

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035802001**

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

RE: Diego Fernando Hernandez, Respondent
Former Registered Representative
CRD No. 3054186

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Diego Fernando Hernandez ("Hernandez" or "Respondent") 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 him alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Hernandez entered the securities industry in May 1998, when he became employed with a FINRA-regulated firm. He later received his Series 6 license in September 1998. Hernandez remained with the first firm until August 2005, when he became registered through a second FINRA-regulated firm. In April 2012, he left that second firm and became registered through AXA Advisors, LLC (the "Firm").

On February 1, 2013, the Firm filed a Form U-5 ("Uniform Termination Notice for Securities Industry Registration") for Hernandez, disclosing that it terminated his employment on January 31, 2013. The Form U-5 also disclosed that the reason for the termination was "his failure to comply with the provisions and conditions of his agreements, the firm's policies, and FINRA's rules in connection with his undisclosed outside business activity and the commingling and conversion of funds."

Hernandez has not been registered with a FINRA-regulated firm since he was discharged from the Firm in January 31, 2013. However, pursuant to Article V, Section 4 of the FINRA Bylaws, Hernandez remains subject to FINRA's jurisdiction.

RELEVANT DISCIPLINARY HISTORY

Hernandez has no disciplinary history in the securities industry.

OVERVIEW

In connection with FINRA's investigation into allegations that he may have misappropriated funds from customers, Hernandez repeatedly failed to provide documents and information requested pursuant to FINRA Rule 8210. In so doing, he violated FINRA Rules 8210 and 2010. Furthermore, while registered with FINRA through the Firm from April 2012 to January 2013, he engaged in three outside business activities that he did not disclose to the Firm, in violation of FINRA Rules 3270 and 2010.

FACTS AND VIOLATIVE CONDUCT

In connection with the Form U-5 that the Firm filed on February 1, 2013, FINRA commenced an investigation into the possibility that, among other things, Hernandez may have misappropriated funds from Firm customers.

On February 5, 2013, FINRA sent a letter (the "February 5th Letter") to Hernandez, requesting pursuant to FINRA Rule 8210 that he provide certain information and documents in connection with its investigation by February 19, 2013. The letter advised him that his failure to provide the requested items could expose him to sanctions, including a bar from the industry. Hernandez did not respond to this request.

On February 21, 2013, FINRA sent a second letter (the "February 21st Letter") to Hernandez, advising him that FINRA had not received a response to the February 5th Letter. This second letter again asked pursuant to FINRA Rule 8210 that he provide the information and documents requested in the February 5th Letter. The February 21st Letter further advised Hernandez that his failure to provide the requested items by March 7, 2013 could subject him to disciplinary action.

Through counsel, Hernandez provided a brief response to the February 21st Letter dated March 14, 2013 (the "March 14th Response").¹ The response was produced one week late and was materially deficient in that it failed to provide responses to nine of the 12 items contained in the February 5th Letter. Moreover, Hernandez did not sign the response, as he was requested to do in the February 5th Letter.

On April 30, 2013, Enforcement sent a letter (the "April 30th Letter") to Hernandez, advising him that most of the information and documents requested initially in the February 5th Letter and requested a second time in the February 21st Letter had not been produced.² Enforcement requested pursuant to FINRA Rule 8210 that he provide the outstanding items requested in the

¹ Hernandez's first attorney in this matter sent the March 14th Response. The undersigned Counsel for Respondent was not his original attorney.

² Prior to sending the April 30th Letter, Enforcement obtained written confirmation from Hernandez's first attorney that he was no longer representing him. Accordingly, Enforcement sent the April 30th Letter directly to Hernandez.

February 5th Letter, as well as several additional items requested in the April 30th Letter. Hernandez's response to the April 30th Letter was due by May 10, 2013.

On May 10, 2013, Enforcement received some documents from Hernandez by e-mail. The items produced did not include any documents or information responsive to the nine outstanding items from the February 5th Letter. In addition, Hernandez did not provide a complete response to the new items contained in the April 30th Letter.

On May 14, 2013, Enforcement sent a letter (the "May 14th Letter") to Hernandez, advising him that it was in receipt of the foregoing e-mails and that these emails do not constitute an adequate response to FINRA's February 5th and April 30th Letters. Enforcement identified in the letter the specific items that remained outstanding. The May 14th Letter advised Hernandez that his responses to the outstanding items from the February 5th and April 30th Letters were required pursuant to FINRA Rule 8210 to be produced by May 24, 2013. To date, Hernandez has not provided the requested items.

FINRA Rule 8210 provides, in relevant part, that FINRA staff "shall have the right to require a member, person associated with a member, or person subject to FINRA's jurisdiction to provide information... with respect to any matter involved in [an] investigation." Moreover, FINRA Rule 2010 requires that members and associated persons "observe high standards of commercial honor and just and equitable principles of trade."

Hernandez violated FINRA Rules 8210 and 2010 by failing to provide certain documents and information requested in connection with a FINRA investigation on numerous occasions.

Undisclosed Outside Business Activities

During the period that he was associated with the Firm, Hernandez engaged in three outside business activities that were not disclosed to or approved by the Firm.

In March 2012, Hernandez filed Articles of Organization, forming Wealth Management Partners LLC ("Wealth Management") as a limited liability company under the laws of Colorado. The Articles of Organization identify Hernandez as the incorporator and registered agent. He also serves as Wealth Management's president and chief executive officer.

In February 2010, Hernandez filed Articles of Incorporation, forming Team Cure Racing as a nonprofit corporation under the laws of Colorado. The Articles of Incorporation identify Hernandez as the entity's incorporator and registered agent. He also serves as Team Cure Racing's president.

In November 2009, Hernandez also filed Articles of Incorporation, forming DFHR Investments, Inc. ("DFHR Investments") as a profit corporation under the laws of Colorado. The Articles of Incorporation identify Hernandez as the incorporator and registered agent. He also serves as the president of DFHR Investments.

Hernandez filed the Wealth Management, Team Cure Racing, and DFHR Investments Articles before he joined the Firm. After he commenced his employment with the Firm in April 2012, he continued to engage in outside business activities with Wealth Management, Team Cure Racing,

and DFHR Investments throughout his association with the Firm. During that period, however, he did not disclose his outside business activities with these entities to the Firm or receive prior approval from the Firm to engage in such activities.

FINRA Rule 3270 provides, in relevant part, that “no registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person... as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member.”

Hernandez violated FINRA Rules 3270 and 2010 in that he engaged in three outside business activities while he was associated with the Firm, which he did not disclose to the Firm.

B. Respondent also consents to the imposition of the following sanction:

A bar from association with any FINRA-regulated firm in any capacity.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, he 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. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA’s Code of Procedure:

- A. To have a Complaint issued specifying the allegations against him;
- 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, Respondent specifically and voluntarily waives 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.

Respondent further specifically and voluntarily waives 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.

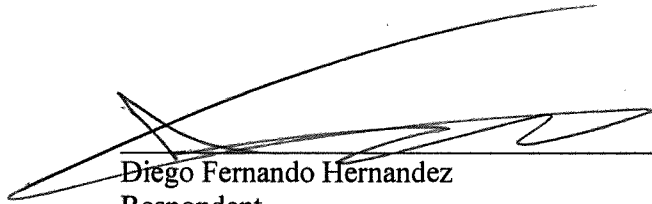
OTHER MATTERS

Respondent understands 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 him; and
- C. If accepted:
 - 1. this AWC will become part of his permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against him;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about his 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. Respondent 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. Respondent 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 his: (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.

Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has 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 him to submit it.

6-13-2013
Date


Diego Fernando Hernandez
Respondent

Reviewed by:


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Counsel for Respondent
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Accepted by FINRA:

6/20/13
Date

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


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