

**STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT**

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IN THE MATTER OF: JOSEPH P. RIVERA )  
\_\_\_\_\_)

FILE NO. 1100495

**CONSENT ORDER OF WITHDRAWAL**

TO THE RESPONDENT: Joseph P. Rivera  
(CRD#: 3142103)  
11 Bruno Lane  
Dix Hills, New York 11746

Joseph P. Rivera  
(CRD #: 3142103)  
C/o Salomon Whitney LLC  
15 Deer Park Avenue Suite 1  
Babylon Village, New York 11702

WHEREAS, Respondent on the day 27<sup>th</sup> of February 2012 executed a certain Stipulation to Enter Consent Order of Withdrawal (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Respondent has admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing of the Secretary of State, Securities Department, dated January 18, 2012 in this proceeding (the "Notice") and Respondent has consented to the entry of this Consent Order of Withdrawal ("Consent Order").

WHEREAS, by means of the Stipulation, the Respondent acknowledged, without admitting or denying the truth thereof, that the following allegations contained in the Notice of Hearing shall be adopted as the Secretary of State's Findings of Fact:

1. That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act.

2. That on November 21, 2011 FINRA entered a Letter of Acceptance, Waiver and Consent (AWC) submitted by the Respondent regarding File No. 20090173772201 which suspended him for sixty (60) days from association in any capacity with any FINRA member firm.
3. That the AWC found:

### **OVERVIEW**

Respondent willfully failed to timely update his Uniform Application for Securities Industry Registration or Transfer ("Form U4") to disclose that he had been charged with a felony stemming from a debt owed to a casino. Respondent also non-willfully failed to timely update his Form U4 to reflect that he had been the subject of a Securities and Exchange Commission ("SEC") Wells Notice. By reason of the foregoing, Respondent acted in contravention of Article V, Section 2 of the FINRA By-laws and violated FINRA Rule 2010.

### **FACTS AND VIOLATIVE CONDUCT**

Article V, Section 2 of the FINRA By-laws requires that a person applying for registration with FINRA disclose certain information. At all times, the applicant is required to keep his application current by timely filing amendments. The applicant is required to file an amendment to his application within 30 days of learning of facts that are required to be disclosed.

On July 27, 2008, Respondent received a credit line from a Las Vegas casino. Respondent left Las Vegas a few days later, owing the casino approximately \$10,000. During the time period November 25, 2008 through February 13, 2009, the casino contacted Respondent numerous times to collect the monies owed. On or about December 18, 2008, while Respondent was registered with A&F (his current employing dealer), an electronic check drawn from Respondent's bank account in the amount of \$10,000, representing the debt owed was issued to the casino. Such check was returned for insufficient funds.

On or about February 21, 2009, while Respondent was registered with JP Turner, the casino filed a Complaint against Respondent with the Clark County's District Attorney Office ("DA") in Las Vegas, Nevada, with respect to the unpaid debt. By letter dated March 9, 2009, Clark County's DA notified Respondent that such debt was outstanding and if payment was not received in ten days, under Nevada law a warrant for Respondent's arrest would be issued.

Failure to Disclose Felony Charge

On July 2, 2009, while Respondent was associated with PHD Capital, the Clark County DA notified Respondent by mail that Respondent was charged with a felony involving "Drawing and passing a check without sufficient funds with intent to defraud." The Criminal Complaint indicated that Respondent's attempted repayment of an advance to him (also known as a "marker") of approximately \$10,000 from a Las Vegas casino had been returned unpaid due to "Non-Sufficient Funds."

On or around March 19, 2010, while Respondent was registered with Brookstone, pursuant to Respondent's request, the DA's office faxed a copy of the Criminal Complaint to Respondent

On or about August 5, 2010, when Respondent was going through the registration process with his then new employer, he was advised that a background check of Respondent had returned information concerning a criminal felony matter involving Respondent's casino debt.

On August 31, 2010, Respondent updated his answer from "no" to "yes" on Question 14A (1)(b) on his Form U4 which asks: "Have you ever been charged with any felony?" This disclosure occurred more than a year after respondent had been charged with this felony, and more than five months after Respondent's March 2010 conversations with the DA's office, in which he acknowledged the felony charge and requested and received a copy of the Complaint. Accordingly, Respondent willfully failed to timely update his Form U4 to disclose that he had been charged with a felony stemming for the debt owed to the casino.

Failure to Disclose Wells Notice

Respondent also non-willfully failed to timely amend his Form U4 answer to Question 140(2) to indicate the he was the subject of a regulatory investigation and/or proceeding, based on his receipt of a Wells Notice from the SEC on or about November 10, 2008.

The November 10, 2008 Wells Notice, which was sent to Respondent's counsel, advised Respondent that the SEC was considering recommending a civil injunction against him in connection with matters which occurred while he was associated with New Castle. At the time of the issuance of the Wells Notice, Respondent was registered with A&F. Respondent did not update his Form U4 to disclose the Wells Notice while associated with A&F.

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When the Respondent left A&F and joined JP Turner on January 31, 2009 he did not disclose the Wells Notice to the firm. However, JP Turner found out about the Wells Notice from another source and on March 12, 2009, terminated Respondent's employment.

When Respondent joined another registered firm on March 20, 2009, he disclosed on that firm's employee questionnaire that he had received a Wells notice and he subsequently updated his Form U4 on March 23, 2009 to disclose such fact. This disclosure was made approximately four months after the Wells Notice had been issued. Accordingly, Respondent non-willfully failed to timely update his Form U4 to reflect that he had been the subject of a SEC Wells Notice.

By virtue of Respondent's willful failure to timely amend his Form U4 to disclose the material fact that he had been charged with a felony and his non-willful failure to timely amend his Form U4 to disclose the material fact that he was the recipient of an SEC Wells Notice, Respondent acted in contravention of Article V, Section 2 of the FINRA By-laws and violated FINRA Rule 2010.

4. That Section 8.E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked if the Secretary of State finds that such Salesperson has been suspended by any self-regulatory organization Registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory Organization.
5. That FINRA is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.

WHEREAS, by means of the Stipulation Respondent has acknowledged, without admitting or denying the averments, that the following shall be adopted as the Secretary of State's Conclusion of Law:

That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he shall cause to have his registration as a salesperson in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply for registration for a period of two (2) years from the entry of this Consent Order.

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WHEREAS, the Secretary of State, by and through his duly authorized representative, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceedings.

NOW THEREFORE IT SHALL BE AND IS HEREBY ORDERED THAT:

1. The Respondent shall cause to have his registration as a salesperson in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply for registration for a period of two (2) years from the entry of this Consent Order.
2. The formal hearing scheduled on this matter is hereby dismissed without further proceedings.

ENTERED This 28<sup>th</sup> day of February 2012.



JESSE WHITE  
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State of Illinois

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