

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009016728501**

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

RE: David A. Naefke, Respondent
General Securities Representative
CRD No. 1349960

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, David A. Naefke ("Naefke" or "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. 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

David A. Naefke has been in the securities industry since at least May 1985 when he became an Investment Company Products/Variable Contracts (Series 6) Representative. From November 18, 2005 until he was permitted to resign on January 23, 2009, Naefke was associated with Multi-Financial Securities Corp. ("the Firm") as an Investment Company Products/Variable Contracts (Series 6) Representative, a General Securities (Series 7) Representative, and a Direct Participation Programs (Series 22) Representative. Thereafter, between January 23, 2009 and December 10, 2010, Naefke was associated with four other FINRA member firms. FINRA has jurisdiction over Naefke through December 9, 2012. Naefke has no disciplinary history.

000058143 20

OVERVIEW

The Firm had internal guidelines that limited the amounts customers were permitted to invest in illiquid investments. Naefke circumvented his Firm's guidelines by submitting documents that falsified and exaggerated customers' net worth which in turn permitted investments in amounts that the Firm would have otherwise prohibited and that were unsuitable for the affected customers.

FACTS AND VIOLATIVE CONDUCT

The Firm had internal guidelines relative to customer investments in illiquid investments. In particular it required that (i) no more than 10 percent of any customer's "adjusted net worth" (defined as net worth less primary residence, auto and furnishings) be invested in a single Limited Partnership Program, Real Estate Investment Trust (REIT) or any other Direct Participation Program (DPP) and (ii) no more than 30 percent of a customer's adjusted net worth be invested in the product group consisting of Limited Partnerships, REITS or DPPs. The internal policy further stated that illiquid investments for older investors required additional review and consideration pertaining to their needs for liquidity and income.

As described below, Naefke falsified customers' net worth on the Firm's Illiquid Investment Letters and Account Information Forms to circumvent his Firm's policies and made unsuitable investment recommendations.

- In April 2008, Customer J.N. was 50 years old and had a net worth of approximately \$375,000.00. Her adjusted net worth was about \$150,000.00. At that time, Naefke recommended that J.N. invest in her Individual Retirement Account, a total of \$100,000.00 in four publicly registered, non-traded REITs. In conjunction with those investments, Naefke submitted to his Firm, three Illiquid Investment Letters. On each Letter, Naefke falsely stated that J.N.'s adjusted net worth was \$2 million.
- In September 2008, Customer A.H. was 87 years old and had a net worth of about \$250,000.00. Between October 2008 and January 2009, Naefke recommended that A.H. invest about \$199,000.00 in two REITs, one Limited Partnership and one Direct Participation Program. In connection with these investments, Naefke submitted to his Firm at least two Account Information forms on which he falsely stated that A.H.'s net worth was between \$1,000,000.00 and \$2,999,999.00 and four Illiquid Investment Letters in which he falsely stated that A.H.'s adjusted net worth was \$1,000,100.00.

Cause One – Falsification of Books and Records

From April to November 2008, Naefke submitted documents that knowingly falsified customers' net worth, and thereby acted unethically. He knowingly caused his Firm's books and record to be inaccurate and customers to invest in illiquid investments in amounts that his Firm would have otherwise prohibited. He also impeded his Firm's ability to supervise adequately the suitability of his recommendations.

As a result of the foregoing, Naefke violated NASD Rules 3110 and 2110.

Cause Two – Unsuitable Recommendations

From April 2008 to November 2008, Naefke recommended and sold illiquid investment interests in Direct Participation Programs, publicly registered non-traded REITS, and a limited partnership to two customers totaling about \$299,000.00. When he made the recommendations and sales, he did not have reasonable grounds for believing that the recommendations were suitable based on each customer's other security holdings, financial situation and needs.

As a result of the foregoing, Naefke violated NASD Rules 2310 and 2110.

- B. Naefke also consents to the imposition of the following sanctions:

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

Respondent understands that if he is barred or suspended from associating with any FINRA member, Respondent becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, Respondent 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 8313.)

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

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against him;
- 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, Respondent 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.

Respondent 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

Respondent 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 him; and
- C. If accepted:
1. this AWC will become part of his permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against him;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about his 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. Respondent 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. Respondent 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 his right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent 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 him to submit it.

04/20/2011
Date (mm/dd/yyyy)

David A. Naefke
David A. Naefke

Accepted by FINRA:

May 18, 2011
Date

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

Joel T. Kornfeld
Joel T. Kornfeld
Senior Regional Counsel
FINRA Department of Enforcement
300 S. Grand Avenue, Suite 1600
Los Angeles, CA 90071
(213) 613-2643; Fax: (213) 617-1570