

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PAUL LEON WHITE, II
(CRD No. 4669396),

Respondent.

Disciplinary Proceeding
No. 20090177982-01
Hearing Officer - RSH

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 19, 2011

INTRODUCTION

Disciplinary Proceeding No. 20090177982-01 was filed on September 14, 2010, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Paul Leon White, II (White) submitted an Offer of Settlement (Offer) to Complainant dated September 14, 2011. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, 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, to the entry of

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findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

White first became registered with FINRA as a General Securities Representative (GSR) in May 2003. During the period of the events at issue, White was associated as a GSR with FINRA member Alternative Wealth Strategies, Inc. (AWSI). White has not been associated with a member firm since, July 16, 2010, however he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws because the Complaint was filed within two years after the date upon which his registration was terminated and the Complaint charges him with misconduct committed while he was associated with a FINRA member.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

SUMMARY

Paul Leon White, II made unsuitable sales of securities to a non-profit animal shelter. The shelter was seeking safe, short-term, liquid securities for the investment of funds including a \$350,000 bequest intended for the construction of a new animal care facility. White recommended that the shelter invest the entire bequest in a tenants-in-common (TIC) interest in undeveloped rural real estate in which White had a personal interest. In addition, White recommended and effected unsuitable sales of non-listed Real Estate Investment Trusts (REITs)

to the shelter, and later failed to execute sell orders for the REITs. White also participated in the sale of TIC interests to the shelter and to nine other customers without providing his employer firm with the required notices of his participation.

FIRST CAUSE OF ACTION
NASD Conduct Rules 2310 and 2110
Unsuitable Recommendations and Sales of REITs

Customer LS is a non-profit animal shelter managed on a volunteer basis by MC. LS and MC were located in [REDACTED] In 2008, MC approached White for advice concerning the shelter's existing investments in listed, large-cap stocks valued at around \$75,000 and a certificate of deposit in the amount of \$350,000.

White recommended that MC sell the shelter's large-cap stocks on September 26, 2008, and invest \$54,000 of the sales proceeds in non-listed REITs.

On or around September 29, 2008, White recommended and purchased for the account of the shelter common shares of the following REITs in the respective amounts: Lighthouse Value Plus REIT, \$15,000; Wells Timberland REIT, \$5,000; Wells REIT II, \$9,000; Grubb & Ellis Healthcare REIT, \$10,000; and US Advisors Strategic Storage Trust REIT, \$15,000.

These sales were effected through AWSI.

The REITs White recommended and purchased for the account of the shelter were non-listed securities for which there was no public market at the time of the sales. They are illiquid investments because of the absence of a public market and because of suitability standards imposed by the issuers that must be satisfied by potential transferees. Although the issuers offered redemption programs for the shares, redemption prices were at varying discounts from

estimated per-share values. Accordingly, these REITs were promoted by the issuers as long-term investments.

White did not have a reasonable basis to believe that the recommendations to purchase the REITs were suitable for the customer on the basis of its financial status and investment objectives. The customer's needs for liquidity, preservation of capital, safety of principal and ready access to cash were not met by the REITs that White recommended and sold.

By virtue of such conduct, White violated NASD Conduct Rules 2310 and 2110.

SECOND CAUSE OF ACTION
NASD Conduct Rules 2310 and 2110
Unsuitable Recommendation and Sale of TIC Interest

The \$350,000, which the shelter had invested in a certificate of deposit, was a bequest under the will of a donor who intended that the shelter use the funds to construct a new facility for the care of cats.

Upon the maturity of the certificate of deposit, MC sought an alternative investment recommendation from White due to the low rates then available on CDs.

On or about September 19, 2008, White recommended and sold to the shelter a security in the amount of \$350,000 consisting of a TIC interest in undeveloped rural real estate.

To fund the shelter's JCR TIC purchase, MC was directed by White to write a check for \$195,877 (representing the price of the land) payable to GS and NS (the owners of the property); a check payable to JCR in the amount of \$116,000 deposited into the JCR account, over which White was the sole signatory; a check in the amount of \$3,070 to a North Carolina realtor and a check for \$35,000 made out to White's company Professional Real Estate Advisors,

LLC., which was paid to White as commission/compensation for his services in connection with the JCR TIC transaction.

Earlier in 2008, White, through John Cline Reservoir, LLC (JCR), a limited liability company that he owned and managed, had entered into agreements to purchase a tract of approximately 414 acres in Cleveland County, North Carolina.

White represented to potential investors that Cleveland County was contemplating a new reservoir to be flooded on property adjacent to the 414-acre tract. White proposed to develop some of the tract as a new community consisting of lake front private docks and homes, a marina, a community center with shopping and dining, a continuing care retirement community and a game preserve.

White, through JCR, offered TIC undivided fractional interests to investors under agreements which provided that the owners would lease the property at all times to John Cline Reservoir Management LLC, a company that was intended to be, but was never formed and which would have been wholly owned by JCR.

In addition, the agreements provided (i) that JCR retained an option to repurchase the property after one year and before five years from the closing at the price paid by the buyer plus five percent annual appreciation, and (ii) that JCR would pay to the buyer a seven percent APR repurchase option on a monthly basis.

The TIC interest sold to the shelter under the agreements described in the preceding paragraphs was a security as such term is defined in the Securities Act of 1933 and the Securities Exchange Act of 1934.

White did not have a reasonable basis to believe that the recommendation to purchase the TIC interest was suitable for the customer on the basis of its financial status and investment objectives. The shelter's needs for liquidity, preservation of capital, ready access to cash, and safety of principal were not met by the TIC interest that White recommended and sold.

By virtue of such conduct, White violated NASD Conduct Rules 2310 and 2110.

**THIRD CAUSE OF ACTION
FINRA Rule 2010
Refusal to Process Sell Orders**

On or about January 28, 2009, MC instructed White to sell the REITs owned by the shelter.

On or about January 30, 2009, White acknowledged receipt of the sell instructions and informed MC that the shelter would receive a check for the sale proceeds within one to two weeks.

On or about February 11, 2009, White informed MC that he had not yet effected the sales and that he would not process the transactions unless MC supplied a statement signed by "a psychologist, doctor, attorney or any other professional that has known [MC] for five years" attesting to MC's "mental capacity."

MC, a person of legal capacity, refused to provide White with the demanded statement of mental capacity.

White refused to process the sell orders.

By virtue of such conduct, White violated FINRA Rule 2010.

FOURTH CAUSE OF ACTION
NASD Conduct Rules 3040 and 2110 and FINRA Rule 2010
Selling Away

Between August 2008 and April 2009, White participated in the sale of TIC interests in the North Carolina property by JCR to LS, and to nine other customers of his employer firm, AWSI, namely, AA, TS, ES, DD, SA, SS, HI, PM, and PT.

The sales, totaling \$3,700,000, were outside the course or scope of White's employment with AWSI.

The investments by all ten customers were subject to the terms and conditions under agreements which provided that the owners would lease property at all times to John Cline Reservoir Management LLC. Additionally, the agreements provided that JCR retained an option to repurchase the property and that JCR would pay to the buyer an option payment on a monthly basis. The TIC interest investments purchased by all ten customers were securities as such term is defined in the Securities Act of 1933 and the Securities Exchange Act of 1934.

In connection with the sales of the TIC interests to ten customers of his employer firm, White collected selling compensation, as defined by NASD Rule 3040, in the amount of approximately \$1,653,958.

White participated in the TIC investment transactions without providing his employer firm with prior written notice describing the proposed transactions.

By virtue of such conduct, White violated NASD Conduct Rules 3040 and 2110 and FINRA Rule 2010.

Based on the foregoing, Respondent violated NASD Conduct Rules 2310, 3040 and 2110 and FINRA Rule 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be barred from association with any FINRA member in any capacity.

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 Order.

SO ORDERED.

FINRA

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

A handwritten signature in black ink, appearing to read "Kathleen S. Lynch", is written over a horizontal line.

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