

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070093578**

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

RE: Arthur Kevin Gotzmer, Respondent
Former Registered Representative
CRD No. 4277144

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REGISTRATION & DISCLOSURE

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 Respondent 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

Respondent Arthur Kevin Gotzmer ("Gotzmer") (CRD No. 4277144) first became registered with a FINRA member organization in 2001. Gotzmer was a registered representative at Citigroup Global Markets Inc. ("Citigroup" or "the Firm") from on or about June 3, 2005 through on or about January 19, 2007, when he was terminated for "execut[ing] client trades without proper authorization." Gotzmer has not been associated with any member firm since his registration with Citigroup was terminated. By Form U-5 ("Uniform Termination Notice for Securities Industry Registration") filing dated January 25, 2007, the Firm reported Gotzmer's termination. FINRA retains jurisdiction over Gotzmer pursuant to Article V, § 4(a) of the By-Laws since the conduct which serves as the basis for this action commenced prior to his termination of registration from a member firm and this AWC is filed within two years after the effective date of his termination of registration from a member firm.

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RELEVANT DISCIPLINARY HISTORY

Respondent has no prior reported disciplinary history.

OVERVIEW

During the period from October 2006 through January 2007 (the relevant period), Gotzmer engaged in misconduct in various accounts that he serviced at the Firm. On six occasions, without authorization, he signed customers' names to account documents, for the purpose of enrolling their accounts in a fee-based program offered by the Firm. He entered unauthorized trades in nine customer accounts. For three customers, Gotzmer did not have reasonable grounds to believe that certain trades he entered in their accounts were suitable. The customers in whose accounts Gotzmer engaged in misconduct were mostly elderly customers with conservative investment objectives and inactive accounts. Of the 10 customers in this matter, six were aged 75 or above, and the four customers whose signatures Gotzmer forged were aged 65, 78, 88, and 91. Gotzmer's forgery of customer signatures and his entry of unauthorized trades violated NASD Rule 2110. By entering trades in customer accounts without having reasonable grounds to believe that the investments he purchased were suitable, Gotzmer violated NASD Rules 2310 and 2110. Gotzmer also failed to timely cooperate with Enforcement's investigation of this matter. This violated NASD Rules 8210 and 2110.

FACTS AND VIOLATIVE CONDUCT

Unauthorized TRAK-NAV Enrollments And Unauthorized and Unsuitable Trades

1. During the relevant period, the Firm offered a fee-based account program known as TRAK-NAV, for the purchase of mutual funds. Under the TRAK-NAV program, a registered representative assisted a customer in identifying the customer's objectives in mutual fund purchases, and the program identified a group of mutual funds, consistent with the customer's investment objectives, in which a chosen portion of the customer's portfolio would be invested. That an account was enrolled in the TRAK-NAV program did not give the registered representative discretionary authority to enter trades in a customer's account. A customer who had enrolled in TRAK-NAV paid no sales charge for the initial purchase of mutual funds within this program, and a customer paid no charges to subsequently sell those funds and roll the proceeds into other mutual funds in the TRAK-NAV program. In lieu of sales charges, a customer paid an annual fee of

approximately 1.5% of the portion of the customer's amount invested in the TRAK-NAV program.

2. Prior to October 2, 2006, Gotzmer serviced a traditional commission-based brokerage account owned by IS. On or about October 2, 2006, without IS's knowledge or authorization, Gotzmer signed her name, twice, to documents enrolling her commission-based brokerage account in the TRAK-NAV program, which allowed her account to invest in mutual funds under the TRAK-NAV program. Subsequently, between early October 2006 and early January 2007, Gotzmer entered approximately 12 unauthorized TRAK-NAV purchases, with a total value of approximately \$208,252, in the IS account.
3. Gotzmer also serviced the account of SK, the daughter of IS. Prior to September 4, 2006, SK's account was a traditional commission-based brokerage account. On or about September 4, 2006, without SK's knowledge or authorization, Gotzmer signed her name to documents enrolling her account in the TRAK-NAV program. Subsequently, in December 2006, Gotzmer entered the unauthorized purchase of a \$10,000 mutual fund position in SK's account. This trade was made outside the TRAK-NAV program and generated a sales fee of \$500.
4. Gotzmer also serviced the joint account of LLM and LSM. Prior to November 28, 2006, this account was a traditional commission-based brokerage account. On or about November 28, 2006, without the customer's knowledge or approval, Gotzmer signed LLM's name, twice, to documents enrolling the account in the TRAK-NAV program. Subsequently, between late November 2006 and early January 2007, Gotzmer entered approximately four unauthorized purchases in the TRAK-NAV account, totaling approximately \$80,786, in the joint account.
5. Gotzmer also serviced the account of JK. JK was a retired individual who did little or no trading. Prior to January 3, 2007, the JK account was a traditional commission-based brokerage account. In the period from November 2006 through early January 2007, Gotzmer entered three purchases of mutual funds in JK's accounts, in positions of \$34,000, \$40,000, and \$30,000. These purchases were made on a commission basis and generated sales fees of \$847, \$1,600, and \$1,200, respectively. Gotzmer subsequently closed out these positions, in whole or in part, in early January 2007.
6. As JK's registered representative, Gotzmer was responsible for ensuring that her investments were suitable, and he was required to have reasonable grounds for believing that the investments he entered in JK's account were suitable, in light of her financial situation and needs. Given the short term for which these positions were held and the sales fees that these transactions incurred, these investments were not suitable for the customer, and Gotzmer had no reasonable basis for believing that they were suitable.

7. On or about January 3, 2007, without JK's knowledge or authorization, Gotzmer signed her name to documents enrolling her account in the TRAK-NAV program. Subsequently, in early January 2007, without JK's knowledge or authorization, Gotzmer entered an unauthorized purchase in the TRAK-NAV program of approximately \$92,027 in JK's account.

Unauthorized and Unsuitable Mutual Fund Trades

8. Gotzmer also serviced the account of CM. CM was retired, her investment objectives were moderate to conservative, and she did very little trading. CM's account was a traditional commission-based brokerage account. Between late November 2006 and early January 2007, Gotzmer entered in CM's account five unauthorized sales of mutual funds (in positions of \$5,029, \$6,703, \$20,000, \$10,000, and \$8,666) and five unauthorized purchases of mutual funds (in positions of \$6,703, \$14,796, \$20,000, \$10,000, and \$8,000). Some of these purchases generated sales fees, which totaled approximately \$2,112.
9. As CM's registered representative, Gotzmer was responsible for ensuring that her investments were suitable, and he was required to have reasonable grounds for believing that the investments he entered in CM's account were suitable, in light of her financial situation and needs. Given the short term for which these positions were held overall, the fact that they represented short-term switches between mutual funds that should appropriately have been held for a longer term, and the sales fees that these transactions incurred, these investments were not suitable for the customer, and Gotzmer had no reasonable basis for believing that they were suitable.
10. Gotzmer also serviced an account owned by JL. JL's account was a traditional commission-based brokerage account. In December 2006, Gotzmer entered in JL's account the unauthorized purchase of a mutual fund position of \$7,600, generating a sales fee of \$380. He subsequently sold this position in a second unauthorized trade in January 2007, approximately 16 days later.
11. As JL's registered representative, Gotzmer was responsible for ensuring that her investments were suitable, and he was required to have reasonable grounds for believing that the investments he entered in JL's account were suitable, in light of her financial situation and needs. In light of the short term for which these positions were held and the sales fees that these transactions incurred, these investments were not suitable for the customer, and Gotzmer had no reasonable basis for believing that they were suitable.

Unauthorized Trades

12. Gotzmer also serviced the account of ARP. In December 2006, Gotzmer entered the unauthorized sale of a mutual fund position of \$28,000 in ARP's account. This sale was made on a commission basis.
13. Gotzmer also serviced the account of EK. During the relevant period, the EK account was enrolled in the Firm's Guided Portfolio Management program, a fee-based program which granted limited discretionary authority to the registered representative servicing an account. On or about January 16, 2007, without authorization to do so, Gotzmer entered a portfolio liquidation order in EK's account. This resulted in the sale of approximately 43 stocks and mutual funds, with a value of approximately \$77,073. The limited discretionary authority that Gotzmer held did not extend to such a transaction.
14. While employed at the Firm, Gotzmer serviced the account of WT. During the relevant period, the WT account was enrolled in the Guided Portfolio Management program. On or about January 17, 2007, without authorization to do so, Gotzmer entered a portfolio liquidation order in WT's account. This resulted in the sale of approximately 44 positions in stocks and mutual funds, with a value of approximately \$40,982. The limited discretionary authority that Gotzmer held in the WT account did not extend to such a transaction.
15. As set forth above, Gotzmer's forgery of customer signatures and his entry of unauthorized trades violated NASD Rule 2110, which requires that registered representatives observe high standards of commercial honor and just and equitable principles of trade. Gotzmer's entry of unsuitable trades violated NASD Rules 2110 and NASD Rule 2310, which requires that in recommending the purchase of any security, a registered representative shall have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by such customer as to the customer's other security holdings and as to the customer's financial situation and needs.

Failure to Timely Cooperate

16. After receiving notice of Gotzmer's termination, Enforcement subsequently opened an investigation of this matter. By letter dated August 14, 2007, pursuant to NASD Rule 8210, Enforcement requested that Gotzmer supply a detailed written statement responding to allegations of possible unauthorized trading, no later than August 29, 2007. Although Gotzmer received this letter, and left telephone messages relating to it, he did not supply the detailed written explanation sought by Enforcement. By letter dated September 4, 2007, which Gotzmer also received, Enforcement again requested that Gotzmer supply, no later than September 14, 2007, a detailed written explanation relating to this

matter. Although Gotzmer received this letter, and telephonically informed Enforcement that he would reply, he did not supply the detailed written statement that Enforcement had requested.

17. On or about October 10, 2007, Enforcement notified Gotzmer that, based on his failure to supply information requested by FINRA, he would be suspended from association with any FINRA member, effective November 5, 2007, pursuant to the non-summary suspension provisions of NASD Rule 9552. Subsequently, by fax dated October 11, 2007, Gotzmer supplied a written statement relating to the allegations as to which Enforcement had sought an explanation, and the suspension therefore did not take effect. Gotzmer subsequently testified before Enforcement concerning this matter.
18. Gotzmer's failure to comply in a timely manner with Enforcement's requests for a detailed written statement violated NASD Rule 2110 and NASD Rule 8210, which requires that no person associated with a member or subject to FINRA jurisdiction shall fail to provide information for the purpose of an investigation conducted by FINRA.

- B. Respondent also consents to the imposition of the following sanction: a bar from association with any FINRA member in any capacity.

Respondent 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, Respondent 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).

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

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 him; 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 his 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.

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 Respondent to submit it.

12/18/08

Date

[Signature]

Respondent

Accepted by FINRA:

12/31/08

Date

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

Susan Light

Susan Light
Senior Vice President and Chief Counsel
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