

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2006006125901**

RECEIVED

2008 JUN 30 A 6:00

REGISTRATION & DISCLOSURE

TO: Department of Enforcement
FINRA

RE: David A. Kecskes, Respondent
Registered Representative
CRD No. 1938745

Pursuant to NASD Rule 9216 of FINRA's Code of Procedure, I submit 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, 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

David Kecskes entered the securities industry in May 1993 as an Investment Company/Variable Contracts Products Representative with a FINRA member. From July 1999 to July 2006, Kecskes was registered as a General Securities Representative at Fifth Third Securities, Inc., ("Member" or "Firm"), a member of FINRA. Kecskes is currently registered in the same capacity at a member of FINRA. Kecskes does not have any prior disciplinary history.

OVERVIEW

Kecskes utilized discretion when he effected two trades for customer S.M. Kecskes agreed with S.M. that, if he could not invest S.M.'s \$110,000 in S.M.'s existing mutual fund, he would invest the money in similar mutual funds. When he could not invest the

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\$110,000 in S.M.'s existing mutual fund, he invested the money in two other mutual funds, which he selected without [REDACTED] input.

FACTS AND VIOLATIVE CONDUCT

1. During May 2006, public customer S.M. maintained a securities account at the Member that was serviced by Keckses.
2. During May 2006, S.M. informed Keckses in an e-mail that his certificate of deposit was maturing on May 19, 2006, and that he would like \$110,000 of that money put into his existing mutual fund.
3. Following two telephone conversations, Keckses and S.M. agreed that, in the event that the \$110,000 could not be placed in S.M.'s existing mutual fund, Keckses would invest the money into two other mutual funds, to be selected by Keckses.
4. In fact, the \$110,000 could not be placed in S.M.'s existing mutual fund, and Keckses invested the money into two other mutual funds selected by Keckses.
5. Keckses did not have prior written authorization from [REDACTED] to exercise discretion, and the Member had not accepted the account as discretionary, when Keckses purchased the two mutual funds for [REDACTED] account.

The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rule 2110 and IM 2510(b).

- B. I also consent to the imposition of the following sanctions: a fine of \$2,500 and a suspension of five business days.

I agree to pay the monetary sanction upon notice that this AWC has been accepted and that such payments are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, I 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 NASD Rule 8310 and IM-8310-1.)

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

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against me;
- B. To be notified of the Formal 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, I specifically and voluntarily waive 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.

I further specifically and voluntarily waive any right to claim that a person violated the ex parte prohibitions of NASD Rule 9143 or the separation of functions prohibitions of NASD 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

I understand 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 NASD Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-3; and
 - 4. I 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. I 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 my right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have 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 me to submit it.

6/1/2008
Date

Date

DAK-L

David A. Kecskes
Respondent

Reviewed by:

Counsel for Respondent

Accepted by FINRA:

6/27/08

Date _____

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

Dale A. Glensman
Dale A. Glensman

Dale A. Glanzman
Senior Regional Counsel
FINRA Department of Enforcement
55 West Monroe Street
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Attachment: Election of Payment Form