

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010024445201**

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

RE: Richard Paul Counts, Respondent
Investment Company and Variable Contracts Products Representative
CRD No. 3241105

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 to, 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, the entry of the following findings by FINRA:

BACKGROUND

Richard Paul Counts ("Counts") entered the securities industry in May 1999, and was employed by a FINRA member firm from May 1999 through October 2000. Counts was first registered as an investment company and variable contracts products representative with FINRA in July 1999. Counts was employed by Wells Fargo Advisors, LLC ("Wells Fargo") from October 2000 until August 2010. On September 17, 2010, Wells Fargo filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of Counts. On January 7, 2011, Wells Fargo filed an amended Form U5 indicating that Counts was under an internal review for fraud or wrongful taking of property at the time he was terminated. Counts is not currently registered with a FINRA member firm, but remains subject to FINRA's jurisdiction until January 6, 2013.

OVERVIEW

Counts misappropriated funds from a Wells Fargo Bank customer's bank account and home equity line of credit and converted the funds to his personal use, in violation of NASD Rule 2110 and FINRA Rule 2010. Counts also failed to respond to FINRA's written requests for information made pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

Beginning in March 2007, Counts misappropriated approximately \$18,000 from a Wells Fargo Bank customer's checking account and approximately \$73,500 from the same customer's home equity line of credit. Counts converted these funds to his personal use. Such acts, practices and conduct constitute separate and distinct violations of NASD Rule 2110 with respect to the conduct that occurred before December 15, 2008 and FINRA Rule 2010 with respect to the conduct that occurred on or after December 15, 2008.

Counts also failed to respond to FINRA's requests for information relating to this matter. On January 31, 2011, FINRA sent a letter to Counts at his residential CRD address via first class and certified mail. The letter requested, pursuant to FINRA Rule 8210, that Counts submit a detailed written statement regarding the allegation of misappropriation of funds from the Wells Fargo Bank customer's account. The January 31, 2011 letter requested that the statement be submitted no later than February 14, 2011. On February 10, 2011, Counts advised FINRA that he was represented by counsel. Counts' attorney requested and received an extension of time in which to answer until February 28, 2011. Counts failed to respond by February 28, 2011.

On February 28, 2011, FINRA sent another letter to Counts at his residential CRD address, with a copy to his attorney. The letter requested, pursuant to FINRA Rule 8210, that Counts submit a detailed written statement regarding the same allegation of misappropriation of funds. The February 28, 2011 letter requested that the statement be submitted no later than March 7, 2011. Counts failed to respond by March 7, 2011. Such acts, practices and conduct constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Counts.

- B. I also consent to the imposition of the following sanctions: a bar from any FINRA member firm in all capacities.

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.

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:

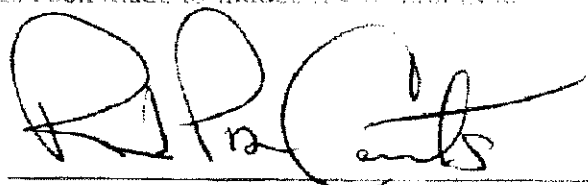
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will 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.

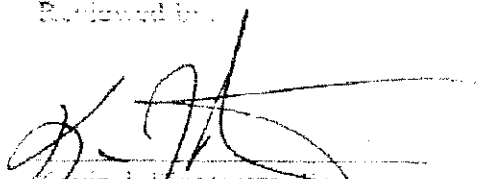
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

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 or implied to me or my firm.

10/17/11
Date


Richard Paul Counts, Respondent

Reviewed by:


Kevin J. Macgregor, Esq.
Tinny Meyer & Macgregor, P.A.
1004 Drew Street
Clearwater, Florida 33755
727-446-8000
kmacgregor@tinny-meyer.com

Accepted by FINRA:

NOV. 18, 2011
Date

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

Rebecca L. Segrest

Rebecca L. Segrest, Regional Counsel
FINRA, Department of Enforcement
One Securities Centre, Suite 500
3490 Piedmont Road, N.E.
Atlanta, Georgia 30305
(404) 239-6125; Fax: (404) 264-1586
E-Mail: rebecca.segrest@finra.org