

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021072500701**

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

RE: Desiderio Eloy Torrez (Respondent)
Former Investment Company and Variable Contracts Products Representative
Former Investment Company Products/Variable Contracts Principal
CRD No. 4759218

Pursuant to FINRA Rule 9216, Respondent Desiderio Eloy Torrez 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 accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Torrez entered the securities industry in 2004 through his association with FINRA member firm PFS Investments Inc. While he was associated with PFSI, he became registered as an Investment Company and Variable Contracts Products Representative and an Investment Company Products/Variable Contracts Principal. On January 29, 2021, PFSI filed a Uniform Notice of Securities Industry Registration (Form U5) reporting Torrez's voluntary termination from the firm. On September 8, 2021, PFSI filed an amended Form U5 disclosing a customer complaint relating to Torrez's alleged recommendation that the customer invest in a company named "MESO Healthy, LLC."

Although Torrez is not currently registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.¹

OVERVIEW

Torrez failed to produce documents requested by FINRA staff pursuant to FINRA Rule 8210. As a result, Torrez violated FINRA Rules 8210 and 2010.

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

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's review of the amended Form U5 described above.

FINRA Rule 8210 authorizes FINRA to require an associated person "to provide information orally, in writing, or electronically ... with respect to any matter involved in [a FINRA] investigation" FINRA Rule 8210(c) states that "[n]o member or [associated] person shall fail to provide information ... or to permit an inspection and copying of books, records, or accounts pursuant to this Rule." A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010, which requires associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade."

On February 1, 2022, FINRA staff sent a request to Torrez for the production of information and documents pursuant to FINRA Rule 8210 (the "February Request") in connection with an investigation of a customer complaint reported by PFSI on September 8, 2021. Torrez's response to the February Request was due on February 15, 2022. On the due date, Torrez provided some information and documents sought in the February Request.

FINRA staff subsequently learned that Torrez had not substantially complied with the February Request. FINRA staff sent two subsequent requests pursuant to FINRA Rule 8210 seeking the production of information and documents requested in, but not provided in response to, the February Request. After he received the subsequent requests, Torrez provided additional information and some additional documents in response to the February Request but, to date, has not provided substantially all of the documents sought in the February Request.

As indicated in communications between his counsel and FINRA staff on November 14, 2022, and by his agreement, Torrez acknowledges that he received the February Request and will not produce the documents requested in, but not yet produced in response to, the February Request now or at any time in the future. By refusing to produce documents requested pursuant to FINRA Rule 8210, Torrez violated FINRA Rules 8210 and 2010.

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

- a bar from associating with any FINRA member in all capacities.

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. 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 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:

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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.

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 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 1, 2022

Date

DESIDERIO ELOY TORREZ

Desiderio Eloy Torrez
Respondent

Reviewed by:

Jonah A. Toleno

Jonah A. Toleno
Counsel for Respondent
Shustak Reynolds & Partners, P.C.
401 West "A" Street, Suite 2200
San Diego, CA 92101

Accepted by FINRA:

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

December 20, 2022

Date

Adam Stern

Adam N. Stern
Counsel
FINRA
Department of Enforcement
15200 Omega Drive, Third Floor
Rockville, MD 20850