

FINANCIAL INDUSTRY REGULATORY AUTHORITY **RECEIVED**
LETTER OF ACCEPTANCE, WAIVER AND CONSENT

Nos. 2007008911201, 20080120014, 20080121587 2009 SEP 11 P 6: 09

REGISTRATION & DISCLOSURE

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

RE: Derek R. Kent, Respondent
CRD No. 733133

Pursuant to Rule 9216 of FINRA Code of Procedure, Respondent, Derek R. Kent (Kent) 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 Kent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Kent 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

Kent entered the securities industry in or about 1987 and was associated with AIG Financial Advisors, Inc. from on or about October 31, 2005, through on or about December 7, 2007, where he was registered as a general securities representative. From on or about January 19, 1993, through on or about October 31, 2005, Kent was associated with SunAmerica Securities, Inc., where he was registered as a general securities representative.¹ Kent has not been associated with a FINRA member since his termination from AIG. Kent has no disciplinary history with the Securities and Exchange Commission, FINRA, other self-regulatory organizations, or state regulators.

¹ The AIG Advisor Group combined three of its brokerages - SunAmerica Securities Inc., Sentra Securities Corporation and Spelman & Co. Inc. - into a new entity, AIG Financial Advisors Inc. Accordingly, for the purposes of this AWC, Kent's employer firm for the period of January 19, 2003 through December 7, 2007 will be referred to herein as "AIG."

000118257 2009

OVERVIEW

Kent was an owner and the vice president of CCLIC, an undisclosed outside business activity. In 2002, CCLIC was charged with finding financing for a real estate development project in Yoder, Colorado. Kent and various individuals, including AK, who was a principal of the Yoder project, were personally liable on bank loans from bank "X" to fund the Yoder, Colorado project. In 2003, the loans went into default. Kent and AK were both liable under one loan for approximately \$270,000.00 (plus contractually provided interest and fees). Kent was also liable under a separate loan for the Yoder, Colorado project in excess of \$50,000.00 (plus contractually provided interest and fees).

In or about 2004, following the default on the above referenced loans, Kent and AK commenced another real estate venture in Colorado Springs, Colorado. AK was to construct homes on three or four lots and Kent was to provide the necessary financing. AK ultimately named his construction company LG. Proceeds from this real estate project were to be applied towards the defaulted bank loans noted above. This outside business activity was not disclosed to AIG.

In 2004, Kent solicited his AIG customer, AC, to purchase, along with Kent and Kent's father, a vacant lot in Colorado Springs on which LG was to build a spec home. Subsequently, Kent introduced many of his AIG customers, including, but not limited to, AMH, DC and MC to AK and LG. Those customers, including, AC, AMH, DC and MC, did one or more of the following: (1) provided access to financing, (2) contributed funds and/or (3) purchased securities, namely promissory notes and stock, issued by LG. Kent did not disclose his participation in these activities to AIG and AIG never authorized Kent to engage in such conduct. AC, AMH, DC and MC invested approximately \$1,650,000.00 in this Colorado Springs real estate project by means of loans, promissory notes, stock purchases, and property purchases. Losses subsequently sustained by these individuals totaled approximately \$1,000,000.00.

Kent also financed lot purchases and construction costs for LG and in the process became a creditor of LG. Funds obtained from AC, AMH, DC and MC were used to reduce Kent's and AK's financial obligations to bank X and were applied towards amounts LG owed to Kent.

Kent failed to disclose to AC, AMH, DC and MC that he had a previous business relationship with AK, *i.e.*, the failed Yoder, Colorado project, and that as a result, both he and AK were indebted to bank X. Kent did not disclose to these customers that: LG was established for the purpose of providing funds to pay amounts owed to bank X; Kent was responsible for obtaining financing for LG; Kent was a creditor of LG; and, the customers' funds were being used to satisfy AK's and Kent's financial obligations to bank X and to reduce amounts LG owed Kent.

FACTS AND VIOLATIVE CONDUCT

1. Private Securities Transactions

In 2004 and 2005, Kent participated, outside the scope of his employment with AIG, in several private securities transactions involving purchases of LG promissory notes and LG shares by AIG customers AC, AMH, and DC and MC. These customers invested approximately \$285,000.00 in LG securities. Kent, who received compensation (as defined by Rule 3040(e)(2)) for his participation in the form of payments to bank X, failed to provide AIG with prior written notice of his proposed participation in these transactions and failed to receive prior written approval from AIG.

The aforementioned acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 3040 and 2110.

2. Outside Business Activities

From in or about 2002 through in or about 2005, Kent, while associated with AIG, was employed as an officer, director, managing member, manager and/or partner in CCLIC. Kent, however, failed to provide AIG with prompt written notice of his outside business activities with and on behalf of this company.

In 2004 and 2005, Kent solicited non-securities investments in LG from AIG customers AC, AMH, DC and MC in the approximate amount of \$1,365,000.00. Kent received compensation (as that term is used in Rule 3030) from LG in the form of the reduction of his financial obligation to bank X. Kent failed to provide AIG with prompt written notice of this outside business activity.

The aforementioned acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 3030 and 2110.

3. Negligent Omissions

In 2004 and 2005, Kent negligently failed to advise LG investors and AIG customers AC, AMH, DC and MC of material facts concerning LG and his involvement with the same. Specifically, prior to these individuals investing in LG, Kent failed to disclose to them that: he had a prior business relationship with AK; the relationship with AK resulted in a failed real estate project that left both men substantially indebted to bank X; LG was created for the purpose of satisfying the debt he and AK owed to bank X; he was actively involved in providing and obtaining financing for LG; he was a creditor of LG; and, funds

obtained from AC, AMH, DC and MC were used to re-pay bank X and/or to reduce the amounts LG owed him.

The foregoing acts, practices and conduct constitute separate and distinct violations of Conduct Rule 2110 by Kent.

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

A bar from association with any member of FINRA in any capacity.

Kent 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 Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, Kent 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).

Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

Kent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against him;
- 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, Kent 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.

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

Kent 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 him; and
- C. If accepted:
 - 1. this AWC will become part of Kent'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 Kent's disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rules 8310 and 8313; and
 - 4. Kent 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. Nothing in this provision affects Kent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

Kent 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 Kent has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce him to submit this AWC.

6-24-09
Date

Derek R. Kent
Derek R. Kent

Reviewed by:

[Signature]
Gene R. Thornton, Esq.
Counsel for Respondent
Gene R. Thornton, P.C.
2985 Broadmoor Valley Rd., Ste. 6
Colorado Springs, Colorado 80906

Accepted by FINRA:

7-14-09
Date

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

[Signature]
Heather Hawker
Senior Regional Counsel
FINRA Department of Enforcement
4600 S. Syracuse St., Suite 1400
Denver, CO 80237-2719
(303) 446-3110
heather.hawker@finra.org