

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012033029101**

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

RE: David Eizy Macias, Respondent
General Securities Representative
CRD No. 1924931

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, David Eizy Macias ("Macias") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations 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. Macias 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

Macias entered the securities industry in 1989, when he was associated with a FINRA member. Macias acquired a Series 7 license on May 15, 1990 and a Series 63 license on May 29, 1990. Macias was associated with several FINRA members since 1989, including R.M. Stark & Co., Inc. ("R.M. Stark") from July 31, 2009 through October 10, 2012. Although Macias is not currently associated with a FINRA member, he remains subject to the jurisdiction of FINRA, pursuant to Article V, Section 4(a) of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly-registered persons.

RELEVANT DISCIPLINARY HISTORY

On August 13, 1997, NASD accepted a Letter of Acceptance, Waiver and Consent submitted by Macias in C10970168. Macias was suspended for seven days in all capacities and fined \$15,000. Without admitting or denying the allegations, NASD found that Macias charged certain retail customers unfair prices in transactions where the gross commissions ranged from twenty-one to



thirty percent of the principal amount of the transaction, in violation of NASD Conduct Rules 2440 and 2110.

FACTS AND VIOLATIVE CONDUCT

From January 2011 through June 2011, Macias, while associated with R.M. Stark, placed approximately twenty-four trades in a non-R.M. Stark outside securities account. Macias failed to notify R.M. Stark and the firm which held the outside securities account, that he was associated with the outside securities account. As a result of such conduct, Macias violated NASD Conduct Rule 3050(c) and FINRA Rule 2010.

From October 2010 through August 2011, Macias, while associated with R.M. Stark, exercised discretionary power in a customer's account, without written customer authorization and without written approval from R.M. Stark. Macias placed between twenty-five and fifty discretionary trades in customer BRE's account without written authorization and without R.M. Stark's written approval. As a result of such conduct, Macias violated NASD Conduct Rule 2510(b) and FINRA Rule 2010.

From October 2010 through August 2011, Macias, while associated with R.M. Stark, at times utilized text messaging and a personal e-mail account to communicate with a customer and conduct a securities business. The text messaging and personal e-mail account were not approved by R.M. Stark, and his use of text messaging and the personal e-mail account to conduct a securities business contravened R.M. Stark policies and also caused R.M. Stark to violate its recordkeeping requirements. As a result of such conduct, Macias violated FINRA Rule 2010.

B. I also consent to the imposition of the following sanctions:

A \$15,000 fine and a three-month suspension from association with any FINRA member in all capacities.

The fine shall be due and payable either immediately upon reassociation with a member firm following the three-month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become 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, I 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.

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;**
- 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, I specifically and voluntarily waive 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.

I further specifically and voluntarily waive 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

I understand 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 me; and

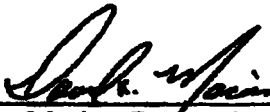
C. If accepted:

1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my 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. I 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. I 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: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have 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 me to submit it.

12/06/2013
Date


David Eizy Macias, Respondent

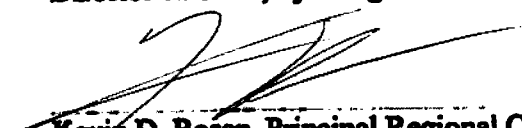
Reviewed by:


James D. Salah, Esq.
Counsel for Respondent
Salah Astarita & Cox, LLC
2255 Glades Road, Suite 300E
Boca Raton, Florida 33431

Accepted by FINRA:

12/11/2013
Date

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


Kevin D. Rosen, Principal Regional Counsel
FINRA Department of Enforcement
Crystal Corporate Center
2500 North Military Trail, Suite 302
Boca Raton, Florida 33431
(561) 443-8015; Fax (561) 443-7998