

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2008015218401**

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

RE: Tracy L. Clifford, Respondent
Registered Representative (CRD # 2242393)

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Tracy L. Clifford ("Clifford") 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. Respondent 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

Tracy L. Clifford was born in [REDACTED] and first became registered with FINRA in 1992 as a General Securities Representative (Series 7). He worked as a registered representative in the Indianapolis, Indiana office of Raymond James & Associates, Inc. ("Member Firm" or "the Firm") from March 16, 2004 to September 9, 2008. He has not worked for a member firm since that date. Clifford currently holds Series 3, Series 7, Series 9, Series 10 and Series 63 licenses.

RELEVANT DISCIPLINARY HISTORY

On July 9, 2009, FINRA suspended Clifford's license for failing to comply with an arbitration award and failing to respond to FINRA's requests to provide information concerning the status of the arbitration. The arbitration arose from Member Firm's efforts to recover \$25,000 that it had previously paid to Clifford as a retention bonus. Clifford did not respond to the arbitration notices, and a judgment was awarded against him for \$28,759.30.

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OVERVIEW

Clifford borrowed \$150,000 from two customers in violation of NASD Rules 2370 and 2110 and failed to respond to FINRA's requests for information in violation of NASD and FINRA Rule 8210, NASD Rule 2110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

NASD Rule 2370 prohibits associated persons from borrowing money from customers except where the member firm has written procedures permitting the borrowing and unless certain other conditions are met. Here, Member Firm had written policies prohibiting associated persons from borrowing money from clients and permitting loans only in rare circumstances where there was disclosure to and advanced approval from the Firm. In mid-2007, without his Firm's approval and without satisfying the conditions of Rule 2370, Clifford borrowed \$100,000 from client RM and \$50,000 from client SM. Specifically, Clifford received checks that were payable to him in exchange for promissory notes identifying the clients as the "Holder and Lender" and Clifford as the "Borrower". Under the notes, interest was to accrue at a rate of 10% per year, and the notes were payable at maturity -- on December 31, 2009. The notes also contained a provision allowing the clients, at any time prior to the maturity date, to convert the principal amount plus the accumulated interest into common shares of a privately-held technology company.

In September 2008, one of the clients contacted Clifford to "call in" his note, and learned that Clifford did not have sufficient funds to re-pay the debt. The client sent a letter to Member Firm's Compliance Department attaching a copy of the promissory note and the cancelled check. Prior to this time, Member Firm had not known about either of the loans because Clifford had not disclosed his activities. After an internal review, Member Firm terminated Clifford's employment in September 2008. The following month, Member Firm settled with the clients for \$156,611.24.

Between October 2008 and June 2009, FINRA sent five letters to Clifford requiring him to produce documents and other information pursuant to NASD and FINRA Rule 8210 as follows: Pursuant to NASD Rule 8210, FINRA sent a request letter for documents and information on October 20, 2008. When it received no response by the due date, FINRA sent a follow-up request pursuant to NASD Rule 8210 on December 3, 2008. Clifford again failed to respond. Thereafter, pursuant to FINRA Rule 8210, FINRA sent to Clifford (i) a request letter for documents and information on April 28, 2009 and (ii) two follow-up requests dated June 4, 2009 and June 19, 2009. Clifford failed to produce the requested documents and information. After missing the deadlines for production, Clifford telephoned FINRA Enforcement to acknowledge that he had received the request letters. He advised the staff that rather than responding to the outstanding requests, he would instead consent to this AWC.

By reason of the foregoing, Clifford violated NASD Rules 2370, 8210 and 2110 and FINRA Rules 8210 and 2010.

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

A bar from associating with any FINRA member in any capacity.

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 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.

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.

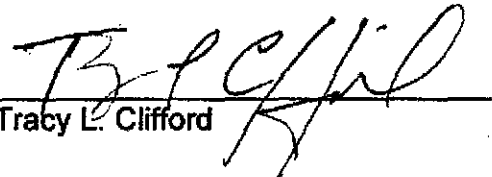
OTHER MATTERS

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 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 positions in any proceedings brought by or on behalf of FINRA, or to which FINRA is a party, that are inconsistent with any part of this AWC. Nothing in this provision affects my rights 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.

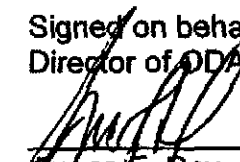
9-30-09
Date

By: 
Tracy L. Clifford

Accepted by FINRA:

11/2/09
Date

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


James E. Day
Associate Vice President and Chief
Counsel

FINRA Department of Enforcement
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