

DISTRICT COURT, EAGLE COUNTY, COLORADO 885 Chambers Avenue Eagle, CO 81631	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;">Case No. 10 CR 230</p>
<b>PLAINTIFF:</b> PEOPLE OF THE STATE OF COLORADO  <b>DEFENDANT:</b> MARTIN ERZINGER	
Harold A. Haddon, #1596 HADDON, MORGAN AND FOREMAN, P.C. 150 East 10 <sup>th</sup> Avenue Denver, CO 80203 Phone: 303.831.7364 Fax: 303.832.2628 E-mail: hhaddon@hmflaw.com <i>Attorneys for Victim</i>	
<b>VICTIM'S OBJECTION TO DEFENDANT'S FAILURE TO COMPLY WITH          TERMS OF SENTENCE (FINRA FILING)</b>	

Dr. Steven Milo, through his attorney, Harold A. Haddon of the law firm of Haddon, Morgan and Foreman, P.C., objects to Defendant Erzinger's filing of an incomplete and misleading FINRA report. This filing was a term of Defendant's probation. The form that was filed does not make any reference to Defendant's misdemeanor guilty pleas or the sentence imposed, contrary to the requirements of the FINRA disclosure form and contrary to the express terms of this Court's sentencing order entered on December 16, 2010. The report discloses only that a felony charge was filed against Defendant Erzinger and was later dismissed. Dr. Milo requests that this Court determine that the report was inadequate and misleading in violation of this Court's sentencing order. As grounds for this objection, Dr. Milo states as follows:

1. The defendant is a registered securities representative. The securities industry is regulated through an organization named the Financial Industry Regulatory Authority (FINRA). FINRA has disciplinary powers over securities representatives and their employers. FINRA Rule 1122 states that "No member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof."

2. FINRA requires all securities representatives to file and keep updated a Form U4, which is a public document available online that provides details about the backgrounds and activities of the licensee. Among the matters subject to mandatory disclosure on the U4 are alleged criminal activities which result in the filing of felony and related criminal charges. The disposition of those charges must also be reported. Significantly, the FINRA reporting form states that “Multiple counts of the same charge arising out of the same event should be reported on the same DRP” (Disclosure Reporting Page). Exhibit B, p. 26 of 39. Any changes in the information reported on a U4 must be reported within 30 days of their occurrence—including the filing of a felony charge and related charges arising from the same event.

3. Although Defendant Erzinger was first charged on August 10, 2010 with felony leaving the scene of an accident which caused serious bodily injury, and recharged with the same felony on October 12, 2010, he failed to disclose either filing to FINRA within 30 days. Misdemeanor charges of careless driving and failure to report an accident were additional counts filed with both felony complaints. Dr. Milo, in his objection to the plea bargain given to Defendant Erzinger, advised the Court of this delinquency in amending the U4 filing. Dr. Milo noted that this demonstrated Defendant Erzinger’s attempts to minimize his conduct and his failure to accept responsibility for it.

4. On December 16, 2010, this Court accepted the plea bargain and pleas of guilty to the two charged misdemeanors. The Court sentenced the Defendant to a year of probation with specific terms and conditions which included a prohibition against driving a car and 90 days in jail. The jail term was suspended on the condition that Defendant Erzinger elect to do either (1) 60 days of work release in the Eagle County Jail or (2) 45 days of charitable work which would require him to take a leave of absence from his work and home pursuant to a plan which must be accepted by the Court. The Court ordered, as an express condition of Defendant Erzinger’s probation, that “you file all documents associated with any professional activity in which you are engaged that demonstrates that you have been charged with a felony and that you have entered pleas to something other than a felony.”

5. On December 22, 2010, Defendant Erzinger filed an amended U4. A copy of that filing is attached hereto as Exhibit A. The amended form only discloses that a felony was filed on August 10, 2010, “amended” in October and ultimately dismissed on December 16, 2010. It does not disclose the fact that the Defendant pled guilty to the lesser misdemeanor charges related to the same incident and it does not disclose any of the terms and conditions of the sentence imposed as a result of his plea deal. This is a violation of the sentencing order and of FINRA rules.

6. The FINRA U4 form requires not only the disclosure of a felony filing: it also requires specific disclosures of the disposition of those charges. The U4 form has an

entire page detailing requirements where an original felony charge “was amended or reduced”—including a description of any misdemeanor charges and the disposition of those misdemeanor charges. Further, the FINRA reporting form requires a specification of the exact terms of the sentence including terms of probation. Exhibit B is a copy of pages 26, 27 and 28 of the U4 form which set forth those disclosure requirements.

7. Mr. Erzinger’s FINRA filing of December 22, 2010 fails to disclose
  - (a) The guilty pleas to misdemeanor charges and the specifics of those charges; and
  - (b) The sentence and probationary terms imposed by the Court on those guilty pleas.

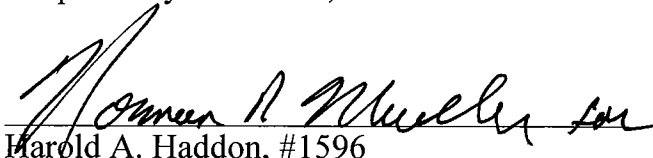
Anyone who accessed the FINRA website and reviewed Mr. Erzinger’s amended U4 report could only conclude that a felony was charged and later dismissed, without any disclosure of the misdemeanor guilty pleas and the sentence imposed.

8. This filing is another demonstration of Dr. Milo’s chief complaint in this case: beginning with his actions on the date of the accident and continuing even after the sentencing in this case, Defendant Erzinger continues his attempts to minimize public responsibility for his crimes. This FINRA report was filed within a week of the sentencing hearing, at which the Court advised Mr. Erzinger that “from my perspective, what counts most is what you do from today forward.” The Court concluded the sentencing hearing with the following admonition to Mr. Erzinger: “But don’t mistake the fact that I expect you to meet each and every obligation and to meet it at a high level.”

9. Dr. Milo submits that this FINRA report is a violation of the terms of Defendant Erzinger’s probationary sentence. He requests that this Court enter such orders as the Court deems appropriate, including a requirement that Defendant Erzinger must fully and immediately report the terms of the misdemeanor charges, pleas and sentence in this case on his FINRA form. .

Dated: December 29, 2010.

Respectfully submitted,



Harold A. Haddon, #1596

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*Attorneys for Victim*

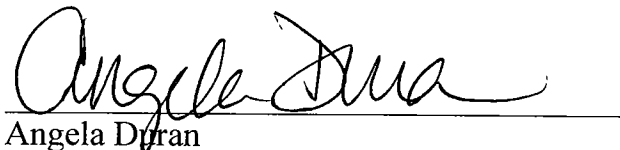
### CERTIFICATE OF SERVICE

I certify that on December 29, 2010, a copy of the foregoing *VICTIM'S OBJECTION TO DEFENDANT'S FAILURE TO COMPLY WITH TERMS OF SENTENCE (FINRA FILING)* was served *via* facsimile upon the following:

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Angela Duran

# EXHIBIT A

December 22, 2010 Amended FINRA Filing



**BrokerCheck Report**

**MARTIN JOEL ERZINGER**

**CRD# 713979**

Report #18338-29725, data current as of Thursday, December 23, 2010.

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Dear Investor:

FINRA has generated the following BrokerCheck report for **MARTIN J. ERZINGER**. The information contained within this report has been provided by a FINRA member firm(s) and securities regulators as part of the securities industry's registration and licensing process and represents the most current information reported to the Central Registration Depository (CRD®) system.

FINRA regulates the securities markets for the ultimate benefit and protection of the investor. FINRA believes the general public should have access to information that will help them determine whether to conduct, or continue to conduct, business with a FINRA member firm or any of the member's associated persons. To that end, FINRA has adopted a public disclosure policy to make certain types of information available to you. Examples of information FINRA provides on currently registered individuals and individuals who were registered during the past ten years include: actions by regulators, investment-related civil suits, customer disputes that contain allegations of sales practice violations against brokers, all felony charges and convictions, misdemeanor charges and convictions relating to securities violations, and financial events such as bankruptcies, compromises with creditors, judgments, and liens. FINRA also provides on a permanent basis certain information on former registered individuals, if any of the following applies, as reported to CRD on a uniform registration form: (1) the person was the subject of a final regulatory event; (2) the person was convicted of or pled guilty or nolo contendere to a crime; (3) the person was the subject of a civil injunction or civil court finding involving a violation of any investment-related statute(s) or regulation(s); or (4) the person was named as a respondent or defendant in an arbitration or civil litigation that resulted in an award, decision or judgment for a customer.

When evaluating this report, please keep in mind that it may include items that involve pending actions or allegations that may be contested and have not been resolved or proven. Such items may, in the end, be withdrawn or dismissed, or resolved in favor of the firm or broker, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

The information in this report is not the only resource you should consult. FINRA recommends that you learn as much as possible about the individual broker or brokerage firm from other sources, such as professional references, local consumer and investment groups, or friends and family members who already have established investment business relationships.

FINRA BrokerCheck is governed by federal law, Securities and Exchange Commission (SEC) regulations and FINRA rules approved by the SEC. State disclosure programs are governed by state law, and may provide additional information on brokers and firms licensed by the state. Therefore, you should also consider requesting information from your state securities regulator. Refer to [www.nasaa.org](http://www.nasaa.org) for a complete list of state securities regulators.

Thank you for using FINRA BrokerCheck.



Using this site/information means that you accept the FINRA BrokerCheck Terms and Conditions. A complete list of Terms and Conditions can be found at [brokercheck.finra.org](http://brokercheck.finra.org)



For additional information about the contents of this report, please refer to the User Guidance or [www.finra.org/brokercheck](http://www.finra.org/brokercheck). It provides a glossary of terms and a list of frequently asked questions, as well as additional resources. For more information about FINRA, visit [www.finra.org](http://www.finra.org).

	Pending	Final	On Appeal
Criminal	0	1	0





### Disclosure Event Details

When evaluating this information, please keep in mind that a number of items may involve pending actions or allegations that may be contested and have not been resolved or proven. The items may, in the end, be withdrawn or dismissed, or resolved in favor of the individual broker, or concluded through a negotiated settlement for certain business reasons (e.g., to maintain customer relationships or to limit the litigation costs associated with disputing the allegations) with no admission or finding of wrongdoing.

This report provides the information exactly as it was reported to CRD by the individual broker, a member firm(s), and/or by securities industry regulators. Some of the specific data fields contained in the report may be blank if the information was not provided to CRD.

### Criminal - Final Disposition

This section provides details regarding a criminal charge that has resulted in a conviction, has been dismissed, or did not result in a guilty verdict, that was reported to CRD by the individual broker, a member firm, and/or a securities regulator. The event may include information regarding a formal charge or conviction for a crime involving any felony. In addition, the event may include any formal charge for certain misdemeanor offenses (e.g., bribery, perjury, forgery, counterfeiting, extortion, fraud, or wrongful taking of property).

Disclosure 1 of 1

Reporting Source: Broker

Formal Charges were brought in: State Court

Name of Court: DISTRICT COURT, EAGLE COUNTY, COLORADO

Location of Court: EAGLE COUNTY, COLORADO

Docket/Case #: D0192010CGR000230

Charge Date: 08/10/2010

Charge(s) 1 of 1

Formal Charge(s)/Description: LEAVING THE SCENE OF AN ACCIDENT CAUSING SERIOUS BODILY INJURY

No of Counts: 1

Felony or Misdemeanor: Felony

Plea for each charge: N/A

Disposition of charge: Amended

Date of Amended Charge: 10/21/2010



**Charge was Amended or reduced to:** LEAVING THE SCENE OF AN ACCIDENT CAUSING SERIOUS BODILY INJURY

**Amended No of Counts:**

1

**Amended Charge:**

Felony

**Amended Plea:**

N/A

**Disposition of Amended Charge:**

Dismissed

**Current Status:**

Final

**Status Date:**

12/16/2010

**Disposition Date:**

12/16/2010

**Sentence/Penalty:**

FELONY CHARGE DISMISSED ON 12/16/2010.

## **EXHIBIT B**

**FINRA Form U4 to be Completed and Amended Online**

UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER

INDIVIDUAL NAME:	INDIVIDUAL CRD #:
FIRM NAME:	FIRM CRD #:

**U4 - CRIMINAL DRP**

Rev. DRP (05/2009)

This Disclosure Reporting Page is an  INITIAL or  AMENDED response to report details for affirmative response(s) to **Question(s) 14A and 14B** on Form U4; **Check the question(s) you are responding to, regardless of whether you are answering the question(s) "yes" or amending the answer(s) to "no":**

- 14A(1)(a)     14A(2)(a)     14B(1)(a)     14B(2)(a)  
 14A(1)(b)     14A(2)(b)     14B(1)(b)     14B(2)(b)

Use this DRP to report all charges arising out of the same event. One event may result in more than one affirmative answer to the above items. Multiple counts of the same charge arising out of the same event should be reported on the same DRP. Unrelated criminal actions, including separate cases arising out of the same event, must be reported on separate DRPs.

**Applicable court documents (i.e., criminal complaint, information or indictment as well as judgment of conviction or sentencing documents) must be provided to the CRD if not previously submitted.**

1. If charge(s) were brought against an organization over which you exercise(d) control:

A. Organization Name: \_\_\_\_\_

B. Investment-related business?     Yes     No

C. Position, title or relationship: \_\_\_\_\_

2. Formal action was brought in:

Federal Court     State Court     Foreign Court     Military Court     Other: \_\_\_\_\_

A. Name of Court: \_\_\_\_\_

B. Location of Court (City or County and State or Country): \_\_\_\_\_

C. Docket/Case#: \_\_\_\_\_

3. Event Status:

A. Current status of the Event?     Pending     On Appeal     Final

B. Event Status Date (complete unless status is pending) (MM/DD/YYYY): \_\_\_\_\_     Exact     Explanation  
 If not exact, provide explanation: \_\_\_\_\_

4. Event and Disposition Disclosure Detail (Use this for both organizational and individual charges.):

A. Date First Charged (MM/DD/YYYY): \_\_\_\_\_     Exact     Explanation  
 If not exact, provide explanation: \_\_\_\_\_

B. Event and Disposition Detail: \_\_\_\_\_

**Charge Details (complete every field for each charge.)**

Formal Charge/Description: \_\_\_\_\_

No. of Counts: \_\_\_\_\_

Felony or Misdemeanor:     Felony     Misdemeanor

Plea for each Charge: \_\_\_\_\_

Disposition of Charge:

Acquitted     Dismissed     Pre-trial Intervention  
 Amended     Found not guilty     Reduced  
 Convicted     Pled guilty     Other (requires explanation)  
 Deferred Adjudication     Pled not guilty

Explanation: \_\_\_\_\_

Date of Amended Charge, if applicable: \_\_\_\_\_

UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER

INDIVIDUAL NAME:	INDIVIDUAL CRD #:
FIRM NAME:	FIRM CRD #:

U4 - CRIMINAL DRP (CONTINUED)

Rev. DRP (05/2009)

If original charge was amended or reduced, specify new charge (i.e., list amended charge or reduced charge):

No. of Counts (for amended or reduced charge): \_\_\_\_\_

Specify if amended or reduced charge is a *Felony* or *Misdemeanor*:  *Felony*  *Misdemeanor*  *Other*: \_\_\_\_\_

Plea for each amended or reduced charge: \_\_\_\_\_

Disposition of amended or reduced charge:

<input type="radio"/> Acquitted	<input type="radio"/> Dismissed	<input type="radio"/> Pre-trial Intervention
<input type="radio"/> Amended	<input type="radio"/> Found not guilty	<input type="radio"/> Reduced
<input type="radio"/> Convicted	<input type="radio"/> Pled guilty	<input type="radio"/> Other (requires explanation)
<input type="radio"/> Deferred Adjudication	<input type="radio"/> Pled not guilty	

Explanation: \_\_\_\_\_

Charge Details (complete every field for each charge.)

Formal Charge/Description: \_\_\_\_\_

No. of Counts: \_\_\_\_\_

*Felony* or *Misdemeanor*:  *Felony*  *Misdemeanor*

Plea for each Charge: \_\_\_\_\_

Disposition of Charge:

<input type="radio"/> Acquitted	<input type="radio"/> Dismissed	<input type="radio"/> Pre-trial Intervention
<input type="radio"/> Amended	<input type="radio"/> Found not guilty	<input type="radio"/> Reduced
<input type="radio"/> Convicted	<input type="radio"/> Pled guilty	<input type="radio"/> Other (requires explanation)
<input type="radio"/> Deferred Adjudication	<input type="radio"/> Pled not guilty	

Explanation: \_\_\_\_\_

Date of Amended Charge, if applicable: \_\_\_\_\_

If original charge was amended or reduced, specify new charge (i.e., list amended charge or reduced charge):

No. of Counts (for amended or reduced charge): \_\_\_\_\_

Specify if amended or reduced charge is a *Felony* or *Misdemeanor*:  *Felony*  *Misdemeanor*  *Other*: \_\_\_\_\_

Plea for each amended or reduced charge: \_\_\_\_\_

Disposition of amended or reduced charge:

<input type="radio"/> Acquitted	<input type="radio"/> Dismissed	<input type="radio"/> Pre-trial Intervention
<input type="radio"/> Amended	<input type="radio"/> Found not guilty	<input type="radio"/> Reduced
<input type="radio"/> Convicted	<input type="radio"/> Pled guilty	<input type="radio"/> Other (requires explanation)
<input type="radio"/> Deferred Adjudication	<input type="radio"/> Pled not guilty	

Explanation: \_\_\_\_\_

UNIFORM APPLICATION FOR SECURITIES INDUSTRY REGISTRATION OR TRANSFER

INDIVIDUAL NAME:	INDIVIDUAL CRD #:
FIRM NAME:	FIRM CRD #:

**U4 - CRIMINAL DRP (CONTINUED)**

Rev. DRP (05/2009)

Charge Details (complete every field for each charge.)

Formal Charge/Description: \_\_\_\_\_

No. of Counts: \_\_\_\_\_

Felony or Misdemeanor:

Felony

Misdemeanor

Plea for each Charge: \_\_\_\_\_

Disposition of Charge:

Acquitted

Dismissed

Pre-trial Intervention

Amended

Found not guilty

Reduced

Convicted

Pled guilty

Other (requires explanation)

Deferred Adjudication

Pled not guilty

Explanation: \_\_\_\_\_

Date of Amended Charge, if applicable: \_\_\_\_\_

If original charge was amended or reduced, specify new charge (i.e., list amended charge or reduced charge): \_\_\_\_\_

No. of Counts (for amended or reduced charge): \_\_\_\_\_

Specify if amended or reduced charge is a Felony or Misdemeanor:

Felony

Misdemeanor

Other:

Plea for each amended or reduced charge: \_\_\_\_\_

Disposition of amended or reduced charge:

Acquitted

Dismissed

Pre-trial Intervention

Amended

Found not guilty

Reduced

Convicted

Pled guilty

Other (requires explanation)

Deferred Adjudication

Pled not guilty

Explanation: \_\_\_\_\_

C. Date of Disposition (MM/DD/YYYY): \_\_\_\_\_

Exact

Explanation

If not exact, provide explanation: \_\_\_\_\_

D. Sentence/Penalty; Duration (if suspension, probation, etc): Start Date of Penalty: (MM/DD/YYYY); End date of Penalty: (MM/DD/YYYY); If Monetary penalty/fine - Amount paid; Date monetary/penalty fine paid: (MM/DD/YYYY) if not exact, provide explanation.

5. Comment (Optional). You may use this field to provide a brief summary of the circumstances leading to the charge(s) as well as the current status or final disposition. Your information must fit within the space provided.