

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010022648601**

**To: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)**

**Re: Eric Richard Hemingway
Investment Company and Variable Contracts Products Representative
CRD No. 2945792**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Eric Richard Hemingway submits 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 Hemingway alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. Hemingway hereby accepts and consents, 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

Hemingway entered the securities industry in 1997. From March 5, 2001 through April 2, 2010, Hemingway was associated with Northwestern Mutual Investment Services, Inc. (NMIS) as a sales representative and, registered with FINRA as an investment company and variable contracts products representative, which registration remains in full force and effect, although Hemingway is currently associated with another FINRA broker-dealer.

Relevant Disciplinary History

Hemingway has not been the subject of prior formal disciplinary action by FINRA.

Overview

Hemingway engaged in outside business activities that generated significant income and did not provide prompt written notice to NMIS.

FACTS AND VIOLATIVE CONDUCT

**Outside Business Activities
NASD Conduct Rules 3030 and 2110
and FINRA Rule 2010**

Until September 2005, NMIS permitted the sale of Equity Indexed Annuities (EIAs). NMIS then changed its EIA policy and prohibited the sale of EIAs. Hemingway's supervisor gave him permission to continue servicing and receiving compensation from existing EIA customers. The new NMIS policy, however, prohibited him from selling new contracts to these customers. From September 28, 2005 through January 2010 Hemingway sold 54 EIAs to 37 customers (31 NMIS customers). Forty (40) of the new policies were purchased by customers who previously purchased EIAs with Hemingway when NMIS permitted him to do so, and the funding for the new contracts came from old contracts. Fourteen (14) policies were sold to customers making an EIA purchase for the first time. Hemingway earned approximately \$300,000 in commissions from the sale of EIAs from September 2005 to April 2010. Approximately \$53,000 of that amount related to the 14 policies sold to first-time customers. Hemingway did not provide prompt written notice of this outside business activity to NMIS and did not receive approval to sell new EIAs after September 2005.

Hemingway's conduct violated NASD Conduct Rules 3030 and FINRA Rule 2010 (and its predecessor NASD Rule 2110).

- B. Hemingway also consents to the imposition of the following sanctions:
1. A four month suspension from association with any FINRA broker-dealer in any capacity; and
 2. A fine of \$5,000.

Hemingway agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Hemingway has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Hemingway specifically and voluntarily waives any right to claim that he is unable to pay now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II. WAIVER OF PROCEDURAL RIGHTS

Hemingway specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against him;
- 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, Hemingway specifically and voluntarily waives 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.

Hemingway further specifically and voluntarily waives 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

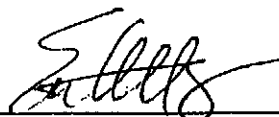
Hemingway understands that:

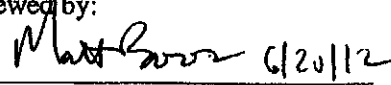
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against him; and
- C. If accepted:
 - 1. this AWC will become part of his permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against him;

2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about his 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. Hemingway 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. Hemingway 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 Hemingway's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Hemingway may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. In such Corrective Action Statement, Hemingway understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.
- E. Hemingway understands that if he is suspended from associating with any FINRA member, he becomes 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, Hemingway may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the suspension (*see* FINRA Rules 8310 and 8311).

Hemingway certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it that he has 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 him to submit it.

6/20/12
Date


ERIC RICHARD HEMINGWAY

Reviewed by:
 6/20/12
Counsel for Hemingway

Letter of Acceptance, Waiver and Consent No. 2010022648601

Eric Richard Hemingway

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Accepted by FINRA:

6-27-12
Date

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

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