

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035313902**

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

RE: Alejandro Falla, Respondent
General Securities Representative and Principal and Operations Professional
CRD No. 5064828

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I submit 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. I hereby accept and consent, 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

Alejandro Falla ("Falla") entered the securities industry in November 2005, when he was employed by FINRA member Ultralat Capital Markets, Inc. ("Ultralat"). Falla was first registered as a general securities representative in May 2006. Falla was also registered as a general securities principal and as an operations professional. In 2009, Falla became Ultralat's President and Chief Executive Officer ("CEO"). Falla remained with Ultralat until June 5, 2012. Falla was then employed by another FINRA member firm from March 2013 through September 26, 2014. Falla is not currently associated with a FINRA member firm, but remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

On September 26, 2016, FINRA Department of Market Regulation filed a Complaint alleging that from August 2013 through June 2014, Falla charged his customers undisclosed markups and markdowns on certain fixed income transactions.¹ The Complaint further alleged that in effecting customer transactions, Falla failed to disclose to customers, among other things, the true acquisition costs and sale proceeds of bonds he purchased from/or sold to customers and failed to disclose that he engaged in pre-arranged trades. As a result of Falla's misconduct the Complaint alleged that Falla's firm charged additional markups and markdowns totaling \$99,543.21, which were not disclosed to customers.

¹ *Department of Market Regulation v. Alejandro Falla*, Discip. Pro. No. 20160500923-01.



On December 5, 2016 an Order Accepting an Offer of Settlement ("Order") was issued accepting an offer of settlement submitted by Falla. The Order made findings that Falla acted in violation of Section 17(a)(2) of the Securities Act, and as a result, violated FINRA Rule 2010 as well as FINRA Rules 5310(a), 5210 and 2010. Furthermore, Falla was fined \$60,000 and suspended from associating with any FINRA member in all capacities for a period of 18 months.

OVERVIEW

Falla failed to disclose the use of non-market foreign exchange ("FX") rates in connection with a series of bond swap transactions in retail customer accounts, in contravention of Section 17(a)(2) of the Securities Act, and in violation of FINRA Rule 2010.

Additionally, Falla made or caused the inaccurate FX rates to be entered into Ultralat's internal order processing system thereby causing Ultralat to maintain inaccurate books and records in contravention of Section 17(a) of the Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 17a-3, and in violation of FINRA Rules 4511 and 2010.

Finally, Falla failed to establish and maintain a supervisory system and further failed to establish, maintain and enforce written supervisory procedures ("WSPs") for Ultralat that were reasonably designed to identify and prevent the use of non-market FX rates, excessive markups, short-term trading, undue concentration and unsuitable use of margin in customer accounts, in violation of NASD Conduct Rules 3010(a) and 3010(b) and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Background

A bond swap is an investment technique whereby a customer chooses to sell a fixed income holding and simultaneously purchases another with the proceeds from the sell transaction. This strategy can be used to adjust for changes in current market conditions and interest rates, and can be an effective investment tool for increasing the quality of the customer's portfolio *i.e.*, purchasing a higher rated bond. At various times during the period from April 11, 2012 through June 5, 2012 ("Relevant Period"), Ultralat engaged in bond swap transactions in its customers' accounts involving foreign currency denominated bonds, particularly bonds denominated in Brazilian Reais. However, in connection with the bond swap transactions, Ultralat adjusted the FX rate by manually inputting a FX rate that was a non-market rate away from the current spot rate, in an apparent attempt to match the net amounts of each of the legs of the bond swap transaction. As a result, Ultralat typically over-paid the customer for the bonds they sold reducing the unrealized losses in their accounts. While on the purchase side of the bond swap, Ultralat overcharged the customer by using the non-market FX rate, resulting in several instances of excessive markups.

During the Relevant Period, Falla was the registered representative assigned to the retail customer accounts wherein the bond swap transactions were executed.

Use of Non-Market FX Rate

Section 17(a)(2) of the Securities Act states in relevant part, that "[it] shall be unlawful for any person in the offer or sale of any securities ... by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly - to obtain money or property by means of any untrue statement of a material fact or

any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.”

During the Relevant Period, Ultralat, operating through Falla, executed numerous retail customer transactions with inaccurate valuations when converted into U.S. dollars, which affected multiple customer accounts. Falla either manually or caused Ultralat personnel to input non-market FX rates for bond swap transactions in his customer accounts.

Ultralat’s confirmations and account statements did not disclose to customers the use of a non-market FX rate or the excessive nature of the markups in connection with the bond swap transactions. Falla did not disclose that he used non-market FX rates away from the spot rate to value retail customer bond transactions and did not disclose to retail customers its impact on the valuation of the bond swap transactions.

In view of the forgoing conduct, Falla, in connection with the offer or sale of securities, directly or indirectly, by the use of the means or instruments of transportation or in communication in interstate commerce or by the use of the mails, obtained money or property by means of untrue statements or material facts, or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, Falla acted in contravention of Section 17(a)(2) of the Securities Act, and, as a result, violated FINRA Rule 2010.

Books and Records

At various times during the Relevant Period, Falla entered or caused the entry of non-market FX rates into Ultralat’s trade execution system in connection with bond swap transactions involving foreign currency denominated bonds in retail customer accounts, thereby causing Ultralat to maintain inaccurate books and records.

In view of the foregoing conduct, Falla caused Ultralat to maintain inaccurate books and records in contravention of Section 17(a) of the Exchange Act and Exchange Act Rule 17a-3 and, as a result, violated FINRA Rules 4511 and 2010.

Failure to Supervise

During the Relevant Period, Ultralat, acting through Falla, failed to establish, maintain and enforce a supervisory system and WSPs that were reasonably designed to achieve compliance with all applicable securities laws and regulations including supervision of markups. Additionally, while Ultralat’s WSPs required the review of account activity, they do not provide guidance or suggest reports for the review of short-term or excessive trading in customer accounts. Moreover, Ultralat’s WSPs failed to establish any metrics or thresholds for concentration in customer accounts. Finally, Ultralat’s WSPs failed to provide adequate guidance and monitoring to ensure that the use of margin was appropriate for individual customer accounts.

Falla, as President and CEO of Ultralat, was responsible for Ultralat’s failure to establish and maintain a supervisory system and Ultralat’s failure to establish, maintain and enforce its WSPs to ensure that they were reasonably designed to identify and prevent the use of non-market FX rates, excessive markups, short-term trading, undue concentration and unsuitable use of margin in customer accounts.

In view of the foregoing conduct, Falla violated NASD Rules 3010(a) and 3010(b) and FINRA Rule 2010.

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

A bar from associating with any FINRA member firm in all capacities.

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. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

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 Chief Legal Officer, 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 accordance with FINRA Rule 8313;
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.

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.

Date

1/23/17

Alejandro Falla, Respondent

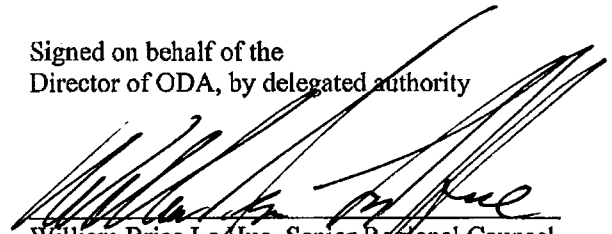
Reviewed by:

David R. Chase, Esq.
Counsel for Respondent
David R. Chase, P.A.
1700 E Las Olas Boulevard, Suite 305
Ft. Lauderdale, Florida 33301-2408
Phone: (954) 920-7779; Fax: (954) 923-5622
E-Mail: david@davidchaselaw.com

Accepted by FINRA:

3/9/2017
Date

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


William Brice La Hue, Senior Regional Counsel
FINRA, Department of Enforcement
One Securities Centre, Suite 500
3490 Piedmont Road, N.E.
Atlanta, Georgia 30305
(404) 239-6111; Fax: (404) 264-1586
E-Mail: brice.lahue@finra.org
teresa.reich@finra.org (senior paralegal)