

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2008015411502**

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

RE: Kelvin Shaw, Respondent
General Securities Representative
CRD No. 4226230

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

Kelvin Shaw ("Shaw") was Series 6 registered with FINRA from approximately November 2000 through November 2008 and held a Series 7 General Securities registration from approximately September 2005 through November 2008. Shaw held both registrations through FINRA regulated entities. In approximately September 2005, Shaw became associated with Brecek & Young Advisors, Inc. ("BYA" or the "Firm")¹ and remained in that position until the Firm terminated his employment in November 2008. Shaw has not been affiliated with any FINRA regulated entity since his November 2008 termination of employment, but he remains subject to FINRA's jurisdiction pursuant to FINRA By-law

¹ In or about January 2009, after the conduct at issue occurred, FINRA regulated firm Securities America, Inc., acquired a successor firm to BYA.

000057301 2010

Article V, Section 4. Shaw has no FINRA disciplinary history.

OVERVIEW

During the period 2007 through September 2008 (the "Relevant Period"), while employed as a registered representative with BYA, Shaw violated NASD Rule 2110 when he engaged in undisclosed activities that required written notice to BYA under its policies and procedures, including: facilitating Firm customers' investments outside of the Firm with Forward Investment Group (FIG); and using unapproved e-mail addresses that prevented the Firm from reviewing communications regarding the outside activities. Shaw also violated NASD Rules 3110 and 2110 in that he failed to use BYA's e-mail system when communicating with regard to BYA's business and its customers, thereby causing BYA not to retain certain communications in violation of Section 17(a) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 17a-4 thereunder and NASD Rules 3110 and 2110. Further, Shaw violated FINRA Rules 8210 and 2010 in that he failed to comply fully and completely with Enforcement's request for documents and information.

FACTS AND VIOLATIVE CONDUCT

SHAW'S VIOLATIONS OF FIRM POLICIES AND PROCEDURES

During the Relevant Period, Shaw violated BYA's policies and procedures when he recommended that certain of his customers invest in FIG, an investment group outside of BYA that operated as a commodity pool. Further, Shaw facilitated the day-to-day interactions between certain of his customers and FIG. These activities required written notice to BYA under its policies and procedures, which he failed to provide. The administrator of FIG represented that it traded "E-mini S & P 500" futures contracts.² Additionally, Shaw personally invested in the "E-mini S & P 500" futures contracts through FIG.

Despite his having engaged in these activities, Shaw wrongfully failed to provide any notice to BYA even though the Firm's policies and procedures required registered persons to disclose any outside business activities. Further, Shaw also used, and directed others in his office to use,

² E-Mini Futures are listed by and offered through the Chicago Mercantile Exchange. E-Mini S & P 500 futures contracts are traded solely electronically allowing the investor to buy or sell the value of the Standard & Poor's 500 Stock Index, at one fifth the size of the standard S & P 500 futures contract.

unapproved e-mail addresses that prevented the Firm from reviewing communications regarding his activities regarding FIG. FIG was ultimately exposed as a Ponzi scheme and most of Shaw's BYA customers who invested lost their respective investments. The customers' losses totaled approximately \$660,000. By virtue of his aforementioned conduct, Shaw violated NASD Rule 2110.

SHAW'S FAILURE TO USE BYA'S E-MAIL SYSTEM

During the Relevant Period, Shaw failed to use BYA's e-mail system on numerous occasions when communicating regarding BYA's business and its customers. Shaw was required to use BYA's e-mail systems when communicating regarding BYA's business and its customers, and the Firm relied on his compliance to meet its requirements under Exchange Act Rule 17a-4.

Shaw, however, communicated, and directed certain of his staff to communicate, with FIG via non-BYA e-mail addresses. Shaw also specifically advised customers not to use BYA email addresses for communications regarding FIG. Shaw engaged in this conduct to prevent BYA from detecting his involvement with FIG.

As a result of Shaw's conduct, BYA failed to retain certain e-mail communications relating to its business, in violation of Exchange Act Rule 17a-4 and NASD Rules 3110 and 2110. By failing to use BYA's e-mail system when communicating regarding BYA's business and its customers, Shaw violated NASD Rule 3110 and 2110 in that he caused BYA to violate Exchange Act Rule 17a-4 and NASD Rules 3110 and 2110.

SHAW'S FAILURE TO COMPLY FULLY WITH RULE 8210

Shaw failed to respond fully and completely to FINRA's April 1, 2010 request for documents and information. Shaw provided incomplete responses to Enforcement's requests and informed Enforcement staff that he would neither cooperate further in FINRA's investigation nor comply with any of Enforcement's further requests for information and testimony. Based upon his failure to fully and completely respond to Enforcement's requests, Shaw violated FINRA Rules 8210 and 2010.

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

- A bar from association 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 sanction 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; 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.

10/25/2010
Date

Kelvin Shaw
Kelvin Shaw
Respondent

Reviewed by:

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Frederick M. Reich, Esq.
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Accepted by FINRA:

10/26/10
Date

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

Linda S. Riefberg
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