

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

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

Respondent.

DISCIPLINARY PROCEEDING
No. 2012033767402

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. 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 did not disclose to FINRA that the certification was backdated or that it contained false statements. Mercado's misconduct violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. 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.

3. 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.

4. 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.

5. 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.

FACTS

6. 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.

7. 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.

8. 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.

9. 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.

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

11. 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.

12. 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."

13. 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.

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

15. 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.

16. Instead, 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.

17. 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.

18. 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."

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

20. 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.

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

22. 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.

23. 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.

24. 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.

25. 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.

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

27. 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.

28. Mercado knew that the certification that he provided to FINRA on April 26, 2013 contained false statements and was backdated.

29. Mercado failed to inform FINRA that the certification that he produced to FINRA on April 26, 2013 contained false statements and was backdated.

CAUSE OF ACTION

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

30. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1-29, above.

31. 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.

32. 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.

33. 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.

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

35. 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.

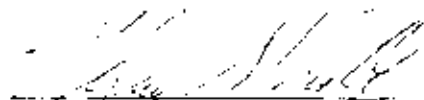
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: October 7, 2016



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