

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010021972501

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

RE: Brett E. Backerman
Respondent
Registered Employee
CRD No. 5261603

Pursuant to Rule 9216 of FINRA Code of Procedure, I, Brett E. Backerman ("Backerman"), 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

Backerman was born in [REDACTED] and entered the securities industry in December 2006 as a registered personal banker employed in the Great Neck and Roslyn Heights, Long Island, New York branches of JP Morgan Chase ("Chase Bank"). Chase Investment Services Corp ("CISC" or "the Firm"), a FINRA regulated entity, held Backerman's Series 6 and Series 63 registrations.

On February 2, 2010, for the conduct described below, CISC terminated Backerman's employment and he has not been employed in the securities industry since that time. Backerman, however, remains subject to FINRA's jurisdiction pursuant to FINRA By-Law Article V, Section 4, until at least February 1, 2012.

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RELEVANT DISCIPLINARY HISTORY

Backerman has no previous disciplinary history.

OVERVIEW

Backerman applied for and obtained an automated teller machine ("ATM") card for the account of Chase Bank customer. During the period from November 23, 2009 through January 28, 2010, Backerman used the ATM card to withdraw \$8,752 from the customer's bank account. Backerman did not inform the bank customer about the withdrawals, and the bank customer did not authorize Backerman to withdraw the funds from the bank account. Backerman used the withdrawn funds to pay for his personal expenses.

FACTS AND VIOLATIVE CONDUCT

Misappropriation of customer funds in violation of FINRA Rule 2010

On January 29, 2010, PL, a Chase Bank customer, visited his Chase Bank branch to review the status of his account and noticed numerous unauthorized withdrawals. The customer's account reflected that between November 23, 2009 and January 28, 2010 an ATM card had been used to make withdrawals totaling approximately \$8,752. PL stated that he had not requested anyone at Chase Bank to link an ATM card to his bank account and he was unaware that the withdrawals from his bank account had been made with the use of the ATM card.

Chase Bank surveillance photographs demonstrate that between November 23, 2009 and January 28, 2010, Backerman used an ATM card to make the withdrawals from PL's bank account. Neither PL nor Chase Bank authorized Backerman to withdraw funds from PL's account. Chase Bank subsequently reimbursed PL for the funds improperly taken from his account. This matter did not involve withdrawals from a FINRA regulated entity.

On February 4, 2010, the Firm contacted the police department in Nassau County. The Nassau County District Attorney's Office filed a criminal complaint against Backerman related to his unauthorized withdrawals from PL's bank account.

By virtue of the aforementioned conduct, Backerman violated FINRA Conduct Rule 2010, which provides that: "[a] member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade."

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

A bar from association with any member of FINRA 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 AWC.

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 Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. 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).

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.

10/4/2011
Date

Brett E. Backerman
Brett E. Backerman
Pro se

Accepted by FINRA:

10/14/2011
Date

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

Myles L. Orosco
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Director
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