

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 65658 / October 31, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14139

In the Matter of

**HECTOR GALLARDO,
MICHAEL ZURITA, and
ORION TRADING, LLC,**

Respondents.

**ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS
AND CEASE-AND-DESIST ORDERS
PURSUANT TO SECTIONS 15(b) AND
21C OF THE SECURITIES EXCHANGE
ACT OF 1934 AS TO MICHAEL ZURITA
AND ORION TRADING, LLC**

I.

On November 24, 2010, the Securities and Exchange Commission (“Commission”) instituted public administrative and cease-and-desist proceedings pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Michael Zurita (“Zurita”) and Orion Trading, LLC (“Orion”) (collectively, “Respondents”).

II.

In response to these proceedings, Respondents have each submitted an Offer of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Making Findings and Imposing Remedial Sanctions and Cease-and-Desist Orders Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 as to Michael Zurita and Orion Trading, LLC (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

Summary

In 2007, Zurita, the President of Florida-based registered broker-dealer Orion and the supervisor responsible for Orion's New York branch office, failed to reasonably supervise Hector Gallardo ("Gallardo"), a registered representative of Orion. Zurita failed to follow-up on red flags that made him aware that an Orion customer was communicating with Gallardo about stock market investments that would pay returns in excess of twelve percent per month (144% annualized) and that the customer was proposing to enter into a profit sharing arrangement with Gallardo, which violated Orion's procedures. Zurita failed to take reasonable steps to investigate Gallardo's conduct, which would have led to detecting and preventing Gallardo's violations of the antifraud provisions of the securities laws.

In addition, as Orion's President, Zurita was responsible for establishing, maintaining, and implementing policies, procedures, and systems that are reasonably designed to detect violative activity by Orion's registered representatives. Orion and Zurita failed to develop reasonable systems to implement Orion's Written Supervisory Procedures with respect to prohibited transactions. In addition, for several months in 2006 and 2007, Orion and Zurita permitted an unlicensed foreign associate to perform the functions of a registered representative at Orion's New York branch office.

Respondents

1. Orion is a California limited liability company with its principal place of business in Orlando, Florida. Orion has been registered as a broker-dealer with the Commission since June 1998. Orion conducts business under the name Brokerlatino, among others. From 2005 to 2007, Orion maintained a branch office in New York City.

2. Zurita, age 58, is a resident of Orlando, Florida. Zurita, the president and a part owner of Orion, is a registered representative of Orion and holds Series 7 and 24 licenses. He also held a Series 63 license that expired in October 2004. Zurita was Orion's Chief Compliance Officer during the relevant period. Orion also employed an outside compliance consultant.

¹ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

Other Relevant Parties

3. Hector Gallardo (“Gallardo”), age 39, was a registered representative in Orion’s New York branch office from January to September 2007. Gallardo has held Series 7 and 63 licenses.

4. Armando Jaramillo (“Jaramillo”), age 41, worked in Orion’s New York branch office, as a foreign associate, in 2006 and 2007. Jaramillo’s Series 7 license expired in May 2004.

Background

5. In 2006, a foreign finder that Orion employed in Bolivia solicited two Bolivian citizens to invest in U.S. equity markets through Orion. The two Bolivian investors in turn solicited and bundled funds from other Bolivian retail investors for the purpose of investing those funds in the U.S. equity markets through Orion. Over time, the two Bolivian investors collected and pooled approximately \$1.5 million from at least 375 individual Bolivians. In early 2007, Gallardo convinced the Bolivian investors to name him as their registered representative, telling them that he could provide better investment returns. Lured by Gallardo’s promises, the two Bolivian investors provided Gallardo with a total of approximately \$1.154 million for Gallardo to invest on their behalf. Gallardo promised that he would invest in unspecified initial public offerings and/or in investment vehicles offered or managed by a separate investment company that he operated. Gallardo falsely told the Bolivian investors that his investment company could guarantee a nine to fifteen percent monthly return regardless of market volatility, and returned approximately \$275,000 of the two Bolivian investors’ investments in his company to them as illusory “distributions” to maintain the ruse that their investments were performing well.

6. Gallardo’s investment company was a complete sham, and he never invested any of the investors’ money in any initial public offerings. Instead, Gallardo invested and lost approximately \$190,000 of the investors’ funds in stocks and options and misappropriated the remainder of the investors’ money, approximately \$685,000. After transferring hundreds of thousands of dollars to a personal checking account, Gallardo used money in that account to pay his and his family’s personal expenses, including airline tickets and multiple trips to Atlantic City.

7. Gallardo’s scheme fell apart in September 2007, when the two Bolivian investors demanded to see returns on the initial public offerings of stock in which Gallardo told them he had invested. Because Gallardo could not produce the returns, the Bolivian investors refused to invest further and subsequently lost all contact with Gallardo. The Bolivian investors

lost \$876,193 of their and the other 375 investors' money through the investment with Gallardo and his phony investment company.

Zurita and Orion Fail Reasonably to Supervise Gallardo

8. Although stationed in Florida, Zurita was the supervisor responsible for Orion's New York branch office during the relevant period because Orion did not have any qualified supervisory personnel on-site in New York. Zurita recruited Gallardo to be the person in charge of Orion's New York branch office in approximately December 2006. Zurita knew of Gallardo from pre-Orion dealings with Gallardo; such dealings were comprised of telephonic conversations. Zurita did not meet with Gallardo in person before retaining him. Zurita knew, however, that Gallardo had little-to-no previous supervisory experience and had never run a branch office. Despite Gallardo's lack of experience, Zurita hired Gallardo in January 2007. After travelling to Orion's branch office in New York in January 2007, Zurita did not travel to that office until September 2007. While Zurita hired Gallardo with the understanding that Gallardo would obtain a Series 24 license, thereby becoming licensed to be a branch manager, Zurita knew that Gallardo never took the examination. Zurita therefore remained the person with ultimate responsibility for Orion's New York branch office throughout 2007.

9. In 2007, during the period in which Gallardo carried out his fraud against the Bolivian investors, Zurita did not reasonably follow up on a series of red flags that should have put Zurita on notice as to suspicious activity between Gallardo and the two Bolivian investors. In particular, in March 2007, following a review of Gallardo's emails, Zurita identified the following email that Gallardo received from one of the two Bolivian investors:

I mentioned to you that we are representatives of a company that recruit people that want to invest in the stock market but the condition is that we should pay the client at least 12% (minimum), ideally it would be to pay 15% so that the company also makes money. If you get to make more than 15% on a monthly basis we give you the benefit of 30% of the excess, in this there is a lot of acceptance in that we could send, on average, \$100,000 per month. I would like your opinion in this respect, you can call me on my cell phone I would request you call me urgently because we currently have \$100,000 to deposit. If you do not reach us by telephone, send us an email.

(translated from the Spanish original). After seeing this email (the "March 2007 email"), Zurita did not reasonably follow-up on the matter, even though Zurita knew that an Orion customer was communicating with Gallardo about stock market investments that would pay returns in excess of twelve percent *per month* (144% annualized) and was proposing to enter into a profit sharing arrangement with the registered representative, Gallardo. Although the accounts contemplated by the email were never opened at Orion, the email put Zurita on notice that Gallardo was raising money for a business enterprise of a customer, who was fronting for an unspecified group of

other investors, was considering a profit-sharing arrangement with a firm customer, and may have promised a firm customer exorbitant returns on investments.

10. Zurita's concerns about the March 2007 email were sufficiently serious that on multiple occasions from March to May, Zurita sent Gallardo emails demanding a copy of Gallardo's written response to the customer. However, Gallardo never responded to Zurita, and Zurita took no reasonable steps to determine whether Gallardo had handled the request consistent with Orion's policies and procedures, which required Gallardo to provide Zurita with a copy of Gallardo's written response on the day that Gallardo sent it, or whether disciplinary steps were necessary. Nor did Zurita attempt to contact the customer himself, although he had spoken to the customer directly when the customer had asked to switch his accounts to Gallardo. Throughout this period, Zurita still intended for Gallardo to take his Series 24 examination so Gallardo could become Orion's New York branch manager.

11. Three months after the March 2007 email, Zurita received further notice that Gallardo was dealing with the customer concerning accounts at Orion that involved possible payments to unnamed "clients" of the customer. Zurita again failed to reasonably respond to this red flag. Specifically, in June 2007, the customer, who maintained a personal account at Orion, complained in an email to Zurita that Zurita had failed to respond to the customer's request to wire funds from his accounts at Orion. The customer further wrote that he was "very concerned because we need to pay our clients." Zurita responded that Gallardo would liquidate certain positions in the "portfolio" to raise cash to facilitate the requested transfer.

12. Zurita missed other red flags that should have put him on notice about the risks that Gallardo posed to Orion's customers and Gallardo's failure to comply with Orion's policies and procedures. For example, in April 2007, another registered representative in Orion's New York branch office raised concerns about potential cold calling by unregistered employees of the branch. Zurita failed to visit Orion's New York branch office or otherwise make reasonable efforts to investigate the operations of the New York branch office or Gallardo's conduct.

13. Throughout the period when Gallardo was defrauding the Bolivian investors, Zurita was Orion's president and was designated as its Chief Compliance Officer. Zurita was also responsible for establishing reasonable policies and procedures and reasonable systems to implement those policies and procedures to detect violative activity by Orion's registered representatives. Orion's Written Supervisory Procedures ("WSP") had a lengthy list of "prohibited transactions/actions." The WSP identified Zurita as the Orion person responsible for implementing this section and specified the actions required if Zurita detected prohibited transactions, including "[c]onferring with [the] employee," "[i]ssuing a written admonition," and "[r]estricting the activities of or the transaction handled by the employee." Orion's list of prohibited transactions included "[r]aising money . . . as an agent for any business enterprise whatsoever without the advance written consent of [Zurita];" "[w]arranting or guaranteeing the present/future value or price of any security or warranting that any company, partnership, or issuer of securities will meet its obligations, promises, or comply with its representations to

investors;” and “[r]eceiving compensation for securities transactions from anyone (clients or other securities dealers or representatives) for services rendered [including] . . . commissions of any sort.”

14. Orion and Zurita failed to develop reasonable systems to implement the WSPs with respect to the prohibited transactions. The March 2007 email from the Bolivian investor to Gallardo that Zurita reviewed involved several transactions on Orion’s prohibited list. When Zurita saw the March 2007 email, however, he took no reasonable steps other than to ask for Gallardo’s written response to the customer. Gallardo ignored this request, and other subsequent requests from Zurita. Despite Gallardo’s obduracy, Zurita took no other steps to investigate Gallardo’s activities. If Zurita had followed up on the red flags of prohibited transactions by Gallardo, it is likely that he would have prevented and detected Gallardo’s violations of the antifraud provisions of the securities laws.

15. In addition, Orion’s WSP referenced a “branch office inspection program.” Orion and Zurita failed reasonably to implement the firm’s branch office inspection program. In particular, there is no evidence that Zurita ever developed any specific protocol for inspecting the New York branch office, and in fact neither Zurita nor any other Orion supervisor inspected the branch office at any time from January to September 2007, despite the numerous red flags involving the New York office that Zurita learned of in 2007.

Orion Employed an Unlicensed Foreign Associate

16. Zurita permitted an unlicensed foreign associate to perform the functions of a registered representative at the New York branch office in 2006 and 2007.² Jaramillo, a foreign associate affiliated with Orion, began working in Orion’s New York branch office by early 2006. Zurita knew that Jaramillo reported to the New York branch office virtually every day. Jaramillo’s activities included trading in and otherwise servicing existing customer accounts as well as opening new accounts. Jaramillo worked in Orion’s New York branch office until the summer of 2007, when Orion terminated him.

Violations

17. As a result of the conduct described above, Zurita and Orion failed reasonably to supervise Gallardo within the meaning of Section 15(b)(4)(E) of the Exchange Act, which requires broker-dealers reasonably to supervise persons subject to their supervision with a view toward preventing and detecting Gallardo’s violations of the antifraud provisions of the federal securities laws.

² FINRA defines a “foreign associate” as a person associated with a FINRA member who is not a citizen, national, or resident of the United States and who conducts all of his securities activities outside the jurisdiction of the United States with persons who are not citizens, nationals, or residents of the United States. *See* FINRA Manual, NASD Rule 1100(a).

18. As a result of the conduct described above, Orion willfully³ violated Section 15(b)(7) of the Exchange Act and Rule 15b7-1 thereunder, which require registration of individuals effecting securities transactions in accordance with standards set forth by a national securities association of which the broker-dealer is a member.

19. As a result of the conduct described above, Zurita willfully aided and abetted and caused Orion's violations of Section 15(b)(7) of the Exchange Act and Rule 15b7-1 thereunder.

Undertakings

Respondent Orion has undertaken to:

Following the entry of this Order, and in no event later than fourteen (14) days from the entry of this Order, to hire an individual with appropriate supervisory licenses and qualifications to assume supervisory authority at Orion. In compliance with this requirement, (a) Orion has agreed upon entry of this Order to hire such an individual who will physically be present at Orion's Orlando office at least two (2) weeks a month; and (b) Orion has agreed to hire an individual who shall be physically working out of its Orlando office as soon thereafter as may reasonably be practicable, but in no event more than sixty days after entry of this Order.

Certify, in writing, compliance with the undertaking(s) set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Ken C. Joseph, Assistant Director, Securities and Exchange Commission, New York Regional Office, 3 World Financial Center, Suite 400, New York, New York, 10281, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

³ A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

A. Respondent Zurita cease and desist from committing or causing any violations and any future violations of Section 15(b)(7) of the Exchange Act and Rule 15b7-1 thereunder.

B. Respondent Orion cease and desist from committing or causing any violations and any future violations of Section 15(b)(7) of the Exchange Act and Rule 15b7-1 thereunder.

C. Respondent Zurita be, and hereby is:

barred from association in a supervisory capacity with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;

with the right to apply for reentry after three (3) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent Orion is censured.

E. Respondent Zurita shall pay a civil money penalty of \$35,000 to the United States Treasury. Payment shall be made in the following installments: \$20,000 shall be due within ten (10) days after entry of this Order, and \$15,000 plus prejudgment interest pursuant to 31 U.S.C. § 3717, running from the date of entry of this Order, shall be due within ninety (90) days after entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application. Payments shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Zurita as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Ken C. Joseph, Assistant Director, Securities and Exchange Commission, New York Regional Office, 3 World Financial Center, Suite 400, New York, New York, 10281.

F. Respondent Orion shall pay a civil money penalty of \$50,000 to the United States Treasury. Payment shall be made in the following installments: \$25,000 shall be due within ten (10) days after entry of this Order, and \$25,000 plus prejudgment interest pursuant to 31 U.S.C. § 3717, running from the date of entry of this Order, shall be due within ninety (90) days after entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application. Payments shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Orion as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Ken C. Joseph, Assistant Director, Securities and Exchange Commission, New York Regional Office, 3 World Financial Center, Suite 400, New York, New York, 10281.

G. Respondent Orion shall comply with the undertakings enumerated in Section III. above.

By the Commission.

Elizabeth M. Murphy
Secretary