

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010022244401**

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

RE: John Christopher Garner, Respondent
CRD No. 2842338

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I 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

John Christopher (Chris) Garner was associated with member firm National Planning Corp. (NPC) as a General Securities Representative from January 2009 until February 19, 2010. Prior to his association with NPC, Garner was associated with other member firms from approximately December 1996 to March 2008. Garner is not currently associated with a FINRA member, and he has no relevant disciplinary history.

OVERVIEW

Between July 2009 and January 2010, Garner converted customer funds using two separate methods. Under the first method, Garner instructed six of his clients to write checks totaling approximately \$12,000 made payable to Garner's bank under the false pretext that he was entitled to the funds as brokerage "fees." Garner's firm did not permit the charging of such "fees," but Garner nonetheless took that money and used it for his own purposes. Under the second method, Garner arranged for a seventh customer to give him a check for approximately

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\$15,000. Although Garner promised the customer that he would invest the proceeds of the check on the customer's behalf, he converted the funds for his own benefit.

Garner's conduct constituted improper use of client funds and conversion in violation of NASD Rule 2330 and FINRA Rule 2010 (as to conduct prior to December 14, 2009) and of FINRA Rules 2150 and 2010 (as to conduct on and after December 14, 2009).

FACTS AND VIOLATIVE CONDUCT

Garner was hired by NPC to be the broker responsible for certain credit union customers. He had approximately twenty to thirty customers while he was employed at the firm. Soon after his employment at NPC commenced, certain disputes arose between Garner and the firm concerning Garner's compensation. These disputes, combined with personal financial difficulties, led Garner to wrongfully request six customers to pay him "fees" totaling approximately \$12,000 between July 2009 and January 2010.

Garner obtained the approximately \$12,000 as follows. When each of the six customers invested in a mutual fund or annuity, Garner requested two separate checks. The first check represented the principal amount to be invested in the underlying product, was made out to NPC's clearing firm, and was processed in the normal course through NPC. The other check purportedly represented Garner's "fee" and was made payable to the bank at which Garner held a personal account. Garner endorsed the "fee" checks made payable to his bank and he deposited the proceeds into his personal account for personal use. When requesting and depositing the purported "fee" checks, Garner did not disclose to NPC that he was collecting these payments from his customers, and the firm's policies did not permit him to request or accept such payments.

In addition to the approximately \$12,000 in wrongful fees that Garner converted, he converted approximately \$15,000 from an individual customer using a different strategy. In or around July 2009, Garner asked the customer for a check in the amount of approximately \$15,000 and told the customer that he would invest the money on her behalf over time pursuant to a "dollar cost averaging" strategy. NPC had a policy prohibiting registered representatives from personally holding customer funds for later investment, but Garner never invested any of the approximately \$15,000 for the customer's benefit at any time. Instead, he converted the money for his own use.

Upon the discovery of Garner's conversion, he paid the amounts taken as supposed fees and for the false investment strategy to NPC, which, in turn, provided the funds to the seven clients whose funds had been converted.

Garner's collection and personal use of approximately \$12,000 in purported fees and of approximately \$15,000 as part of a false investment strategy constituted conversion and improper use of funds in violation of NASD Rule 2330 and FINRA Rule 2010 as to conduct prior to December 14, 2009 and FINRA Rules 2150 and 2010 as to conduct on and after that date.

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

A bar from association 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.

09/20/2011
Date (mm/dd/yyyy)

John C. Garner
John Christopher Garner
Respondent

Accepted by FINRA:

10/5/11
Date

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

Thomas B. Lawson
Thomas B. Lawson
Vice President and Chief Counsel
FINRA Department of Enforcement
1801 K Street NW Suite 800
Washington, DC 20006