**FINANCIAL INDUSTRY REGULATORY AUTHORITY**
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**
**NO. 20080134434**

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

RE: Michael J. DiMare, Respondent
Registered Representative
CRD No. 2390335

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. 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 J. DiMare ("DiMare" or "Respondent") was born in 1959 and entered the financial industry in 1992 with John Hancock Mutual Life Insurance Company ("John Hancock") and its broker-dealer, Signator Investors, Inc. ("Signator") as a registered representative in Jacksonville, Florida. In June 2006, DiMare left John Hancock. In October 2006, DiMare became employed as a registered representative at ING Financial Partners, Inc. ("ING") in Ponte Vedra Beach, Florida. DiMare remained employed with ING until May 7, 2008 when his employment was terminated for engaging in unauthorized private securities transactions and issuing fictitious bonds to at least one individual.

DiMare has been registered with FINRA and its predecessor self-regulatory organization, the NASD, from November 1993 until May 2008.

## OVERVIEW

While employed at John Hancock, Respondent converted and misappropriated customer funds by obtaining customer checks that were intended for investment purposes. He also made material misrepresentations to his customers in order to induce them to invest their funds in fictitious certificates of deposit ("CD") and tax-free corporate bonds. In addition, while employed at ING, the Respondent made false statements to certain customers regarding the status of his employment at John Hancock even though he had left the Firm. Furthermore, the Respondent created fictitious documents, including account statements, in furtherance of his misappropriation.

## FACTS AND VIOLATIVE CONDUCT

NASD Conduct Rule 2110 – Respondent engaged in conduct inconsistent with just and equitable principles of trade in that he misappropriated customer funds for his own personal use.

NASD Conduct Rules 2330(a) and 2110 – Respondent misappropriated customer's funds.

NASD Conduct Rule 2110 – Respondent engaged in conduct inconsistent with just and equitable principles of trade in that he falsified documents, including account statements that he provided to his customers.

NASD Conduct Rule 2110 – Respondent engaged in conduct inconsistent with just and equitable principles of trade in that he made false statements to his customers in furtherance of his misappropriation.

### A. MISAPPROPRIATION AND CONVERSION OF CUSTOMER FUNDS

Between 1992 and June 2006, the Respondent was employed as a registered representative and later, as a sales manager at the Jacksonville, Florida branch office of John Hancock. In June 2006, the Respondent voluntarily resigned from John Hancock for personal reasons. In October 2006, the Respondent became employed at ING as a registered representative/insurance agent. Between June 2006 and May 2008, the Respondent represented to at least 14 customers that he was still an employee of John Hancock. Some of his customers were John Hancock customers that he had previously represented while employed at John Hancock. Other customers had no previous relationship with John Hancock.

Between 2001 and 2008, the Respondent misappropriated and converted approximately $1.935 million in customer funds while he was an employee of first, John Hancock, and thereafter, ING.

Typically, the Respondent offered these customers the opportunity to invest in either a purported tax-free corporate bond or, alternatively, a CD that paid a high rate of interest. The Respondent represented to his customers that the interest rates on these investments were between 6 and 14% annually. Furthermore, the Respondent claimed that the investment was an offer limited to certain John Hancock customers. The Respondent told his customers that the funds invested in these instruments could not be withdrawn for a certain period of time, usually between 6 and 12 months.

Between 2001 and 2008, the Respondent obtained numerous customer checks from 14 separate customers, in person at their homes in connection with the purchase of the fictitious CDs and tax-free corporate bonds. All of the checks were payable to John Hancock and endorsed either "For Deposit" or "For Deposit – John Hancock." The Respondent never deposited the customer checks with John Hancock. Instead, the customer checks were deposited in the Respondent's bank account, many after the Respondent's employment with John Hancock had ended.

In April 2008, some of the Respondent's customers contacted John Hancock concerning their investments. John Hancock began an investigation into the Respondent's activities. John Hancock then contacted ING. On May 7, 2008, ING terminated Respondent's employment.

Accordingly, the Respondent, by converting John Hancock customer funds, violated NASD Rules 2330(a) and 2110. Furthermore, the Respondent violated NASD Rule 2110 by misappropriating the funds of his customers.

## B. CREATING FRAUDULENT DOCUMENTS AND ACCOUNT RECORDS

Between May 2007 and August 2008, several of the Respondent's customers had begun requesting documentation concerning their supposed investments. In response, the Respondent provided documents to them purporting to be John Hancock account statements. The customers received these fictitious account statements from the Respondent, either personally or through the mail. These documents varied from legitimate John Hancock account statements in a number of ways, including the placement of the John Hancock emblem and the use of account numbers (HY-DCA) that were not issued by John Hancock and displayed positions in the fictitious tax-free corporate bonds and CDs. In addition, the Respondent also created, what purported to be, an internal John Hancock letter addressed to himself concerning the purported tax-free corporate bond that he then provided to at least one of his customers in furtherance of his misappropriation.

Accordingly, the Respondent, by creating false documents, violated NASD Rule 2110.

## C. MISREPRESENTATIONS TO CUSTOMERS

Between 2001 and 2008, the Respondent made multiple oral misrepresentations of facts to at least six customers, specifically, that John Hancock was selling CDs and tax-free corporate bonds that paid between 6% and 14% per annum. Both the CDs and the tax-free corporate bonds were fictitious.

In addition, the Respondent claimed to be employed by John Hancock until 2008, even though he had actually left the Firm in June 2006. This enabled the Respondent to conceal his conversion of customer funds until 2008 because customers believed their funds were being earmarked to John Hancock when they were not. In addition, during a period that he was employed at ING, the Respondent was also able to induce other individuals who had no previous business relationship with John Hancock into investing in fictitious tax-free corporate bonds and/or CDs by claiming to be a John Hancock employee.

Accordingly, the Respondent, by making false statements to his customers in furtherance of his misappropriation, violated NASD Rule 2110.

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

A bar from association with any FINRA member in all capacities.

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).

The fine shall be due and payable either immediately upon reassociation with a member firm following the 30 business day 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. The sanctions imposed herein shall be effective on a date set by FINRA staff.

## 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;

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 Respondent;

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 take 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; and

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. The terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce Respondent to submit it.

3. 21. 10
Date

Michael J. DiMare, Respondent

Review by:

Thomas M. Bell
The Law Office of Thomas M. Bell
515 Newnan Street
Jacksonville, Florida 32202

Accepted by FINRA:

3/26/10
Date

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

Linda S. Riefberg
Vice President
FINRA Department of Enforcement
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