

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015 044 2011 03**

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

RE: Francisco G. Hervella, Respondent
General Securities Representative
CRD No. 2521560

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Respondent Francisco G. Hervella ("Hervella"), 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

Hervella first became registered with FINRA in 1994. Respondent earned his Series 7 and was registered as a General Securities Representative ("GS") on September 29, 1994. Hervella maintained his registration as a GS through consecutive associations with FINRA-registered firms from 1994 until March 11, 2011. Hervella became associated with FINRA-registered firm Invex, Inc. (CRD No. 30032) ("Invex" or the "Firm") on July 1, 2011, and became registered as a GS through his association with the Firm on August 2, 2011. Hervella worked for Invex from his home in Westport, CT. Hervella voluntarily resigned from Invex. The Firm filed a full Form U5 on his behalf on June 17, 2014. Hervella is not currently associated with a FINRA-regulated broker-dealer. Pursuant to Article V, Section 4 of the FINRA By-Laws, FINRA retains jurisdiction over Hervella.

RELEVANT DISCIPLINARY HISTORY

Hervella has no disciplinary history with the SEC, FINRA, any other self-regulatory organization or any state securities regulator.

OVERVIEW

From August 2011 through June 2014, while registered with FINRA as a GS at the Firm, Hervella engaged in an undisclosed and unapproved outside business activity as the 50% owner of a British Virgin Islands entity (the "BVI Entity"). Beginning in September 2013, through the BVI Entity, Hervella also acted as a director of a limited partnership domiciled in New Zealand (the "New Zealand Entity"). In this capacity, Hervella acted as a signatory for the New Zealand Entity. This outside activity was also undisclosed and unapproved. By failing to provide prior written notice of his involvement in the BVI Entity and the New Zealand Entity, Hervella violated FINRA Rules 3270 and 2010.

Additionally, from August 2011 through March 2014, while registered with FINRA as a GS at the Firm, Hervella acted outside the scope of his employment with the Firm by participating in an advisory capacity in five private securities transactions with three institutional customers totaling more than \$250 million without providing prior notice to or receiving approval from the Firm for the transactions. Hervella structured and implemented transactions in two countries in South America ("Country A" and "Country B") in which foreign institutional customers used their currency holdings to purchase debt securities. Hervella was compensated more than \$2 million for his participation in these transactions. In failing to properly disclose these transactions to the Firm for review and approval, Hervella violated NASD Rule 3040 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

A. Hervella Engaged in Undisclosed Outside Business Activities

FINRA Rule 3270 provides that "[n]o registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated, or have the reasonable expectation of compensation, from any other 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."

A violation of FINRA Rule 3270 is also a violation of FINRA Rule 2010, which requires members to "observe high standards of commercial honor and just and equitable principles of trade."

In June 2011, during the hiring process with Invex, Hervella disclosed to the Firm that he had an outside business (the "Delaware Entity"). Hervella's written disclosure stated that he was a 50% owner of the Delaware Entity and that the Delaware Entity had, "[n]o compensation yet," but indicated that he expected to receive compensation in the future. Hervella did not provide any subsequent written disclosures to the Firm regarding any proposed outside business activity.

On July 29, 2011, while associated with the Firm, Hervella and his business partner incorporated the BVI Entity. The BVI Entity is a wholly owned subsidiary of the Delaware Entity. Throughout his association with the Firm, Hervella held a 50% ownership stake in the BVI Entity. Hervella's ownership of the BVI Entity was outside the scope of his employment at Invex. Hervella did not provide written notice or otherwise disclose his ownership interest in the BVI Entity to the Firm. Invex did not approve Hervella's involvement in the BVI Entity.

In September 2013, the BVI Entity became a director of the New Zealand Entity. The New Zealand Entity was entirely separate from the Delaware and BVI Entities, and did not share owners or employees with the Delaware or BVI Entities. Hervella acted on behalf of the BVI Entity as a director of the New Zealand Entity. Hervella's role was that of signatory. Hervella's actions as a director of the New Zealand Entity were outside the scope of his employment at Invex. Hervella did not provide written notice or otherwise disclose to Invex his actions on behalf of BVI Entity as a director of the New Zealand Entity. Invex did not approve Hervella's involvement in the New Zealand Entity.

By reason of the foregoing, Hervella violated FINRA Rules 3270 and 2010.

B. Hervella Participated in Undisclosed Private Securities Transactions

NASD Rule 3040 provides, "prior to participating in any private securities transaction, an associated person shall provide written notice to the member with which he is associated describing in detail the proposed transaction and the person's proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction." A violation of NASD Rule 3040 is also a violation of FINRA Rule 2010, which requires members to "observe high standards of commercial honor and just and equitable principles of trade."

Between July 2011 and April 2012, while associated with the Firm, Hervella participated in three private securities transactions in Country A. The purpose of these transactions was to help a company based in Spain to move money earned by its subsidiary in Country A back to Spain. The transactions employed a complex structure to convert Country A's currency to U.S. Dollars. In these transactions, the company used Country A's currency earned in Country A to purchase over \$250 million in U.S. Treasury Bills. U.S. Treasury Bills are securities. Hervella structured the transactions and supported the administration and execution of the transactions. Hervella was compensated more than \$2 million as a result of his participation in these transactions in an advisory role. Hervella's participation in the three transactions in Country A was outside the scope of his employment at Invex. Hervella did not give prior written notice to Invex of his intention to participate in or of his participation in these transactions. Hervella did not notify

Invex in any manner that he received compensation as a result of the transactions in Country A. Invex did not approve Hervella's participation in these transactions.

Between September 2013 and March 2014, while associated with the Firm, Hervella also participated in two private securities transactions in Country B involving two institutional customers located in Country B. In these transactions, the clients sold approximately \$4 million of invoices to be paid in U.S. Dollars in exchange for bonds issued by Country B's government. These bonds are securities. Hervella structured these transactions and supported the execution of these transactions. Hervella was compensated approximately \$125,000 as a result of his participation in these transactions in an advisory role. Hervella's participation in these transactions was outside the scope of his employment at Invex. Hervella did not give prior written notice to Invex of his intention to participate in or his participation in these transactions nor did he notify Invex in any manner that he received compensation as a result of these transactions. Invex did not approve Hervella's participation in these transactions.

By reason of the foregoing, Hervella violated NASD Rule 3040 and FINRA Rule 2010.

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

- a suspension from association with any FINRA regulated broker-dealer in any capacity for a period of two years; and
- a fine of \$50,000.

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 fine shall be due and payable either immediately upon reassociation with a member firm following the two year 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(s) imposed in this matter. 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

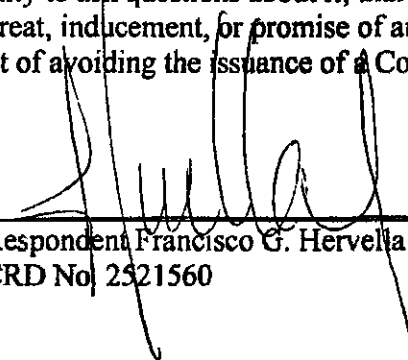
C. If accepted:

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.

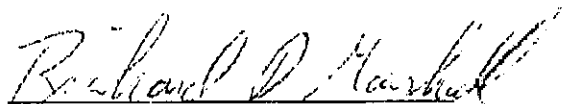
D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

I, Respondent Francisco Hervella, 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.

06/07/2016
Date (mm/dd/yyyy)


Respondent Francisco G. Hervella
CRD No. 2521560

Reviewed by:

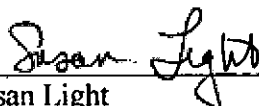


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Accepted by FINRA:

6/13/2016
Date

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



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