

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018058614301**

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

RE: Richard Matthew Brendza (Respondent)
General Securities Representative
CRD No. 1703194

Pursuant to FINRA Rule 9216, Respondent Richard Matthew Brendza 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

Brendza first registered with FINRA in 1992. On June 1, 2009, Brendza registered with FINRA as a General Securities Representative through an association with Morgan Stanley (CRD No. 149777). On May 22, 2018, Morgan Stanley filed a Uniform Termination Notice for Securities Industry Registration (Form U5), disclosing that Brendza had voluntarily resigned. The Form U5 also disclosed that the firm had “determined that [Brendza] and another representative had not adhered to the terms of a revenue sharing agreement with a third representative by failing to use a joint production number for allocating certain revenue.”

Since April 23, 2018, Brendza has been registered with FINRA as a General Securities Representative through an association with another FINRA member firm.¹

OVERVIEW

From March 2015 through February 2018, Brendza falsified the representative code for 380 trades in Morgan Stanley’s order entry system, causing the firm’s trade confirmations to show an inaccurate representative code. As a result, Brendza violated FINRA Rule 2010, and he separately violated FINRA Rules 4511 and 2010 by causing Morgan Stanley to maintain inaccurate books and records.

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 Form U5 filed by Morgan Stanley.

FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

Falsifying documents occurs when a person creates a document or entry in a firm's system that creates a false appearance by including altered or untrue information. Falsifying documents is inconsistent with just and equitable principles of trade and violates FINRA Rule 2010.

FINRA Rule 4511 requires member firms and associated persons to "make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." Exchange Act Rule 17a-3(a)(8) requires member firms to make and keep "copies of confirmations of all purchases and sales of securities." Implicit in the requirement to make and preserve books and records is the requirement that information in those books and records be accurate. An associated person who enters inaccurate information in a firm's books and records violates FINRA Rule 4511 and FINRA Rule 2010.

In approximately October 2012, Brendza entered into an agreement through which he agreed to service certain customer accounts, including executing trades for those accounts, under a joint representative code (also known as a joint production number) that he shared with a representative who was planning on retiring in several years (Representative 1) and an active representative who was part of Brendza's team and who is an immediate family member of Brendza (Representative 2). The agreement set forth what percentages of the commissions each representative would earn on trades placed using the applicable joint representative code. In February 2014, the parties amended the agreement in writing to provide Brendza and Representative 2 with higher percentages of commissions earned for trades placed using the joint representative code than what was set forth in the original agreement.

From March 2015 through February 2018, Brendza placed 380 trades in accounts that were covered by the amended agreement using a representative code other than the one he should have used pursuant to the amended agreement.² Specifically, although the firm's system correctly prepopulated the trades with the applicable joint representative code, Brendza changed the code for the trades to a different joint representative code that he shared only with Representative 2. As a result of Brendza's actions, Brendza and Representative 2 received higher commissions from the 380 trades than what they were entitled to receive pursuant to the amended agreement with Representative 1.

Brendza did not ask Representative 1 whether he could change the code on the 380 trades at issue and did not otherwise indicate to him that he was doing so. Brendza mistakenly believed that Representative 1 had agreed that he could change the representative code so

² Representative 2 separately placed 762 trades in accounts that were covered by the amended agreement using a representative code other than the one he should have used pursuant to the amended agreement.

that Brendza and Representative 2 would receive even higher percentages of commissions than what was set forth in the amended agreement. In fact, Representative 1 had not agreed that Brendza could change the representative code. The firm's trade confirmations for the 380 trades inaccurately reflected the representative code that Brendza shared with Representative 2 alone.

In September 2018, Morgan Stanley paid restitution to Representative 1. Brendza, together with Representative 2, reimbursed the firm a total of approximately \$275,000, which is the approximate amount of additional commissions that they received from the 1,142 trades as a result of Brendza and Representative 2 falsifying the representative code on the trades.

By falsifying the representative code on the 380 trades, Brendza violated FINRA Rule 2010. In addition, Brendza violated FINRA Rules 4511 and 2010 by causing Morgan Stanley to maintain inaccurate trade confirmations.

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

- a six-month suspension from associating with any FINRA member in all capacities; and
- a \$5,000 fine.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

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 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.

9/18/2022
Date


Richard Matthew Brendza
Respondent

Reviewed by:


Daryl M. Schumacher
Counsel for Respondent
Kopecky Schumacher Rosenberg LLC
120 N. LaSalle St., Suite 2000
Chicago, IL 60602

Accepted by FINRA:

5.3.22

Date

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

Noel Downey

Noel C. Downey
Senior Counsel
FINRA
Department of Enforcement
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