

RECEIVED

FINANCIAL INDUSTRY REGULATORY AUTHORITY

LETTER OF ACCEPTANCE, WAIVER AND CONSENT

NO. 2009016783401

JUN 20 17

REGISTRATION & DISCLOSURE

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

RE: Auric D. Zygala, Respondent
CRD No. 3135565

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Auric D. Zygala ("I," "Zygala" 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 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

Zygala first became registered with FINRA as a General Securities Representative with Dean Witter Reynolds Inc. in December 1998. Zygala was registered as a General Securities Representative with Banc of America Investment Services, Inc. (the "Firm") from August 26, 2005 until January 9, 2009. Zygala has not been associated with a FINRA regulated broker-dealer since his termination from the Firm in January 2009. FINRA retains jurisdiction over Respondent pursuant to Article V, Section 4(a) of the By-Laws because the conduct that serves as the basis for this action commenced prior to his termination of registration from a FINRA regulated broker-dealer and this AWC has been filed within two years after the effective date of Zygala's last termination of registration from a FINRA regulated broker-dealer.

000014202 2009

FACTS AND VIOLATIVE CONDUCT

Between July 2008 and December 2008, Zygala misappropriated \$60,000 from two customers' by forging their signatures on variable annuity surrender request forms and transferring these funds to his personal bank account.

Specifically, between October 16, 2008 and December 12, 2008, Zygala made two unauthorized disbursements from one customer's variable annuity totaling \$16,000. Zygala transferred the customer's funds to his own checking account by forging the customer's signature on two variable annuity surrender request forms, which directed that the funds to be disbursed electronically to Zygala's personal account at the Firm. The customer did not authorize Zygala to sign his name or to effect the transfers from his annuity.

Between July 7, 2008 and December 15, 2008, Zygala made six unauthorized disbursements from another customer's variable annuity totaling \$44,000. Zygala transferred the customer's funds to his own checking account by forging the customer's signature on six variable annuity surrender request forms, which directed that the funds to be disbursed electronically to Zygala's personal account at the Firm. The customer did not authorize Zygala to sign his name or to effect the transfers from his annuity.

Zygala used the \$60,000 he misappropriated from these customers for his own personal use.

By virtue of this conduct, Zygala violated of NASD Conduct Rules 2330, 2110 and IM-2310-2, and FINRA Conduct Rule 2010.

OTHER FACTORS

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

- A bar from association with any FINRA regulated broker-dealer in any capacity.

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.

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).

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 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.

July 20, 2009
Date

Auric D. Zyga
Respondent

Accepted by FINRA:

July 20, 2009
Date

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

Samuel Israel / RS

Samuel L. Israel
AVP and Chief Counsel
Department of Enforcement
FINRA
1801 K Street NW
Washington DC 20006-1506
Phone: 202-974-2868
Fax : 202-974-2805