

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013037576201**

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

RE: Emiliano Rocha Jr., Respondent
General Securities Representative
CRD No. 2022170

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

Emiliano Rocha Jr. ("Rocha") entered the securities industry in 1989. From October 2009 through October 2011 Rocha was employed in an unregistered capacity by LPL Financial LLC ("LPL"). He joined Invest Financial Corporation ("Invest" or the "Firm") in October 2011 as a General Securities Representative, and remained with the Firm until he resigned on June 27, 2013. On July 11, 2013, FINRA received an amended Uniform Termination Notice for Securities Industry Registration from the Firm, which reported that Rocha had resigned while under review due to a client complaint related to an outstanding loan.

Although Rocha is no longer associated with a member firm, pursuant to Article V, Section 4 of FINRA's By-Laws, he remains subject to FINRA's jurisdiction.

RELEVANT DISCIPLINARY HISTORY

Rocha has no prior disciplinary history.

OVERVIEW

Rocha borrowed money from a customer and made false statements on annual compliance questionnaires that he submitted to his FINRA regulated-employers attesting that he had not borrowed funds from customers. As a result, Rocha violated FINRA Rule 2010. In addition, Rocha failed to timely respond to requests for information and documents, in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

A. Rocha's False Statements to his Employers

FINRA Rule 2010 requires registered and associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade." FINRA Rule 2010 is broad enough to encompass the making of false statements to a firm because such conduct "reflects on an associated person's ability to comply with regulatory requirements necessary to the proper functioning of the securities industry and the protection of the public."¹ Although making false statements in a compliance form may be considered an aggravating factor for a primary violation, this conduct also may constitute an independent violation of Rule 2010.²

1. LPL

On January 14, 2011, while Rocha was employed as an unregistered _____ at LPL, he borrowed \$17,000 from LPL customer KC. KC and Rocha signed a loan agreement in which Rocha agreed to repay the funds without interest on or before October 15, 2011. On or about May 5, 2011, Rocha borrowed an additional \$2,700 from KC. This time, Rocha did not execute a loan agreement.

On January 21, 2011 Rocha falsely completed an LPL annual compliance questionnaire and submitted it to LPL. Question five of the questionnaire asked "Have you loaned money to, or borrowed money from, any client?" Despite having accepted a loan from KC just seven days earlier, Rocha falsely answered "NO."

2) Invest

On or about October 24, 2011, Rocha left LPL and became a registered as a General Securities Representative with Invest. When Rocha began at Invest he had not repaid KC the \$19,700 that he borrowed from him. On or about January 31, 2012, KC opened an account at the Firm and Rocha was assigned to service

¹ *Dep't of Enforcement v. Davenport*, 2003 NASD Discip. LEXIS 4, at *9 (NAC May 7, 2003).

² *See, e.g., Dep't of Enforcement v. Mullins*, 2011 FINRA Discip. LEXIS 61, at *29-20 (NAC Feb. 24, 2011); *Dep't of Enforcement v. Slonecker*, No. 2007009442501, at p. 10 (OHO June 22, 2010).

the account. Rocha did not disclose to the Firm that he owed money to KC.

On August 7, 2012, while employed with Invest, Rocha falsely completed an Invest compliance questionnaire and submitted it to Invest. Question 13 on Invest's compliance questionnaire asked if Rocha had "[b]orrowed from or loaned money to any client, excluding family members?" Rocha falsely answered "NO." Rocha's negative answer to the question was inaccurate because Rocha knew KC was an Invest customer and the loans were outstanding.

Rocha violated FINRA Rule 2010 by making false statements on the LPL and Invest annual compliance questionnaires.

A) Failure to Timely Cooperate - Violation of FINRA Rules 8210 and 2010

FINRA Rule 8210 "requires that a member, or person associated with a member, or person subject to the Association's jurisdiction to provide information orally, in writing, or electronically...with respect to any matter involved in the investigation, complaint, examination, or proceeding." The failure to timely respond to requests for information violates FINRA Rule 8210.

Rocha failed to timely respond to two requests for documents and information sent pursuant to FINRA Rule 8210. FINRA sent letters to Rocha dated July 29, 2013 and August 13, 2013. The letters required Rocha to provide a written statement and documents regarding allegations that he had accepted loans from a customer. Rocha was properly served with all of the requests via certified mail, return receipt requested and first class mail at his address as reflected in the Central Registration Depository. Rocha failed to respond to the requests within the prescribed time period.

On October 16, 2013 FINRA initiated an expedited proceeding pursuant to FINRA Rule 9552, against Rocha because of his failure to respond to the information requests. On October 16, 2013, FINRA sent Rocha a letter notifying him that his registration with FINRA would be suspended for failing to respond to FINRA's requests for information. Rocha subsequently responded to the information requests on October 31, 2013, just two business days prior to when his suspension was scheduled to start.

Rocha violated FINRA Rules 8210 and 2010 by failing to timely respond to the FINRA's requests for information and documents.

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

- A seven-month suspension from association with any member firm in any capacity; and

- A fine of \$10,000.

The fine shall be due and payable either immediately upon reassociation with a member firm following the seven-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 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.
- 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 [the Firm] to submit it.

03/28/2015
Date (mm/dd/yyyy)


Emiliano Rocha Jr., Respondent

Accepted by FINRA:

4/8/15
Date

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


Richard R. Best
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FINRA Department of Enforcement
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