

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020065633902**

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

RE: Johan M. Pereira (Respondent)
Former Registered Representative
CRD No. 6252881

Pursuant to FINRA Rule 9216, Respondent Johan M. Pereira 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 Respondent alleging violations based on the same factual findings described in this AWC.

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

Pereira became registered with FINRA as an Investment Company and Variable Contracts Products Representative (IR) through a FINRA member in November 2013. Pereira was registered with FINRA as an IR through other FINRA members before becoming registered with FINRA as a General Securities Representative through Wells Fargo Clearing Services, LLC in December 2017.

Wells Fargo filed a Form U5 terminating Pereira's registration on February 20, 2020, disclosing that that Pereira was:

Discharged for exceeding the conditions placed on his approved outside business activity by assisting an individual to purchase bitcoin for his business. [Wells Fargo] prohibited transactions in bitcoin.

Although Pereira is not currently associated with a member firm, FINRA retains jurisdiction over him under Article V, Section 4(a) of FINRA's By-Laws.¹

¹ For more information about the respondent, visit BrokerCheck® at www.finra.org/brokercheck.

OVERVIEW

Pereira failed to fully disclose the nature of his outside business activity (OBA), in violation of FINRA Rules 3270 and 2010.

Additionally, during its investigation into his outside business activity, FINRA requested, pursuant to FINRA Rule 8210, information and documents from Pereira regarding his outside business activities, which he failed to provide in a timely manner, in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a FINRA examination of Wells Fargo.

Pereira Failed to Fully Disclose the Nature of His 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 also constitutes a violation of FINRA Rule 2010.

The purpose of FINRA Rule 3270 is to “ensure that firms receive prompt notification of all outside business activities of their associated persons so that the member’s objections, if any, to such activities could be raised at a meaningful time and so that appropriate supervision could be exercised as necessary under applicable law.”² The rule requires disclosure of the full nature of the registered person’s role in the outside activities initially and disclosure of any change in the scope of the OBA. A registered person who engages in outside business activities beyond those approved by a member firm violates FINRA Rule 3270.

When he registered with FINRA through Wells Fargo in November 2017, Pereira disclosed to Wells Fargo, and sought approval to participate in, an OBA for compensation. He disclosed that, among other things, he would not provide advice on financing, investments, or financial planning through his outside business. Wells Fargo approved Pereira’s OBA based on his description of the scope of his OBA.

In August 2019, Pereira began to engage in activities that were beyond the scope of his approved OBA. Specifically, Pereira was hired to assist a client in purchasing Bitcoin and purchased Bitcoin himself for that client. Pereira did not disclose this broader activity to Wells Fargo.

² *DOE v. Houston*, Complaint No. 2006005318801 (NAC Feb. 22, 2013) (regarding predecessor NASD Rule 3030), *aff’d*, SEC Release No. 34-71589, 2014 SEC LEXIS 614 (Feb. 20, 2014).

By exceeding the scope of his disclosed OBA, Pereira violated FINRA Rules 3270 and 2010.

Pereira Responded Late to Multiple 8210 Requests.

FINRA Rule 8210(a) authorizes FINRA staff to require any “person subject to FINRA's jurisdiction to provide information with respect to any matter involved in the investigation” and to “inspect and copy the books, records, and accounts of such ... person with respect to any matter involved in the investigation....” Under Rule 8210(c), no associated “person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule.” A FINRA Rule 8210 response that is untimely violates Rule 8210. A violation of FINRA Rule 8210 also constitutes a violation of FINRA Rule 2010.

On May 5, 2020, and May 28, 2020, and pursuant to FINRA Rule 8210, FINRA staff sent Pereira requests for information relating to his OBA. Responses to these requests were due May 19, 2020, and June 10, 2020.

Pereira did not respond to either request. FINRA staff therefore issued a Notice of Suspension to Pereira pursuant to Rule 9552 on July 22, 2020. The Notice of Suspension advised Pereira that on August 17, 2020 (the “Suspension Date”), he would be suspended from associating with any FINRA member in any capacity, unless he took corrective action by complying with the outstanding requests. On August 14, 2020, before the suspension went into effect, Pereira responded in writing to the requests.

On February 25, 2021, and March 31, 2021, FINRA staff sent Pereira additional requests for information and documents relating to his OBA, pursuant to FINRA Rule 8210. Responses to these requests were due March 29, 2021, and April 21, 2021. On April 22, 2021, Pereira provided written responses to the requests for information, but produced no documents. Pereira did not request an extension to allow him to produce the requested documents. From April through July 2021, FINRA staff contacted Pereira regarding his failure to produce any documents in response to the February 2021 and March 2021 requests but Pereira did not produce the requested documents.

On August 16, 2021, Pereira produced some, but not all, of the documents responsive to the February 2021 and March 2021 requests.

FINRA staff took Pereira’s testimony on August 18, 2021. From his testimony, it became apparent that Pereira had not thoroughly searched for responsive documents. On August 23, 2021, FINRA sent Pereira a request for documents, pursuant to Rule 8210, for him to produce the documents that were the subject of the February 2021 and March 2021 requests by August 27, 2021. On August 26, 2021, Pereira produced additional documents responsive to the February 2021 and March 2021 requests.

By failing to timely respond to FINRA’s requests for information and documents, Pereira violated FINRA Rules 8210 and 2010.

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

- a seven-month suspension from associating with any FINRA member in all capacities; and
- a \$10,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm 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.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

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 in this AWC shall be effective on a date set by FINRA.

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 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 its acceptance or rejection.

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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 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 its subject matter 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.

- D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he 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.

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; Respondent understands and acknowledges that FINRA does not represent or advise him and Respondent cannot rely on FINRA for legal advice. Respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

December 7, 2021

Date

Johan M. Pereira

Johan M. Pereira
Respondent

Accepted by FINRA:

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

December 10, 2021

date

Philip J. Berkowitz

Philip J. Berkowitz
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FINRA
Department of Enforcement
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