

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2009017466202**

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

RE: AXA Advisors, LLC, Respondent
CRD No. 6627

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, AXA Advisors, LLC ("Respondent," "AXA," 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 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

AXA Advisors ("AXA" or the "Firm") has been a member of FINRA (previously NASD) since 1974. The Firm is a large broker-dealer, with approximately 5,700 registered representatives and approximately 1,300 branches across the United States. The Firm conducts a general securities business and is primarily engaged in the distribution of mutual funds, variable life insurance, and variable annuity contracts. Some of the Firm's clients invest in mutual funds directly with fund companies. The Firm is owned by AXA Financial, Inc.

RELEVANT DISCIPLINARY HISTORY

On January 20, 2012, AXA was censured and fined \$100,000 pursuant to a Settlement Order issued by the SEC for failing to reasonably supervise the activities of a registered representative who misappropriated \$1.2 million from seven customers during the period December 2005 through December 2008. The Order found that AXA failed to establish reasonable procedures regarding customer redemptions from variable annuities, and failed to establish reasonable

procedures to supervise the activities of registered representatives on extended leave from the Firm. By virtue of the Firm's inadequate supervision, the Order found that AXA violated Section 15(b)(4)(E) of the Securities and Exchange Act.

OVERVIEW

Between August 2007 and March 2009, AXA failed reasonably to supervise TK, a registered representative associated with the Firm. The Firm had placed TK on heightened supervision when he registered with the Firm in August, 2007. During the time he was on heightened supervision, TK misappropriated approximately \$122,000 from a customer account. Respondent failed to conduct a meaningful review of TK's activities in connection with this customer account and, as a result, failed to reasonably supervise TK. AXA thereby violated NASD Rule 3010 and, as a result of those violations, also violated FINRA Rule 2010 and NASD Rule 2110.

FACTS AND VIOLATIVE CONDUCT

1. TK Associates with AXA, Is Placed on Heightened Supervision, and Misappropriates Funds from a Customer Account

AXA hired TK from another FINRA member firm in August, 2007. Before TK was hired, the Firm conducted a background check and discovered that TK owed \$42,000 to creditors. As a result of his debt, the Firm placed TK on heightened supervision. Among the conditions of TK's heightened supervision were: (1) all new business generated by TK was to be reviewed by his controls manager before it was submitted; (2) TK was required to attend monthly meetings with a branch supervisor to review his business practices; (3) TK's correspondence was to be reviewed by his controls manager before it was sent to customers; and (4) the branch was to periodically review the status of TK's debts. Because TK was on heightened supervision, he was also subject to additional office audits.

Despite being placed on heightened supervision, from January through November of 2008, TK misappropriated approximately \$122,000 from the account of BB. That amounted to approximately 70 percent of the account's value.

BB had been a customer of TK's at his prior firm, and TK arranged for the account to be transferred to AXA. Because BB owned shares of a mutual fund which he held directly with the mutual fund sponsor, the account was considered a "Level 4" mutual fund account. Because the account was being transferred from the prior broker-dealer, AXA did not consider such an account to be "new business" for purposes of the monitoring of TK under the terms of his heightened supervision.

TK misappropriated funds from the account of BB by taking a number of actions. TK listed his own office address as BB's address and his cell phone number as BB's phone number on the broker-dealer change form used to move the account from TK's prior firm to Respondent. The broker-dealer change form was processed by AXA, and the listing of TK's address as that of the customer was not reviewed or detected by the Firm. At that time, because BB's account was a

Level 4 mutual fund account, the Firm had no system for detecting whether the address listed for BB's account was the same as the address for a registered representative or an office of the Firm.

As a result of AXA's processing of the broker-dealer change form, BB's account statements and fund disbursement checks were sent directly to TK's office and not to BB.

When TK transferred BB's account to AXA on November 28, 2007, the account had assets worth approximately \$175,000. The assets were invested within a money market account and reviewed by the Firm's electronic trade system for suitability. The suitability system flagged the account for further review by TK's controls manager. The controls manager determined that the investment allocation was suitable and approved the account. During his review, the controls manager did not notice that the address of record was TK's office address.

Between January and November 2008, TK misappropriated funds by sending 16 requests for redemptions from the money market fund held in BB's account to the mutual fund sponsor. These requests, which totaled approximately \$122,000, occurred without BB's authorization or knowledge. Each of the redemption requests were processed, reviewed for suitability, and approved utilizing AXA's electronic suitability review system. The redemptions were assigned "green flags" by the system, indicating that they were transactions that could be approved in bulk by the controls manager without further review.

By virtue of the change of broker-dealer form showing TK's business address as the address of record, the disbursement checks for the redemption requests were sent by the mutual fund sponsor to TK's office address. Because the checks were received at TK's office, the Firm was unaware that the checks had been received by TK and, therefore, they were not reviewed by the Firm.

Once he received the disbursement checks, TK fraudulently endorsed them and deposited them in his personal banking account. TK used the funds for his own purposes.

2. AXA Discovers TK's Misappropriation

In March 2009, a Firm compliance officer conducted a compliance review in TK's office as part of an annual audit of TK. The Firm had changed its procedure prior to the March 2009 audit to require, for the first time, that compliance audits include a sample review of client files that were not considered new business by the Firm.

Prior to the audit, the compliance officer selected BB's file for review. In her review, the compliance officer noticed irregularities with a document in the file. After further review and investigation by the Firm, TK admitted that he had misappropriated funds from BB's account so that he could pay his mortgage and other bills. TK was discharged by the Firm, and the Firm reimbursed BB the approximately \$122,000 in funds that had been misappropriated by TK.

3. Violations

NASD Rule 3010 requires members to, among other things, establish and maintain a system to supervise the activities of each registered representative that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules.

AXA violated NASD Rule 3010 by failing reasonably to supervise TK. Even though the Firm had placed TK on “heightened supervision,” he was able to engage in the misappropriation described above. TK’s conduct included the processing of a change of broker-dealer form that had his business address as the client address of record, the issuance of multiple fraudulent redemption requests on behalf of a customer, the receipt of multiple disbursement checks at TK’s office, and the theft by TK of those checks.

Despite the nature of the misconduct, which occurred over a period of eleven months, none of the improper activity in BB’s account was adequately reviewed by, or detected by, the Firm. The Firm did not review the address on the broker-dealer change form and during that period had no system for detecting whether the addresses listed for Level 4 accounts, such as BB’s, were the same as the address for a registered representative or office of the Firm. AXA also did not include BB’s account as part of the monitoring of TK under his heightened supervision because it was an existing account that was transferred from his prior broker-dealer to the Firm. Despite the rapid diminution in BB’s account value, the Firm’s systems allowed for the redemption requests to be approved without individualized review. As a result, the Firm did not adequately review the activities in BB’s account that resulted in the diminution of approximately 70 percent of the value of the account over 11 months.

Because of the Firm’s failure to reasonably supervise TK in these activities, he was able to misappropriate approximately \$122,000 of BB’s funds without detection during a time when he was on heightened supervision.

AXA therefore violated NASD Rule 3010 and, as result of that violation, FINRA Rule 2010 and NASD Rule 2110.

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

A censure; and

A fine of \$50,000.

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

Respondent specifically and voluntarily waives any right to claim that it is unable to pay,

now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

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 Respondent;
- 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 Respondent; and

C. If accepted:

1. this AWC will become part of Respondent’s permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
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. 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 Respondent’s right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understand that Respondent 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 the Firm, certifies that a person duly authorized to act on its behalf has read and understood all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Firm 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 the Firm to submit it.

AXA Advisors, LLC

3.13.12
Date

By: Christine Nigro

Print Name: **Christine Nigro**
President
By: **AXA Advisors, LLC**

Print Name:

Reviewed by:

Merril Tesler

Merril Tesler
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Accepted by FINRA:

3/30/12
Date

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

Thomas B. Lawson

Thomas B. Lawson
Vice President & Chief Counsel
FINRA Department of Enforcement
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STATEMENT OF CORRECTIVE ACTION SUBMITTED BY AXA ADVISORS, LLC
IN CONNECTION WITH FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT No. 2009017466202

In 2010 AXA Advisors implemented a quarterly address matching report to enable branch supervisors to review common addresses across all product lines. Once a quarter, the report compares all account addresses to the business and home address of the corresponding registered representative. Branch Controls Managers are notified of any matches and follow up.

In January 2011, the Firm enhanced its heightened supervision guidelines. Registered representatives who are placed on heightened supervision for financial issues are typically required to sign an Acknowledgment and Authorization Form and a new credit report may be run prior to the commencement of heightened supervision and any time during. The heightened supervision typically lasts for at least one year or until debt is satisfied. In conjunction with the already established monthly meetings, the Firm's new procedures generally require that at least two heightened supervision meetings be conducted face-to-face by the branch manager at the registered representative's place of business. The Firm will also review the registered representative's book of business to ascertain any changes of address or beneficiaries. A new business activity report will be prepared to review with the registered representative at the meeting. Prior to a registered representative's removal from heightened supervision, there will be an unannounced registered representative audit and in the case of heightened supervision due to financial issues, a new credit report will be run and the registered representative will be required to provide supporting documentation to demonstrate that outstanding debt has been satisfied.

This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.