

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010021971101**

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

RE: Douglas C. Lamb, Respondent
Registered Representative
CRD No. 2550574

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Douglas C. Lamb ("Lamb" or "Respondent"), 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

Lamb entered the securities industry in or about April 1995 as a General Securities Representative at a FINRA-registered firm. Lamb was registered with Sanders Morris Harris Capital Inc. ("SMH"), a FINRA-registered firm, as a General Securities Representative between December 2005 and March 2009, and as a General Securities Principal between November 2007 and March 2009. From March 2009 through August 2009, Lamb was registered with Fintegra, LLC as a General Securities Representative and as a General Securities Principal. Lamb is currently registered as a General Securities Principal with a FINRA-registered firm.

RELEVANT DISCIPLINARY HISTORY

Lamb does not have any relevant disciplinary history.

OVERVIEW

During the period from November 2008 through June 2009, Lamb failed to perform a reasonable basis suitability analysis prior to recommending non-traditional Exchange Traded funds ("ETFs") to his customers, particularly with respect to the holding periods of non-traditional ETFs. In addition, Lamb recommended unsuitable transactions in the securities accounts of a married couple with limited investment experience and sophistication. Lamb therefore violated NASD Rules 2310 and 2110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Failure to Perform Reasonable Basis Suitability Analysis

1. From November 2008 through June 2009 ("Relevant Period"), Lamb recommended and caused to be executed purchase transactions of Proshares Ultra Dow 30, ProShares Ultra Short 30, Proshares Ultra Basic Materials, and Direxion Financial Bear 3X ETFs ("non-traditional ETFs") in three securities accounts of JB and LB, without performing reasonable diligence to understand the nature and features of the ETFs, including the risks associated with the daily reset of the securities.
2. The Fact Sheet and Prospectus for each of these non-traditional ETFs stated that the funds do not seek to achieve their stated objective over a period of time greater than one day. Although Lamb nevertheless believed that the ETF investments were designed for "short-term" trading, which he defined as a period lasting from one day to a couple weeks, the ETFs were held for longer periods, in some cases for several months. As evidenced by these extended holding periods, Lamb failed to appreciate the nature of the ETFs at the time of his recommendations, i.e., that the ETFs were not intended to be held for extended holding periods.
3. Accordingly, the recommendations to purchase the ETFs made by Lamb lacked a reasonable basis and were unsuitable, in violation of NASD Conduct Rules 2310 and 2110 and IM-2310-2 and FINRA Rule 2010.

Failure to Perform Customer-Specific Suitability Analysis and Making Unsuitable Recommendations

4. During the Relevant Period, JB and LB were 65 and 55 years old, respectively. JB was a disabled bus driver and LB was not gainfully employed.
5. Between November 2008 and June 2009, Lamb recommended the non-traditional ETFs without having reasonable grounds for believing that the securities were suitable for JB and LB in view of their financial situation,

investment objectives and needs. Moreover, by February 2009, the accounts were almost fully invested in non-traditional ETFs, and Lamb also used margin to purchase the non-traditional ETFs.¹

6. Based on the foregoing, Lamb violated NASD Rule Conduct Rules 2310 and IM-2310-2 and FINRA Rule 2010.

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

- A two-month suspension from association with any FINRA-registered firm in any capacity; and
- A \$5,000 fine.

I agree to pay the monetary sanction upon notice that this AWC has been accepted and that such payment(s) are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

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.

¹ SMH paid restitution to JB and LB and made the customers whole.

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 Chief Legal Officer, 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 accordance with FINRA Rule 8313;
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: (i) testimonial obligations; or (ii) 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.

12-10-15
Date (mm/dd/yyyy)

Douglas C. Lamb
Douglas C. Lamb, Respondent

Reviewed by:

Karl E. May
Karl E. May, Esq.
Counsel for Respondent
Kadish, Hinkel & Weibel
1360 East Ninth Street, Suite 400
Cleveland, OH 44114
City/State/Zip
Phone: (216) 696-3030

Accepted by FINRA:

12/22/15
Date

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

Dale Glanzman (By: Mark Koerner)
Dale Glanzman
Senior Regional Counsel
FINRA Department of Enforcement
55 West Monroe Street, Suite 2700
Chicago, IL 60603
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Attachment: Election of Payment Form