

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20090210376

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

RE: Trace R. O'Neal, Respondent
Central Registration Depository ("CRD") No. 5529602

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Trace R. O'Neal ("O'Neal"), 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

O'Neal was born in [REDACTED] O'Neal entered the securities industry in May 2008. From May 7, 2008 through June 8, 2009, he was associated with FINRA member American Family Securities, LLC ("AFS"), as an insurance agent through AFS-affiliate, American Family Insurance ("AFI"). On December 22, 2009, AFS filed a Uniform Termination for Securities Industry Registration disclosing an internal review related to O'Neal, who was terminated from the Firm on December 10, 2009. The Firm disclosed that the internal review related to possible money-handling irregularities involving non-variable insurance policies. Since his termination of employment from AFS, O'Neal has not been employed with any FINRA member or registered with FINRA in any capacity.

RELEVANT DISCIPLINARY HISTORY

O'Neal has not been the subject of prior discipline.

OVERVIEW

Between September 2008 and September 2009 (the "Relevant Period"), O'Neal received insurance premiums refund checks that were made out to certain OFP customers. O'Neal converted \$508 belonging to five of these customers by signing his name to the back of their refund checks, improperly depositing the checks into his personal business account

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and using the funds for his own purposes. As a result, O'Neal violated NASD Rule 2110 by converting customer insurance premium refunds.

FACTS AND VIOLATIVE CONDUCT

During the Relevant Period, O'Neal sold home and auto insurance products. His practice involved taking applications for insurance and approving or rejecting the applications based on a review of various factors. If an applicant did not qualify for insurance under American Family Insurance's underwriting guidelines, O'Neal offered an alternative plan under the Ohio Fair Plan ("OFP"), a state-underwritten insurance program for otherwise uninsurable homes. OFP is unrelated to AFI.

O'Neal received customer premium refund checks directly from OFP. The checks were made out to the customer entitled to the refund. When OFP sent a refund check to O'Neal, OFP included a notice directing O'Neal to forward the check to the customer.

Despite the fact that the checks were made out to the customers and not to O'Neal, as discussed below, O'Neal endorsed five customer premium refund checks totaling \$508, deposited them into his business account and used the funds for his own purposes.

Customer DT

On or about December 6, 2008, O'Neal received a check from OFP made out to DT in the amount of \$86.00. O'Neal signed the back of the check, deposited it into his business account on or about December 8, 2008 and used the funds for his own purposes.

Customer LL

In or about early January 2009, OFP issued a premium refund check to LL in the amount of \$95.00. O'Neal signed the back of the check, deposited it into his business account on or about January 13, 2009 and used the funds for his own purposes.

Customer TM

In or about early June 2009, OFP issued a premium refund check to TM in the amount of \$52.00. O'Neal signed the back of the check, deposited it into his business account on or about June 5, 2009 and used the funds for his own purposes.

CR and DR

In or about late June 2009, OFP issued a premium check to CR and DR in the amount of \$201.00. O'Neal signed the back of the check, deposited it into his business account on or about June 28, 2009 and used the funds for his own purposes.

CC

On or about September 20, 2009, O'Neal received a check from OFP made out to CC in the amount of \$74.00. O'Neal signed the back of the check, deposited the check into his

business account on or about September 23, 2008 and used the funds for his own purposes.

O'Neal did not have permission or authority from the customers, AFS or OFP to deposit the checks in his business account or use their funds for his own purposes.

By converting the funds of OFP customers, as described above, O'Neal engaged in conduct that was inconsistent with just and equitable principles of trade in violation of NASD Rule 2110.

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

A bar from associating with any member of FINRA in any capacity.

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).

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.

6-20-11
Date (mm/dd/yyyy)

Trace R. O'Neil
Respondent

By: 

Accepted by FINRA:

6.30.11
Date

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



Richard R. Best
Acting Chief Counsel
FINRA Department of Enforcement
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