

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2007009419401**

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

RE: Howard R. Gurvitch, Respondent
Registered Representative
CRD No. 1371464

Pursuant to NASD Rule 9216 of FINRA Code of Procedure, I, Howard R. Gurvitch ("Gurvitch"), 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

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

In or about April 1985, Gurvitch entered the securities industry. In April 1987, Gurvitch joined Bear Stearns & Co., Inc. ("Bear Stearns" or the "Firm"), a member of FINRA, as a Vice President in its Investment Banking division. In July 2001, Gurvitch joined Bear Stearn's Private Client Services Group ("PCS") as a Managing Director. In July 2001, while continuing to serve Bear Stearns as a registered representative, Gurvitch also became President of Next Capital Management, LLC ("Next"), a registered investment advisory that was affiliated with Bear Stearns. Gurvitch remained employed at Bear Stearns until November 2005. Gurvitch is not currently employed in the securities industry.

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FACTS**VIOLATIVE CONDUCT BY RESPONDENT**

From 2003 through 2005 (the "Relevant Period"), Gurvitch referred five customers to a third-party hedge fund adviser without providing written notification to his member firm employer that he was participating in private securities transactions. The five customers invested approximately \$11.7 million with the third-party hedge fund adviser. In 2005, the third-party hedge fund adviser compensated Gurvitch approximately \$144,048 for the customer referrals.

Based on the foregoing, Gurvitch violated NASD Conduct Rules 3040 and 2110.

I also consent to the imposition of the sanctions of a fine in the amount of \$154,048, of which \$144,048 represents disgorgement of compensation received from a third-party hedge adviser for customer referrals and a suspension for six months from association with any FINRA member in any capacity.

The fine shall be due and payable either immediately upon reassociation with a member firm following the six 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.

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

I understand that if I am barred or suspended from associating with any FINRA member, I become subject to 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.)

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 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 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-8310-2; 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.

Nov 5 2007
Date


Howard R. Gurvitch

Accepted by FINRA:

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

11/7/07
Date


Anthony Cavallaro
Vice President
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