

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20080145835**

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

RE: David Alan Tucker
General Securities Representative
(CRD No. 3212328)

RECEIVED
2008 NOV 17 A 8:16
REGISTRATION & DISCLOSURE

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, David Alan Tucker ("Tucker"), 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

Tucker entered the securities industry in April 1999 as a registered representative for the Daytona Beach, Florida office of ProEquities, Inc. ("ProEquities" or the "Firm"), a FINRA regulated broker/dealer. After his employment termination in December 2007, Tucker began employment at another FINRA regulated broker/dealer from January 2008 until April 2008. Tucker is currently not associated with a FINRA regulated broker/dealer.

OVERVIEW

From July 2007 until September 2007, while employed at the Firm, Tucker engaged in radio broadcasts with the public on at least nine occasions, and placed a print advertisement, without the approval of a Firm registered principal in violation of NASD Rule 2210(b). Each radio broadcast and

000008321 2009

the print advertisement also violated the content standards of public communications in violation of Rule 2210(d).

FACTS AND VIOLATIVE CONDUCT BY RESPONDENT

NASD Conduct Rule 2210(b)(1) requires that each advertisement, item of sales literature and independently prepared reprint be approved by a registered principal of a regulated broker/dealer before the earlier of its use or filing with FINRA's Advertising Regulation Department.

Conduct Rule 2210(d) prohibits members from making exaggerated, unwarranted, or misleading statements or claims in public communications. All public communications must be based on principles of fair dealing and good faith, must be fair and balanced, must provide a sound basis for evaluating the facts discussed, and must not omit any material fact or qualification that would cause the communication to be misleading in light of the context of the material presented. In addition, Conduct Rule 2210 prohibits the use of testimonials unaccompanied by disclosure statements.

Prior Knowledge of Firm Policies Concerning Radio Appearances

In or about October 2006, Tucker made an unapproved, one-time guest appearance on a local radio broadcast under the mistaken belief that since it was not his own radio show, Firm approval was unnecessary. As a result, in November 10, 2006, the Firm issued Tucker a letter of caution for his unapproved appearance.

Violative Conduct: Radio Appearances

Between July 2007 and September 2007, Tucker again participated in nine unapproved radio shows (the "Radio Shows") which were entitled "Financial Strategies with David Tucker," each lasting thirty minutes and appearing on a local Florida radio station. In each of the nine shows, Tucker made statements which omitted material information, failed to provide a balanced presentation and/or were exaggerated, unwarranted and promissory in violation of NASD Rule 2210(d). For example:

In a July 2, 2007 radio show, Tucker stated "...and I can show you some indexing strategies that we've used for several clients that produced gains in the last year from a low of 15.4% to a high of over 34%. We just got our June statements for our clients, and for the month of June, several of them earned well over 34%." This statement omitted material information such as the elements used to calculate the return, the time period in which the returns were achieved, the general market conditions

during the time period, the number of accounts that achieved these returns and an indication of the performance of accounts that did not achieve the touted returns.

In a August 26, 2007 radio show, Tucker at one point discussed equity indexed annuities (EIA) and made statements such as "... your principal and your earned interest is protected against loss ... and your deposits and possible bonuses are never subject to market risk and a downturn in the stock market cannot have a negative impact on your policy values. And once annual gains are accredited to the annuity they can never be lost due to market volatility." Tucker's statements, however, failed to explain any of the factors that would be necessary to evaluate EIAs as an investment. Tucker also omitted material information, such as the fact that it is possible to lose money with an EIA investment, that not all EIAs guarantee a 100% return of principal and any guarantee made with EIA investments are based on the claims paying ability of the issuer.

In a September 9, 2007 radio show, Tucker made the following statements which were unwarranted, promissory and misleading:

"[a]n indexed annuity is just like most other annuities in that your deposit is protected against loss...." Tucker failed to indicate that an investor can, in fact, lose their investment in an indexed annuity.

"[s]o your potential returns are higher than a traditional fixed annuity or CD's [sic] or Bonds, or any other safe money product." This statement failed to provide a balanced presentation of the advantages and disadvantages of investing in indexed annuities, CDs and bonds.

"[y]our deposit and possible bonus's [sic] are never subject to market risk and cannot have a negative impact on the policy values within that indexed annuity."

"...but I don't think to [sic] many people would be upset with an almost 40% return."

Violative Conduct: Print Advertisements

On or about August 2007, Tucker also placed a print advertisement in a local newspaper, the Daytona News Journal, which failed to provide a sound basis for certain claims. Specifically, a promissory statement appeared in the print advertisement inquiring "[a]sk us how to guarantee income for life," which was unwarranted and in violation of NASD Rule 2210(d).

No Approval by a Registered Principal

Tucker engaged in the above radio broadcasts with the public and placed the above print advertisement without the approval of a Firm registered principal, in violation of NASD Rule 2210(b).

- B. I also consent to the imposition of the following sanctions: a suspension of 20 days and a fine in the amount of \$5,000.

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.)

I agree to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

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 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 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.

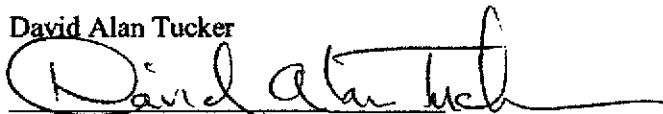
OTHER MATTERS

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.
- 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.

David Alan Tucker



9-24-09

Date

Reviewed by:



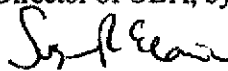
Philip J. Snyderburn, Esq.
Counsel for Respondent
Snyderburn, Rishoi & Swann
258 Southhall Lane, Suite 420
Maitland, Florida 32751

Accepted by FINRA:

11-16-09

Date

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



Chun Li, Senior Attorney
Scott Andersen, Director
Suzanne Elovic, Chief Counsel
FINRA Department of Enforcement
14 Wall Street
New York, New York 10005
(646) 315-7360