

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

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REGISTRATION & DISCLOSURE

Department of Enforcement,

Complainant,

v.

Frank C. Molina (CRD No. 2378415),

Respondent.

DISCIPLINARY PROCEEDING
No. 2008012081301

Hearing Officer - SNB

ORDER ACCEPTING OFFER OF SETTLEMENT

INTRODUCTION

Disciplinary Proceeding No. 2008012081301 was filed on March 27, 2009, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant).

Respondent Frank C. Molina submitted an Offer of Settlement (Offer) to Complainant on or about June 18, 2009. 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, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other

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proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent Molina first became associated with a FINRA member in July 1993. Thereafter, he associated with three member firms before becoming registered with FINRA through American Family Services LLC ("AFS") as an Investment Company and Variable Contracts Limited Products Representatives in or about July 2004. Molina voluntarily terminated his association with AFS on or about September 10, 2007. The conduct the subject of the Complaint occurred while Molina was registered with AFS and while he was working as an insurance agent for AFS's affiliate, AFMIS. Molina has not associated or registered with a member firm since September 10, 2007. Although Molina is not presently associated with a member, FINRA had jurisdiction to issue its Complaint pursuant to Article V, Section 4 of the FINRA's By-laws. On January 11, 2008, AFS amended Molina's Form U5 disclosing for the first time irregularities in Molina's premium trust account, thereby extending FINRA's jurisdiction in this matter to January 10, 2010.

FINDINGS AND CONCLUSIONS

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

On April 14, 2008, FINRA sent a written request for information and documents to Molina via certified and first class mail to his current residential CRD address of [REDACTED]

■■■■. The request was made pursuant to Procedural Rule 8210 and requested information and documents pertaining to an investigation into the possible misuse of insurance premiums by Molina. The information was requested by no later than April 28, 2008. Molina did not respond by April 28, 2008.

The letter sent by certified mail to the residential CRD address was returned marked "return to sender, attempted, not known, unable to forward." The first class letter was not returned.

On May 30, 2008, FINRA re-sent the April 14, 2008, letter to Molina's residential CRD address via certified and first class mail. FINRA asked that Molina respond to the April 14th letter by June 13, 2008. The certified letter was returned marked "return to sender, unclaimed, unable to forward." The first class letter was not returned.

On June 17, 2008, FINRA received a response from Molina to its letter dated April 14, 2008. The response was dated May 28, 2008. Molina answered some of the questions posed in the request for information; however, he did not provide any documents requested by staff, including important bank records.

On August 8, 2008, FINRA sent a letter to Molina's residential CRD address via certified and first class mail. In the letter, the staff noted Molina's partial response to its letters dated April 14 and May 30, 2008 and his failure to provide any of the requested documentation, including "copies of any banking or other material reflecting the handling of client funds as requested under items 2 and 3" in staff's original request letter. Staff then requested for the third time, pursuant to Procedural Rule 8210, that Molina provide all documents requested in staff's letter dated April

14, 2008, by August 28, 2008. In the August 8, 2008 letter, staff also requested that Molina appear, pursuant to Procedural Rule 8210, for an on-the-record interview (OTR) on September 4, 2008 in FINRA's Denver Office. The certified letter was returned marked "not deliverable as addressed, unable to forward." The first class mailing was not returned.

Molina's attorney wrote to FINRA on September 5, 2008. He wrote that Molina would "not be conducting the OTR interview as scheduled. Molina is no longer conducting an insurance business, and does not possess the records you request. Molina does not intend to conduct a business which requires the license you may suspend and or revoke as a result of disciplinary action. Therefore, Molina chooses not to participate in this administrative proceeding."

Molina did not appear for an OTR. Moreover, he did not provide any of the documents requested in staff's 8210 request letters and he never provided information concerning efforts to obtain documents that he may not have had in his possession, such as bank records, but could have obtained.

Based on the foregoing, Molina violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

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

SANCTIONS

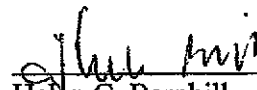
It is ordered that Respondent be:

Barred from associating with any FINRA member in any capacity. The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to IM-8310-3(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

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



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