

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2005002244703**

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

RE: Christopher Gibas, Respondent
CRD No. 2263956

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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 him alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Christopher Gibas was first registered with FINRA in 1999. From September 2003 through November 2007, Gibas was registered as a General Securities Representative (Series 7) with McDonald Investments, Inc. (which was known as Key Investment Services LLC from April 2007 through November 2007). Gibas qualified as a General Sales Securities Supervisor (Series 9/10) in May and June 2000 and as a General Securities Principal Sales Supervisor (Series 23) in July 2007. Gibas ceased acting in a principal function in approximately February 2007 and terminated his principal registrations in August 2008. Because Gibas' supervisory qualifications have been inactive for two years, pursuant to NASD Rule 1021(c), Gibas cannot resume acting as a supervisory principal without requalifying by examination. Gibas was registered with UBS Financial Services, Inc. from January 2008 until April 2009. Gibas has not been registered or associated with a member firm since May 2009, but remains subject to FINRA jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

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RELEVANT DISCIPLINARY HISTORY

Gibas has no prior relevant disciplinary history.

OVERVIEW

From September 2003 through January 2006, Christopher Gibas failed to reasonably supervise Cynthia Bulinski, a registered representative at McDonald, by approving at least 31 variable annuity transactions that Bulinski recommended and effected. In approving these transactions, Gibas did not adequately respond to red flags that should have alerted him that the transactions were unsuitable. In so doing, Gibas violated NASD Rules 3010 and 2110.

FACTS AND VIOLATIVE CONDUCT

Between September 2003 and May 2006, Gibas, a principal with McDonald Investments, was the Branch Office Manager for the firm's Buffalo, NY, region. Gibas was therefore responsible for supervising Bulinski and other McDonald registered representatives in that region. Gibas' duties generally included approving new accounts and reviewing and approving trades, including variable annuities transactions.¹

Bulinski was a registered representative whose sales were focused almost exclusively on annuities, and whose clients were largely elderly. Prior to September 2003, Bulinski was the subject of a large number of customer complaints about her annuity sales. As her supervisor, Gibas was responsible for implementing the firm's increased scrutiny of Bulinski and her transactions. By June 2004, continued concerns over Bulinski's variable annuities transactions led the firm to place her under heightened supervision, which was formalized by a written agreement signed by Bulinski and Gibas. Under the agreement, Gibas was required, among other things, to pre-approve all Bulinski's annuity business and new accounts, to speak with each of Bulinski's customers age 65 or older, and to help Bulinski diversify her business.

¹ A variable annuity is an insurance contract that offers investment features similar in many respects to mutual funds. A customer's premium payments to purchase a variable annuity are allocated to underlying investment portfolios, known as subaccounts, or to a guaranteed fixed interest subaccount that is part of the general account of the insurer. The subaccount value will fluctuate in response to market changes and other factors, and the investor assumes these investment risks.

Variable annuity customers are assessed various fees that generally make the investment more costly than an investment in a mutual fund. These include fees related to insurance features, such as the death benefit, the amount of money beneficiaries receive upon the customer's death; fees for withdrawing assets during the surrender period, often a seven-year period after purchase; and fees related to the optional features, known as riders. An investor may select a rider to guarantee a certain percentage of income every year or other withdrawal options, or to offer a potential increase in the value of the death benefit, but riders often have restrictions, including waiting periods, and charge annual fees for the life of the contract whether the benefit is used or not.

Gibas did not adequately supervise Bulinski from November 2003 through January 2006 with respect to 31 variable annuity transactions that were unsuitable, in that the costs of the transactions outweighed the benefits. In six of those transactions, the customers purchased a rider for which they were not eligible.

At the time Gibas approved these transactions, there were numerous red flags regarding Bulinski's variable annuity transactions that should have alerted him to the potential unsuitability of her transactions and required follow-up more comprehensive than Gibas otherwise took. Among other things, Bulinski previously had been the subject of customer complaints involving annuity sales (which resulted in her being placed on heightened supervision) and concerns about Bulinski's annuity transactions from the Compliance Department. Also, during 2004 and 2005, Bulinski's transactions, including those involving variable annuities, appeared numerous times on exception reports received by Gibas and, in certain instances, Bulinski inaccurately stated customer or transaction details on documents presented to Gibas for review and approval.

Gibas also did not adequately carry out his other responsibilities under the firm's heightened supervision of Bulinski. Although Gibas reviewed Bulinski's transactions and contacted certain elderly customers before those transactions were effected, some of the conversations with Bulinski's customers lasted only a few minutes, or were conducted while Bulinski was present, or before Gibas had received any paperwork regarding the proposed transaction. Bulinski's business remained heavily skewed toward the sale of variable annuities. While Gibas met with Bulinski, as well as with other supervisory and compliance personnel at McDonald, none of the steps taken proved effective in preventing Bulinski's unsuitable sales.

By virtue of the above, Gibas failed to take appropriate action that was reasonably designed to detect and prevent Bulinski's violations. Accordingly, Gibas violated NASD Rules 3010 and 2110.

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

A five-month suspension from acting in any supervisory or principal capacity with any member firm; and

A fine in the amount of \$10,000.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

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 General Counsel, 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 acceptance or rejection of this AWC.

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

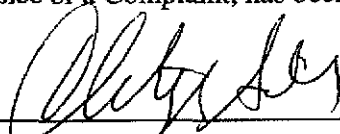
Respondent understands that:

- 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 actions brought by FINRA or any other regulator against him;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's disciplinary record;
 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof 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.
- 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 or its staff.
- E. Respondent understands that if he is barred or suspended from associating with any FINRA member in a principal capacity, 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 principal capacity, during the period of the bar or suspension (see FINRA Rules 8310 and 8311). Furthermore, because Respondent is subject to a statutory disqualification during the suspension if he remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

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; that he has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit it.

10/25/2010
Date


Christopher Gibas

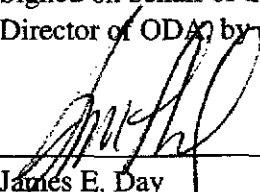
Reviewed by:


Wayne M. Aaron
Counsel for Respondent
Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005-1413
212-530-5284

Accepted by FINRA:

11/29/10
Date

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


James E. Day
Chief Counsel and Associate Vice President
FINRA Department of Enforcement
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Washington, DC 20006
202-974-2917