

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070108308

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RESTRICTED DISCLOSURE

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

RE: Michael A. Thome, Respondent
General Securities Representative
CRD No. 4728845

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

Michael A. Thome entered the securities industry in December 2003, when he was associated with a FINRA member as a General Securities Representative. Thome was subsequently registered with Edward Jones ("the Firm") from October 2005 to April 2007. He was associated with other FINRA member firms until April 2008, including TD Ameritrade, from which he was terminated. Thome is not currently registered with any FINRA member and has no disciplinary history.

OVERVIEW

Thome misappropriated a total of \$435,000.00 received from a former customer that Thome was to invest in certain partnerships, in violation of NASD Conduct

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Rule 2110. Thome also failed to provide information in response to FINRA's requests for information in violation of NASD Rule 8210 and NASD Conduct Rule 2110.

FACTS AND VIOLATIVE CONDUCT

1. From October 27, 2005 to June 1, 2006, while associated with the Firm, Thome received from CJ, his former customer at another firm, four checks totaling \$150,000.00 to invest in a real estate partnership with Thome involving two real properties Thome owned (Real Properties). Thome promised CJ a certain rate of return, payable monthly, and a percentage of the profits when the Real Properties sold. Thome did not invest the funds in the Real Properties. Rather, Thome misappropriated the funds and used them to pay his personal expenses and to make purported interest/return of principal payments to CJ in the amount of \$15,230.00. CJ has not otherwise received a return of her money.

2. From August 1, 2006 to October 6, 2006, while associated with the Firm, Thome received from CJ two checks totaling \$285,000.00 to invest in a purported business partnership with Thome related to his employment with Edward Jones. Thome promised CJ a 20% return on her investment, paid quarterly in the amount of \$15,000.00, and provided a partnership agreement and promissory note in the amount of \$300,000.00 to be secured by the Real Properties. However, Thome did not invest the funds in any partnership related to Edward Jones, nor did he secure her investment in the Real Properties. Thome used the funds to pay his personal expenses and to make a purported interest payment to CJ in the amount of \$17,632.50 in January 2007. CJ has not otherwise received a return of her money. The Real Properties were foreclosed on in November 2006.

Thome's misappropriation and use of CJ's funds as set forth in paragraphs 1 and 2, constitutes a violation of Conduct Rule 2110.

3. On August 14, 2008, FINRA staff sent Thome a written request for information pursuant to NASD Rule 8210 regarding matters arising out of the transactions with CJ as well as the basis for his termination from TD Ameritrade. Although Thome provided a written response to FINRA on August 18, 2008, the response was inadequate as it failed to provide the requested information. On August 21, 2008, Thome informed FINRA staff that he would not be responding further to any requests for information from FINRA.

Thome's failure to provide information constitutes a violation of NASD Rule 8210 and Conduct Rule 2110.

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

A bar from association with any FINRA member in any capacity; and an order to pay restitution to CJ in the amount of (a) \$134,770, plus interest at the rate set forth in

Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from June 1, 2006, until the date of payment; and (b) \$267,367.50 plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from October 6, 2006, until the date of payment. Restitution amounts ordered, pursuant to this disciplinary action, are due and payable immediately upon reassociation with a member firm following the 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. The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies. If for any reason Respondent cannot locate CJ after reasonable and documented efforts within such period, or such additional period agreed to by the staff, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property, or abandoned property fund for the state in which the customer is last known to have resided.

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.

I understand that if I am barred or 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 bar or suspension (see FINRA Rules 8310 and 8311).

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 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 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.

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.

7/27/09

Date

Michael A. Thome

Michael A. Thome

Accepted by FINRA:

8/20/09

Date

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

Karrin J. Feemster

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