

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

Department of Enforcement,

Complainant,

v.

Enrique Mercado, Jr. (CRD No. 2242873),

Respondent.

DISCIPLINARY PROCEEDING
No. 2012033767402

Hearing Officer—KBW

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: April 27, 2017

INTRODUCTION

Disciplinary Proceeding No. 2012033767402 was filed on October 7, 2016, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Enrique Mercado, Jr. submitted an Offer of Settlement (Offer) to Complainant dated April 26, 2017. 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 as amended by the Offer of Settlement, 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, to the entry of findings and violations consistent with the allegations of

the Complaint as amended by the Offer of Settlement, 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

Enrique Mercado, Jr. first became registered with a FINRA member firm on November 3, 1994. Between January 19, 2010 and April 1, 2013, Mercado was employed as the Chief Compliance Officer of Tradewire, where he was registered as a general securities principal, general securities representative, and in several other capacities.

Tradewire withdrew from FINRA membership on April 1, 2013. From April 2, 2013 to on or about June 2013, Mercado remained employed at Tradewire to respond to regulatory requests and to perform other tasks associated with winding down Tradewire's business.

Between July 8, 2013 and September 18, 2015, Mercado was registered with other FINRA member firms as a general securities principal, general securities representative, and in several other capacities.

Although Mercado is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Respondent's registration with a FINRA member firm, namely, October 2, 2015, and (2) the Complaint charges him with providing false information in response to FINRA requests for information during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

FINDINGS AND CONCLUSIONS

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

On April 26, 2013, Enrique Mercado, Jr. (“Mercado” or “Respondent”) provided a false and backdated FINRA Rule 3130 certification to FINRA’s Department of Enforcement in response to a FINRA Rule 8210 request. The certification falsely stated that former FINRA member firm Tradewire Securities LCC (“Tradewire”) had processes in place to review and test its supervisory procedures on a periodic basis, and that these processes were evidenced in a written report. The certification was also backdated to March 29, 2013 to make it appear that it had been executed by the deadline required by FINRA Rule 3130. Mercado’s misconduct violated FINRA Rules 8210 and 2010.

NASD Rule 3012 required Tradewire and Mercado to, among other things, test and verify the firm’s supervisory procedures, and to prepare and submit to senior management a report, at least annually, detailing Tradewire’s supervisory controls and test results.

FINRA Rule 3130 required Tradewire to, among other things, have its chief executive or equivalent officer certify annually that Tradewire had processes in place to establish, maintain, review, test, and modify its written compliance policies and supervisory procedures, and that its Chief Executive Officer had conducted one or more meetings with its Chief Compliance Officer, Mercado, in the preceding twelve months to discuss these processes. The FINRA Rule 3130 certification was also required to state that these processes were evidenced in a written report.

Because Tradewire's previous Rule 3130 certification was made on or before March 30, 2012, Tradewire was required to make its next certification on or before March 30, 2013.

For the annual period ending March 30, 2013, Tradewire did not test its supervisory procedures as required by FINRA Rule 3130 and NASD Rule 3012.

For the annual period ending March 30, 2013, Tradewire did not prepare the reports required by FINRA Rule 3130 and NASD Rule 3012.

In June 2012, Tradewire cancelled the onsite audit by a third-party consulting firm that it had retained to: (i) conduct the annual review and assessment of Tradewire's regulatory compliance and supervisory controls, as required by NASD Rule 3012 and FINRA Rule 3010, and (ii) prepare the firm's Annual Certification of Compliance and Supervisory Processes, as required by FINRA Rule 3130.

Mercado disagreed with Tradewire's decision to cancel the audit by the third-party consulting firm.

On March 1, 2013, FINRA's Department of Enforcement sent a letter requesting documents and information pursuant to FINRA Rule 8210 to Mercado's attention. The letter was addressed to "Tradewire Securities, LLC Attn: Enrique Mercado, Jr.," and began with the salutation "Dear Mr. Mercado."

The March 1, 2013 Rule 8210 requests required Tradewire and Mercado to provide, among other things: (i) all documents related to annual testing of supervisory controls, and (ii) all annual certifications relating to the testing of supervisory controls.

In April 2013, Mercado collected documents to respond to the March 1, 2013 Rule 8210 requests.

Mercado failed to inform FINRA that Tradewire had not tested its procedures or prepared the required reports for the annual period ending March 31, 2013. Later, when he was scheduled to provide on-the-record testimony to FINRA in February 2014, Mercado told FINRA that Tradewire had not tested its procedures.

On April 26, 2013, Mercado sent an email to AA, Tradewire's Chief Executive Officer between May 2006 and April 1, 2013, asking him to sign an attached Rule 3130 certification that covered the annual period ending March 29, 2013, and to scan it back to Mercado.

In the April 26, 2013 email, Mercado told AA that Mercado was unable to find a version of the Rule 3130 certification that AA had previously signed.

Mercado then sent another email to AA on April 26, 2013 stating that the "formatting was wrong" on the version of the Rule 3130 certification that he had sent earlier that day, and asked AA to "[p]lease sign this one [instead], and backdate it to the date you signed the original one which was March 29, 2013."

However, there was no "original" or previously-signed version of the Rule 3130 certification.

Mercado prepared the Rule 3130 certification and asked AA to sign it on April 26, 2013 in order to provide it to FINRA in response to the outstanding Rule 8210 request.

Consistent with Mercado's emailed instruction, AA scanned and returned the signed certification to Mercado by email.

Later that day on April 26, 2013, Mercado mailed a disc to FINRA's Department of Enforcement containing the false and backdated certification in response to the outstanding Rule 8210 requests.

The certification that Mercado produced to FINRA falsely stated that Tradewire had in place processes to review and test the effectiveness of its supervisory procedures on a periodic basis, and that these processes were evidenced in a report.

The certification falsely stated that it had been “Certified By [AA], on 3.29.2013,” which made it appear that it had been signed by the deadline required by FINRA Rule 3130.

The certification falsely stated that AA and Mercado had conducted meetings in the preceding 12 months, the subject of which satisfied the obligations set forth in FINRA Rule 3130, and that AA had consulted with Mercado in order to attest to the statements made in the certification.

The certification falsely stated that the report had been reviewed by the chief executive officer or equivalent officer.

The certification falsely stated that the report had been submitted to Tradewire’s board of directors and audit committee, or would be submitted to them (or equivalent bodies) at the earlier of their next scheduled meeting or within 45 days of the date of execution of the certification.

Mercado did not sign the certification submitted, but he knew that the certification that he provided to FINRA on April 26, 2013 contained false statements and was backdated. Mercado believed that AA was responsible for the false certification because he viewed AA as responsible for cancelling the audit and Mercado had objected to the audit’s cancellation.

When Mercado sent the certification to FINRA on April 26, 2013, he failed to inform FINRA that it contained false statements and was backdated. He acknowledged that the certification contained false statements during his on-the-record testimony on February 25, 2014.

CAUSE OF ACTION
Providing False Information to FINRA
(Violation of FINRA Rules 8210 and 2010)

The Department of Enforcement re-alleges and incorporates by reference the paragraphs above.

FINRA Rule 8210 gives FINRA the right to require member firms and associated persons to provide information with respect to any matter involved in an investigation. Providing false or misleading information or documents to FINRA in the course of an investigation violates FINRA Rule 8210. Scienter, or an intent to mislead FINRA, is not an element of a Rule 8210 violation.

Article V, Section 4 of the FINRA By-Laws provides that formerly associated persons are subject to the filing of a complaint based upon such person's failure, while subject to the two-year jurisdictional limitations period, to provide information requested by the FINRA pursuant to its rules.

On March 1, 2013, FINRA's Department of Enforcement sent a letter requesting documents and information pursuant to FINRA Rule 8210 to Mercado's attention.

On April 26, 2013, Mercado responded to the outstanding Rule 8210 requests by producing a false and backdated Rule 3130 certification to FINRA.

By providing the false and backdated Rule 3130 certification to FINRA in response to the Rule 8210 request, Mercado violated FINRA Rules 8210 and 2010.

Based on the foregoing, Respondent violated FINRA Rules 8210 and 2010.

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 suspended from associating with any FINRA member for twelve months, and fined \$15,000.

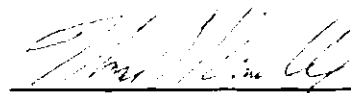
The fine shall be due and payable either immediately upon re-association with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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



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