings of facts and violations consistent with the allegations of the Complaint, and to the imposition of the sanction set forth below, and fully understands that this Order will become part

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of Migliaccio's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent Migliaccio first became employed in the securities industry in January 1999 as a registered representative at Joseph Stevens & Company, Inc. ("JSLP"). Migliaccio later became JSLP's Chief Operating Officer, and was employed by the firm until it filed a Form BDW on June 20, 2008. After the termination of his registration with JSLP, Migliaccio was employed at two other member firms, one from July 15, 2008 until October 31, 2008 and the other from September 28, 2009 until January 4, 2010. Since that time, Migliaccio has not been registered with any FINRA member firm. Migliaccio remains subject to FINRA's jurisdiction for the purposes of this action pursuant to Article V, Section 4 of the FINRA By-Laws.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

1. In connection with an investigation by the MRD staff to determine whether JSLP, and persons formerly associated with JSLP, violated the anti-fraud provisions of the federal securities laws and FINRA Rules, the staff requested that Respondent Migliaccio provide testimony pursuant to FINRA Rule 8210. The staff's investigation concerned JSLP's undisclosed retention of trading profits made in filling customer not-held orders. Migliaccio failed to cooperate with the staff's investigation by refusing to testify as requested. As a result, Respondent Migliaccio violated FINRA Rules 8210 and 2010.

2. JSLP was a broker-dealer registered with FINRA from October 12, 1993 until July 21, 2008. JSLP was based in New York City, and was a full-service retail brokerage firm with branch offices in the state of New York. In June 2008, JSLP filed a Form BDW with

FINRA requesting that its registration status be terminated. On July 21, 2008, FINRA terminated JSLP's registration.

3. On February 5, 2009, the staff served upon Migliaccio, through his counsel, a written request, pursuant to FINRA Rule 8210, which required him to appear for investigative testimony on February 26, 2009.

4. On February 19, 2009, the MRD staff rescheduled Migliaccio's testimony to March 5, 2009.

5. In a February 26, 2009 letter, Migliaccio, through his counsel, said that he would not appear for testimony, based upon an assertion of his Fifth Amendment privilege. The letter further stated "[o]nce Mr. Migliaccio is cleared he will be happy to sit down for an on-the-record interview."

6. Migliaccio failed to appear for testimony on March 5, 2009.

7. On May 20, 2009, the New York County District Attorney's Office filed an indictment charging JSLP and sixteen individuals with securities fraud and other related violations of criminal law. Migliaccio was not one of the individuals named as a defendant in the indictment.

8. On or about August 20, 2009, the MRD staff again requested that Migliaccio appear for testimony. In a September 3, 2009 letter, Migliaccio, through his counsel, said that he still would not appear for testimony based upon an assertion of his Fifth Amendment privilege.

9. As a result of Migliaccio's refusal to appear for testimony, the MRD staff was prevented from pursuing certain areas of its ongoing investigation.

10. On July 20, 2010, after FINRA filed a complaint against him, Migliaccio appeared and provided testimony pursuant to FINRA Rule 8210.

11. By reason of the foregoing, Migliaccio violated FINRA Rules 2010 and 8210.

Based upon these considerations, the sanctions hereby imposed by the acceptance of the Offer is in the public interest, is sufficiently remedial to deter Respondent Migliaccio from any future misconduct, and represents a proper discharge by FINRA of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent Migliaccio is suspended from associating with any FINRA member firm in any capacity for a period of 24 months.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

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



Thomas R. Gira
Executive Vice President
Department of Market Regulation