

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009018193801**

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

RE: Donna M. DiMaggio, Respondent
General Securities Representative
CRD No. 1840271

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Donna M. DiMaggio, submit 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

In August 1988, DiMaggio acquired a Series 6 license. She later acquired Series 7, 63, and 65 licenses. From May 1988 through July 21, 2009, DiMaggio was associated with several FINRA members. Most recently, she was associated with FINRA member Summit Brokerage Services, Inc. On May 14, 2008, Summit filed a Form U4 for DiMaggio, commencing her association with the firm as of that date. On July 29, 2009, Summit filed a Form U5 for DiMaggio, terminating her association with the firm as of July 21, 2009. DiMaggio currently is not associated with a FINRA member.

RELEVANT DISCIPLINARY HISTORY

DiMaggio does not have a relevant disciplinary history.

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OVERVIEW

In connection with three of her customers' purchases of a private placement offering, DiMaggio falsely represented to each of the customers, prior to them investing in the offering, that she had personally invested funds with the issuer. As a result of the foregoing, DiMaggio willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and also violated NASD Conduct Rules 2120 and 2110.

In addition, DiMaggio settled and/or attempted to settle three potential customer claims, without the knowledge or approval of her employing firm. As a result of the foregoing, DiMaggio violated NASD Conduct Rule 2110 and FINRA Rule 2010.

Finally, DiMaggio exchanged business-related e-mails with customers, using an e-mail account that was not approved by her firm, thereby causing her firm to violate its recordkeeping requirements. As a result of the foregoing, DiMaggio violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Material Misrepresentations

In September 2008, in connection with her recommendations to invest in Shale Royalties 17, Inc., a private placement offering issued by Provident Royalties, LLC, DiMaggio falsely represented to three customers that she had personally invested with Provident. In September 2008, based on DiMaggio's representation and recommendation, each of the customers invested \$60,000 in the offering. As a result of the foregoing, DiMaggio willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and also violated NASD Conduct Rules 2120 and 2110.

Settling Away

In two July 2008 faxes to DiMaggio, customers CC and GC, a married couple, complained about undisclosed fees of \$483.64. On September 8, 2008, DiMaggio wrote a check for that amount to them to settle the complaint. DiMaggio did not advise Summit of the settlement.

In a February 23, 2009 letter to DiMaggio, customer VB complained that DiMaggio had failed to add a living benefit rider to a variable annuity that she had purchased through DiMaggio in September 2007. If DiMaggio had added the rider, as instructed, then the variable annuity would have been worth at least the amount of money that VB had invested in it (\$70,000), plus interest at a rate of 6% per year for four years. DiMaggio calculated that the rider would result in the variable annuity being worth no less than \$88,373 in September 2011. On June 19, 2009, DiMaggio guaranteed, in writing, to make up the difference, if any, between \$88,373 and the actual value of the policy in September 2011. In June 2009, VB's variable annuity was worth approximately \$39,000. DiMaggio did not advise Summit of the settlement.

In a March 12, 2009 letter to DiMaggio, counsel for customers MM and DM, a married couple, alleged that DiMaggio had made unsuitable investment recommendations to MM and DM. In an April 14, 2009 e-mail, DiMaggio proposed to resolve the complaint by paying approximately \$800 per month until October 2009 to MM and DM. On April 22, 2009, in connection with her settlement offer, DiMaggio wrote a check for \$1,000 to MM and DM, which they did not cash. DiMaggio did not advise Summit of her attempt to settle the complaint.

By settling and/or attempting to settle three customer complaints, without the knowledge or approval of her employing firm, DiMaggio violated NASD Conduct Rule 2110 and FINRA Rule 2010.

Use of Prohibited E-mail Account

In 2009, in connection with its recordkeeping requirements, Summit prohibited the use of unapproved outside e-mail accounts to send or receive business-related e-mails. Between at least February and July 2009, DiMaggio exchanged several business-related e-mails with customers, using an unapproved outside e-mail account. For example, DiMaggio used the subject e-mail account to communicate the aforementioned settlement proposal to customers MM and DM and to communicate with a customer about the status of her investment in Shale Royalties 17. As a result of the foregoing, DiMaggio violated FINRA Rule 2010 by causing Summit to violate its recordkeeping requirements.

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

A bar from association with any FINRA member in all capacities.

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 Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. 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).

I understand that this settlement includes a finding that I willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and that under Article III, Section 4 of FINRA's By-Laws, this makes me subject to a statutory disqualification with respect to association with a member.

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

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

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

1-11-2011
Date (mm/dd/yyyy)

Donna DiMaggio
Donna M. DiMaggio

Accepted by FINRA:

1/27/11
Date

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

Michael A. Gross

Michael A. Gross, Esq.
Senior Regional Counsel
FINRA – Department of Enforcement
2500 N. Military Trail, Suite 302
Boca Raton, FL 33431-6324
Phone: (561) 443-8125
Fax: (561) 443-7998
