

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2007008935001**

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

RE: David Much, Respondent
CRD No. 4095088

Pursuant to FINRA 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

Much has been in the securities industry since 1999. He joined SunAmerica Securities, Inc. (which merged with AIG Financial Advisors) in 2005, and worked in its El Segundo, California office until October 31, 2008. He now conducts business as an investment adviser, but has not been associated with a broker-dealer since leaving AIG Financial Advisors. He was registered as a Series 6, 63, and 65. He conducted mostly insurance business (under the name Much Financial Services, Inc.) but sold mutual funds as well until leaving AIG Financial Advisors.

OVERVIEW

While employed as a Series 6 registered representative, Much recommended that customers participate in a so-called "Stock to Cash" program under which customers would pledge stock to obtain loans, the proceeds of which were, in many cases, used to purchase non-securities insurance products. Fifteen of

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Much's customers participated in that strategy at his recommendation, obtaining forty-two loans totaling more than \$4.2 million.

Much failed to conduct adequate due diligence concerning the operations or financial stability of the Stock to Cash program lender and failed to take sufficient action to determine whether his clients' ownership interest in the pledged securities was adequately protected. As a result, Much did not understand the potential risks inherent in the strategy and therefore did not have a reasonable basis for his recommendations. He thus violated NASD Conduct Rules 2310 and 2110. In addition, he failed to notify the broker-dealer with which he was affiliated that he was engaging in these transactions, thereby violating NASD Conduct Rules 3040 and 2110.

FACTS AND VIOLATIVE CONDUCT

The "Stock to Cash" Program

Under the terms of the Stock to Cash program, customers obtained non-recourse loans from a non-broker-dealer company and "pledged" stock to that entity as collateral for the loans. The Stock to Cash program was marketed as a strategy that was designed to allow customers to participate in the upside appreciation in the value of their stocks while also supposedly retaining at least 90% of the full value of the stocks at the time of the initial pledge.

The "pledged" stock would be transferred to the loaning entity's securities account, which was maintained at a clearing firm. The loans were in amounts up to 90% of the value of the "pledged" stock and were typically for a short period of time, usually three years. No payments were required during the term of the loan; instead, customers would pay the full principal and interest due at the end of the loan term.

At the time the loan matured, customers supposedly had four options: (1) the customer could renew the loan for an additional time period; (2) the customer could pay the total amount due on the loan and reclaim the stock that had been pledged; (3) if the value of the pledged stock had increased above the total amount due on the loan, the customer could elect to receive a cash payment equal to this profit (i.e., the current value of the stock, minus the total amount due on the loan); or (4) if the total amount due on the loan exceeded the value of the pledged stock, the customer could "walk away" from the transaction, keeping the money that had been loaned and forfeiting his or her interest in the pledged stock.

Documentation used by the loaning entity made it appear that the entity was retaining the securities pledged by customers and might use those securities to

enter into hedging transactions.¹ The loaning entity also credited dividends paid on the pledged securities against a customer's loan balance. Despite this, however, when customers "pledged" stock as a part of the Stock to Cash program, they actually conveyed full ownership of their stock to the lender. That entity routinely sold the securities upon receipt and often moved the money into its own bank account. Moreover, although the lender's ability to perform its contractual obligations under the Stock to Cash program was largely dependent on the success of supposed hedging strategies, it was not always performing such activities.

By the spring of 2008, the lender became unable to make complete payments to customers with profitable portfolios. It instead used the proceeds from the sale of securities pledged by new customers to pay off its obligations to existing customers. In addition, money was diverted from the entity to pay for expenses not related to its operation. The entity stopped making all payments to customers in early 2009, and stopped making loans in the spring of 2009.

Much's Participation in the Program

Suitability Violation

Much recommended Stock to Cash loans to numerous customers while he was registered with AIG Financial Advisors, Inc./Sagepoint Financial, Inc. Fifteen customers accepted his recommendation, taking out forty-two loans more than \$4.2 million. All of these loans, which were for three years, were made between June 2007 and March 2008, during the time the lender was facing difficulties meeting its obligations and using the proceeds of the sale of customer stock to pay off other customers to which it owed money. Nearly all of these customers used the loan proceeds to purchase insurance products through Much, specifically fixed annuities. Much's compensation for his participation in the Stock to Cash program came from insurance commissions generated through the use of the loan proceeds.

Much first learned about the Stock to Cash program from a promoter of the program on an "adviser cruise" in January 2007. About a month or two later, Much participated in a webinar about the program, and signed a contract with the promoter to market the program. He began marketing Stock to Cash in May or June 2007. He presented the Stock to Cash strategy to about thirty clients or prospective clients, fifteen of whom decided to utilize it, pledging stocks that they

¹ The loaning entity claimed it might enter into "hedging" transactions using the customers' pledged stock as collateral. This would supposedly generate cash and, through the use of options strategies, allow the entity to return the stock, or sell it and pay the profits, to the customers at the end of the loan terms.

purchased on the recommendation of a registered representative at another firm in order to enter into the Stock to Cash loan.²

Much failed to conduct adequate due diligence or research regarding the lender or the promoter who vouched for the lender before recommending the Stock to Cash strategy to existing and potential clients. He instead relied on information available on the internet and statements and materials provided by the lender and promoter. He did not inquire as to what happened to the stock that was conveyed to the lender, and how the stock would be held or secured by the lender. He did not know, and did not seek to find out, whether the lender held the stock for the participants and did not know whether the lender could (as it in fact did) sell the stock as soon as it came in.

Because the Stock to Cash strategy involved in each case a pledge of stock, Much's advice to his clients constituted a recommendation of "the purchase, sale or exchange of any security," within the meaning of Conduct Rule 2310. As a registered representative, Much was obligated under Conduct Rule 2310 to have a reasonable basis for recommending that his customers pledge their stock to this lender to participate in the Stock to Cash program. A broker must understand the potential risks and rewards, as well as ensure that the customer understands the risks. In order to do so, the broker must obtain adequate information about the product or investment, and cannot rely solely on the unexamined representations of those promoting it. There is a particularly high need for substantial due diligence in dealing with unregistered and unregulated entities and products.

By failing to obtain and verify information about how the stock was held or secured, and whether the lender had the ability to fulfill its obligations, Much violated the requirement under Conduct Rule 2310 of having a reasonable basis for recommending the Stock to Cash strategy to his customers and potential customers.

Failure to Disclose Private Securities Transactions

Much failed to notify his firm about his marketing of the Stock to Cash program as required by Conduct Rule 3040. Under that rule, an associated person must provide written notice to his or her member firm *prior* to participating in any private securities transaction. A private securities transaction is defined in Conduct Rule 3040(e)(1) as "any securities transaction outside the regular course or scope of an associated person's employment with a member...."

² Much was not registered as a general securities representative.

Much began his participation in the Stock to Cash program without notifying his firm or seeking approval. Sometime after he began his participation, his supervisor learned of it by reviewing emails between Much and some of his customers. By approximately September 2007, the supervisor directed Much to disclose his participation in the program to the firm. Despite this direction, Much failed to provide notification until November 15, 2007, the day his supervisor's annual branch examination began. Thereafter, while his participation was being reviewed by the firm, Much continued to recommend transactions in the Stock to Cash program to customers or help to finalize such transactions. On December 19, 2007, the firm's sales practice unit told Much that he was not allowed to recommend Stock to Cash transactions.

* * *

Much recommended that his customer participate in the Stock to Cash program, which included a pledge of securities, without ascertaining the facts necessary to understand the potential risks inherent in the program. As a result, Much did not have a reasonable basis for his recommendation. Much therefore violated NASD Conduct Rules 2310 and 2110 (now FINRA Rule 2010). In addition, by failing to provide timely notice to his firm about his participation in the Stock to Cash program, Much violated NASD Conduct Rules 3040 and 2110.

B. I also consent to the imposition of the following sanctions:

1. a suspension from association with any FINRA member in any capacity for a period of five months; and
2. a fine in the amount of \$25,000.

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

The fine shall be due and payable either immediately upon reassociation with a member firm following the five month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier. Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

II.

WAIVER OF PROCEDURAL RIGHTS

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

Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive any right to claim bias or prejudice 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 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

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 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 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 FINRA Rule 8313; 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.
- F. I understand that if I am 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 suspension (see FINRA Rules 8310 and 8311).

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.

10/21/10
Date

[Signature]
Respondent

Reviewed by:
[Signature]

Joseph Edmondson, Jr.
Counsel for Respondent
Foley & Lardner, LLP
3000 K Street, N.W., Suite 600
Washington, DC
(202) 672-5354

Accepted by FINRA:

10/28/10
Date

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


Thomas B. Lawson
Vice President and Chief Counsel
FINRA Department of Enforcement
1801 K Street, N.W.
Washington, DC 20006