

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2007009414201**

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REGISTRATION & DISCLOSURE

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

RE: Christopher Guenther ("Guenther"),
Registered Representative
CRD No. 3047778

Pursuant to NASD Rule 9216 of the FINRA Code of Procedure, Guenther submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Guenther alleging violations based on the same factual findings.

I.

ACCEPTANCE AND CONSENT

- A. Guenther 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

In 1998, Guenther first registered with FINRA¹ as a registered representative at Morgan Stanley Dean Witter Incorporated. In 2003, Guenther was hired as a registered representative at UBS Financial Services, Incorporated ("UBS" or the "Firm") at the Firm's Beachwood Ohio, branch office.

On November 21 2005, UBS filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") reporting that it terminated Guenther's employment because he engaged in an outside business activity without the approval of his member firm employer.

In November 2006, Guenther became a registered representative at Ameriprise Financial Services Incorporated, a FINRA member firm where he is currently employed.

¹ In July 2007, certain divisions of NYSE Regulation Inc. and NYSE and the NASD merged to form FINRA.

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Guenther has no relevant disciplinary history.

OVERVIEW

During the period of April to November 2005, Guenther participated in the creation and management of a hedge fund called Dynamic Return LLC ("Dynamic Return"). Unbeknownst to the Firm, Guenther solicited certain Firm customers to invest in Dynamic Return and sent one customer unapproved correspondence concerning the hedge fund. Guenther also recommended that one of these customers invest in Dynamic Return, even though the hedge fund was unsuitable for the customer.

Additionally, Guenther improperly switched one of these customers from a fee-based account to a commission-based account in direct contravention of that customer's specific instructions. Further, Guenther effected unauthorized trades in that customer's account, resulting in additional commission charges and significant losses. Guenther also made certain misstatements to Enforcement.

FACTS AND VIOLATIVE CONDUCT

1. Private Securities Transactions

NASD Rule 3040(b) provides, in pertinent part, that "prior to participating in any private securities transaction, an associated person shall provide written notice to the member with which he is associated describing in detail the proposed transaction and the person's proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction; provided however that, in the case of a series of related transactions in which no selling compensation has been or will be received, an associated person may provide a single written notice."

Dynamic Return was a hedge fund established and operated by Guenther without the knowledge or prior approval of UBS. According to Dynamic Return's Private Placement Memorandum ("PPM"), dated October 1, 2005, Dynamic Return was "offering for sale limited liability company units (the "Units") at a price of \$25,000 each." The PPM further states that "there is no public market for the Units, and such a market will not develop."

On or about August/September 2005, Guenther solicited a UBS customer, SP to invest in the hedge fund Dynamic Return. Guenther informed SP that he was planning to leave UBS to run the hedge fund. On or about August/September 2005, Guenther also solicited another UBS customer, CS to invest in Dynamic Return. Guenther also liquidated municipal bonds in CS' UBS account and used the proceeds to invest \$100,000 in Dynamic Return. Guenther later informed CS that he was managing Dynamic Return. Guenther neither provided written notice to, nor obtained written permission from the Firm to solicit SP and CS to engage in a private securities transaction involving Dynamic Return.

Such acts, practices and conduct constitute violations of NASD Rule 3040(b) by Guenther. Such conduct is also inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Rule 2110 by Respondent Guenther.

2. Unauthorized Trading

IM-2310-2(b)(4)(a)(iii), in pertinent part, prohibits "causing the execution of transactions which are unauthorized by customers."

On or about May 2003, SP opened several individual retirements accounts with Guenther at UBS including a fee-based account called UBS InsightOne ("InsightOne"). SP did not give Guenther any written discretionary authority to trade in his accounts.

On or about June 2005, Guenther, without obtaining SP's permission, transferred SP from the InsightOne account to a commission-based Individual Retirement Account ("commission-based account") and began making unauthorized trades in the account. Guenther also sold securities from SP's UBS retirement accounts without authorization and transferred those funds into the commission-based account. For example, on or about October 14, 2005, Guenther transferred over \$200,000 from three of SP's UBS retirement accounts to the commission-based account.

Between May and November 2005, Guenther made approximately 118 unauthorized trades consisting of 11 unauthorized trades in SP's InsightOne account and 107 unauthorized trades in his commission-based account, causing the accounts to sustain trading losses of approximately \$25,300 and commission fees of approximately \$34,220.

Such conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade and constitute a violations of NASD Rule 2110 and IM-2310-2(b)(4)(a)(iii) by Guenther.

3. Transfer of Customer Account From a Fee-Based to Commission-Based Account without Customer Authorization

Upon opening his InsightOne account at UBS, SP informed Guenther that he did not want a commission-based account. However, despite specific customer instructions to the contrary, Guenther transferred SP from the InsightOne account into a commission-based account without SP's knowledge or authorization.

Between May 2003 and May 2005, when SP held the InsightOne account, he paid approximately \$2,649 in fees attributable to his InsightOne account. However, between June and November 2005, after Guenther transferred SP to a commission-based account and engaged in unauthorized trading in the account, SP incurred approximately \$34,220 in commission fees.

Guenther placed SP in a commission-based account with a fee structure that could reasonably have been expected to result in a greater cost than the fee-based account, without regard to SP's fee structure preferences.

Such conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Rule 2110 by Guenther.

4. Sending Unapproved Correspondence

On or about October 25, 2005, Guenther sent an e-mail to customer SP from Guenther's own personal e-mail address concerning certain documents in connection with investing in Dynamic Return. Guenther's e-mail correspondence was not reviewed or approved by UBS.

Such conduct is inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Rule 2110 by Guenther.

5. Unsuitable Transaction

NASD Rule 2310 provides, in pertinent part, that "in recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs...."

CS is a 63-year-old retired horse trainer, who lived with her husband, a machinist. In May 2003, CS opened a joint UBS account with her husband, using the funds she inherited from her father. According to CS's new account forms, her and her husband's primary risk objective was conservative, secondary risk objective was moderate and their return objective was current income. CS and her husband only had two years of prior experience investing in stocks and bonds and wanted to use their portfolio for retirement.

On or about August/ September 2005, Guenther solicited CS to invest in the hedge fund Dynamic Return. Guenther told CS that Dynamic Return was a wonderful investment that would yield seven to ten percent annually. Guenther, however, did not inform CS that Dynamic Return was a highly risky and speculative investment.

CS invested approximately \$100,000 in Dynamic Return. Guenther was aware that CS and her husband were conservative investors, had little investment experience and that they intended to use their portfolio for retirement purposes. Yet Guenther, nonetheless, solicited and recommended to CS that she invest in Dynamic Return, which he knew was a highly risky and speculative investment and inconsistent with CS's investment objectives and financial situation.

Such acts, practices and conduct constitute violations of NASD Rules 2310 by Guenther. Such conduct is also inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Rule 2110 by Guenther.

6. Misstatements to Enforcement

NASD Rule 8210 provides that "for the purpose of an investigation, complaint, examination, or proceeding authorized by the NASD By-Laws or the Rules of the Association, an Adjudicator or Association staff shall have the right to: (1) require a member, person associated with a member, or person subject to the Association's jurisdiction to provide information orally, in writing, or electronically (if the requested information is, or is required to be, maintained in electronic form) and to testify at a location specified by Association staff." Under NASD Rule 8210, the information provided must be true.

During an on-the-record interview on December 21, 2007 with Enforcement pursuant to NASD Rule 8210, Guenther claimed that he switched UBS customer SP from the InsightOne account to a commission-based account because UBS policies would have prohibited SP from participating in initial public offerings ("IPOs") and secondary offerings if the syndicate fee exceeded the commission charged in the account. These statements were not true.

Such acts, practices and conduct constitute violations of NASD Rule 8210 by Guenther. Such conduct is also inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Rule 2110 by Guenther.

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

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

I understand that if I am suspended or barred from association 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. Pursuant to NASD IM-8310-3(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

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 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.

I 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

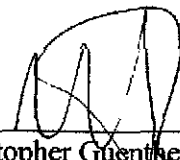
I understand that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it have been review 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 inquires 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 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 positions in any proceedings 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 any right to take legal or factual positions in litigation or other legal proceeding in which FINRA is not a party.

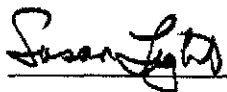
I certify that I have read and understood all of the provisions of this AWC and have been given a full opportunity to ask questions about it, that I have agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, have been made to induce me to submit it.

July 30, 2008
Date


Christopher Guenther, Respondent

Accepted by FINRA:

August 27, 2008
Date



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