

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009016158302**

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

RE: Brookstone Securities, Inc., Respondent
Member Firm
[CRD No. 13366]

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Brookstone Securities, Inc. ("Brookstone" or the "Firm") 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 them 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

Brookstone has been a member of FINRA since April 8, 1983. At all relevant times, Brookstone has been headquartered in Lakeland, Florida, with various branch offices located nationwide. Brookstone engages in the sale of penny stocks, unit investment trusts, real estate investment trusts, 529 plans, and mortgage - backed securities. It operates pursuant to the (k)(2)(ii) exemptive provisions of SEC Rule 15c3-3.

RELEVANT DISCIPLINARY HISTORY

Pursuant to a Letter of Acceptance, Waiver, and Consent, FINRA censured and fined Brookstone \$17,500 for, among other things, failing to update timely a registered representative's Form U4; to disclose timely two customers' complaints pursuant to NASD Rule 3070; to report five quarterly statistical

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customer complaints; and to create and maintain a record of customer complaints and related records. See *Brookstone Securities, Inc.* Discip. Pro. 2008011675701-AWC

OVERVIEW

At various times during 2009, Brookstone failed to file and/or timely file five required amendments to Uniform Applications for Securities Industry Registration or Transfer ("Forms U4"). Brookstone also filed two late amendments to Uniform Termination Notices for Securities Industry Registration ("Forms U5"). As a result of the foregoing conduct, Brookstone acted in contravention of Article V, Section 2 of FINRA's By-Laws (from approximately April 16, 2009 through the present date) and Article V, Section 3 of FINRA's By-Laws (from approximately May 30, 2009 through June 10, 2009); violated IM-1000-1 (from approximately April 16, 2009 through August 16, 2009), FINRA Rule 1122 (from approximately August 17, 2009 through the present date), NASD Rule 3070 (from approximately June 27, 2009 through the present date), and FINRA Rule 2010 (from approximately April 16, 2009, through the present date).

FACTS AND VIOLATIVE CONDUCT

Failure to Disclose and/or Timely Disclose Material Facts on Forms U4

1. Article V, Section 2(c) of FINRA's By-Laws (f/k/a Article V, Section 2(c) of NASD's By-Laws) provides that every application for registration filed with FINRA shall be kept current at all times by supplementary amendments that must be filed within 30 days after learning of the facts or circumstances giving rise to the amendment.
2. From 2004 through the present, Disclosure Question 14I(1) of Form U4, which has changed slightly over that time period, has required registered persons to disclose instances in which they have been named as a respondent or defendant in an investment-related, consumer-initiated arbitration or civil litigation which alleged that they were involved in one or more sales practice violations and which is: (a) still pending; (b) resulted in an arbitration award against them; (c) was settled prior to May 18, 2009 for more than \$10,000; or (d) was settled after May 18, 2009 for more than \$15,000.
3. Effective May 18, 2009, Disclosure Question 14I(3) of Form U4 requires an amendment for any representative who has been the subject of an investment-related, consumer-initiated, written complaint, not otherwise reported under question 14I(1) above, which alleges involvement in one or more sales practice violations and contains a claim for compensatory damages of \$5,000

or more (if no damage amount is alleged, the complaint must be reported unless the firm has made a good faith determination that the damages from the alleged conduct would be less than \$5,000).

Unreported Complaint of Customer JG

4. On or about March 16, 2009, Brookstone received a written complaint against registered representative JR by customer JG, alleging misrepresentations and an unsuitable recommendation in connection with a variable annuity investment. The amount alleged to be in dispute was approximately \$12,000 to \$15,000, which exceeds the aforementioned reporting threshold. Therefore, the complaint constituted facts or circumstances that caused JR's previously filed Form U4 to be inaccurate and required amendment of the Form U4 not more than 30 days after Brookstone learned of those facts or circumstances, *i.e.*, by on or about April 15, 2009. To date, Brookstone has failed to update JR's Form U4 to disclose the material fact of customer JG's complaint.

Unreported Complaint of Customer DR

5. On or about May 22, 2009, Brookstone received a written complaint, filed by customer DR, naming registered representative DM and alleging unauthorized trading. The amount alleged is undefined but due to the nature of the conduct alleged, it likely exceeds the aforementioned reporting threshold. Therefore, the complaint constituted facts or circumstances that caused DM's previously filed Form U4 to be inaccurate and that required amendment of the Form U4 not more than 30 days after Brookstone learned of those facts or circumstances, *i.e.*, by on or about June 21, 2009. To date, Brookstone has failed to update DM's Form U4 to disclose the material fact of customer DR's complaint. On April 6, 2011, Brookstone filed a Form U5 for DM, disclosing that he had been terminated on March 18, 2011. To date, Brookstone has yet to update DM's Form U5 to reflect customer DR's complaint.

Unreported Complaint of Customers MB and TB

6. On or about May 26, 2009, Brookstone received a written complaint, filed by customers MB and TB, naming registered representative DM and alleging unauthorized trading and excessive commissions. The amount alleged to be in dispute was approximately \$50,000, plus interest, which exceeds the aforementioned reporting threshold. Therefore, the complaint constituted facts or circumstances that caused DM's previously filed Form U4 to be inaccurate and required amendment of the Form U4 not more than 30 days after Brookstone learned of those facts or circumstances, *i.e.*, by on or about June 25, 2009. To date, Brookstone has failed to update DM's Form U4 to

disclose the material fact of customers MB and TB's complaint. On April 6, 2011, Brookstone filed a Form U5 for DM, disclosing that he had been terminated on March 18, 2011. To date, Brookstone has yet to update DM's Form U5 to reflect customers MB and TB's complaint.

Untimely Reported Complaint of Customer KO

7. On or about April 24, 2009, Brookstone received a written complaint against registered representative RB by customer KO alleging a number of sales practice violations. The amount alleged to be in dispute, though not defined, appears to be at least \$30,000, which exceeds the aforementioned reporting threshold. Therefore, the complaint constituted facts or circumstances that caused RB's previously filed Form U4 to be inaccurate and required amendment of the Form U4 not more than 30 days after Brookstone learned of those facts or circumstances, *i.e.*, by on or about May 24, 2009. Brookstone, however, failed to timely disclose the material fact of customer KO's complaint on RB's Form U4 and only did so on June 10, 2009, seventeen days late.

Unreported Arbitration of Customers JAC Trust and JC

8. On or about May 18, 2009, Brookstone was served with a Statement of Claim initiating arbitration, filed by customer JAC Charitable Trust and JC, naming, among others, Brookstone and registered representative BM and alleging sales practice violations in connection with variable annuities. The arbitration constituted facts or circumstances that caused BM's previously filed Form U4 to be inaccurate and required amendment of the Form U4 not more than 30 days after Brookstone learned of those facts or circumstances, *i.e.*, by on or about June 17, 2009. Brookstone, however, failed to timely disclose the material fact of customers JAC Charitable Trust and JC's arbitration on BM's Form U4 and only did so on June 22, 2006, five days late.
9. As a result of the foregoing, Brookstone acted in contravention of Article V, Section 2 of FINRA's By-Laws (from approximately April 16, 2009 through the present date) and violated IM-1000-1 (from approximately April 16, 2009 through August 16, 2009), FINRA Rule 1122 (from approximately August 17, 2009 through the present date), and FINRA Rule 2010 (from approximately April 16, 2009 through the present date).

Failure to Disclose and/or Timely Disclose Material Facts on Forms U5

1. Article V, Section 3 of the By-Laws requires that a notice of termination (Form U5) be filed with FINRA within 30 days after an individual's association with a member firm is terminated. Implicitly, the information in Forms U5 must be accurate. Section 2(c) requires that Forms U5 be kept

current at all times by supplementary amendments. When a new disclosable event occurs, a previously filed Form U5 becomes inaccurate or incomplete and must be amended. The amendment must be filed not later than 30 days after a member firm learns of facts or circumstances giving rise to the amendment.

Untimely Reported Arbitration of Customers EH, SH, and HPI

2. On or about April 3, 2009, Brookstone filed a Form U5 on behalf of registered representative RB.
3. On or about April 7, 2009, Brookstone filed a Form U5 on behalf of registered representative SF.
4. On or about April 29, 2009, Brookstone was served with a Statement of Claim initiating arbitration, filed by customers EH, SH, and HPI, naming registered representatives RB and SF, and alleging, among other things, unsuitable investments in financial sector securities and private placement offerings. Though a specific damages amount was not stated, the amount sought appears to well exceed \$5,000, the aforementioned reporting threshold. Therefore, the arbitration constituted facts or circumstances that caused RB and SF's previously filed Forms U5 to be inaccurate and required amendment of the Form U5 not more than 30 days after Brookstone learned of those facts and circumstances, *i.e.*, by on or about May 29, 2009. Brookstone, however, failed to timely disclose the arbitration on RB's and SF's Forms U5. Brookstone disclosed the arbitration on RB's Form U5 on June 9, 2009, approximately eleven days late, and on SF's Form U5 on June 10, 2009, approximately twelve days late.
5. As a result of the foregoing, Brookstone acted in contravention of Article V, Section 3 of FINRA's By-Laws (from approximately May 30, 2009 through June 10, 2009) and violated IM-1000-1 (from approximately May 30, 2009 through June 10, 2009), and FINRA Rule 2010 (from approximately May 30, 2009 through June 10, 2009).

Inaccurate NASD Rule 3070 Filings

1. Brookstone received two separate complaints against registered representative DM, one by customers MB and TB, the other by customer DR. While Brookstone reported statistical and summary information regarding the complaint to FINRA via a Rule 3070 filing the firm made on June 27, 2009, the report failed to disclose that DM was the subject of both complaints.
2. As a result of the foregoing, Brookstone violated NASD Rule 3070 (from approximately June 27, 2009 through the present date), IM-1000-1 (from approximately June 27, 2009 through August 16, 2009), FINRA Rule 1122

(from approximately August 17, 2009 through the present date), and FINRA Rule 2010 (from approximately June 27, 2009 through the present date)

- B. Respondent consents to the imposition of the following sanctions:

Brookstone is censured and fined \$15,000.

Respondent Brookstone agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Brookstone has submitted an Election of Payment form showing the method by which it proposes to pay the fine(s) imposed.

Respondent Brookstone specifically and voluntarily waives any right to claim that they are 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

Brookstone Securities, Inc. specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against it;
- 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, Brookstone specifically and voluntarily waives 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.

Brookstone further specifically and voluntarily waives 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

Brookstone understands 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 it; and
- C. If accepted:
 - 1. this AWC will become part of Brookstone's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Brookstone's 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. Brookstone 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. They 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. Brookstone may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Brookstone understands that it 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.

The undersigned, on behalf of Brookstone, certifies that he is duly authorized to act on Brookstone's behalf, has read and understands all of the provisions of this AWC, and has been given a full opportunity to ask questions about it; that Brookstone has 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 Brookstone to submit it.

Brookstone Securities, Inc., Respondent

By: Paul R. Richardson
PAUL R. Richardson, CEO

7/27/2011
Date

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by FINRA:

August 8, 2011
Date

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



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