

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010024683401**

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

RE: Joseph Anthony Giordano, Respondent
CRD No. 1383564

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

Joseph Anthony Giordano ("Giordano") was registered with Charles Schwab & Co., Inc., from May 1986 to February 1991. In March 1991, Giordano became registered with Merrill Lynch, Pierce, Fenner & Smith, Inc., where he remained registered until April 1992. Giordano then was registered with Capital Investment Group, Inc. ("CIG" or the "Firm") from September 1992 until his termination on June 20, 2012. On July 2, 2012, Giordano became registered with Meyers Associates, L.P. ("Meyers"), until his registration was terminated by Meyers on July 10, 2013. While in the securities industry, Giordano obtained the following securities licenses: Series 7 (July 20, 1985), Series 63 (July 30, 1985), and Series 24 (January 7, 1997).

Giordano is not currently registered or associated with a FINRA member. FINRA retains jurisdiction over Giordano pursuant to Article V, Section 4(a), of the FINRA By-Laws because the conduct that serves as the basis for this action commenced prior to his termination of registration from a FINRA member, and this AWC has been filed within two years after the effective date of Giordano's

last termination of registration from a FINRA member.

OVERVIEW

Between February 2006 and November 2009 (the "review period"), Giordano violated NASD Rule 2110 and FINRA Rule 2010 when he participated in the distribution of unregistered debentures issued by Empire Corporation, a Maryland corporation ("Empire debentures" or "debentures"), to customers of the Firm in contravention of Section 5 of the Securities Act of 1933. Giordano also violated NASD Rules 3040 and 2110 and FINRA Rule 2010 when he solicited sales of the Empire debentures in violation of the Firm's no-solicitation restriction placed on Giordano's sales of the Empire debentures. In addition, Giordano violated NASD Rules 2310 and 2110 and FINRA Rule 2010 when he recommended the purchase of Empire debentures to customers without having a reasonable basis for making such recommendation. Giordano also violated NASD Rule 2110 and FINRA Rule 2010 when he made false and misleading statements to the Firm in connection with the sales of the Empire debentures. Lastly, Giordano violated Section 10(b) of the Exchange Act of 1934 and Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010 when he willfully made material misrepresentations and omissions in connection with the sales of the Empire debentures.

FACTS AND VIOLATIVE CONDUCT

In January 2006, the Firm's compliance department conducted a branch examination of Giordano's office in Annapolis, Maryland. At that time, the Firm noticed several customers holding Empire debentures in their accounts and inquired about those security holdings. The Empire debentures had varying maturities; the majority of which had a five-year maturity and promised interest at an annual compounded rate of ten percent paid at maturity. Giordano informed the Firm that one of its former chief compliance officers had previously approved the Empire debenture transactions and that many of the customers who purchased the Empire debentures were referred to Giordano by corporate officers of the issuer. As a result, CIG informed Giordano in February 2006 that he was permitted to continue to sell the debentures, but only on an unsolicited basis.

Notwithstanding this condition placed by the Firm on Giordano's sales of the Empire debentures, from May 2006 through November 2009, Giordano solicited sales of the Empire debentures from at least 12 customers who purchased debentures totaling \$704,000. Giordano's failure to adhere to the specified condition placed upon him in connection with his participation in the sales of the Empire debentures violated NASD Rules 3040(d) and 2110 and FINRA Rule 2010 (for conduct on and after December 15, 2008).

During the review period, Giordano participated in the distribution of unregistered Empire debentures in contravention of Section 5 of the Securities Act of 1933. Specifically, Giordano sold approximately \$3.1 million of the Empire debentures to at least 45 customers of CIG. The Empire debentures were never registered with the U.S. Securities and Exchange Commission or the State of Maryland, nor did they qualify for an exemption from the registration requirements. Giordano failed to conduct adequate due diligence regarding the registration status of the Empire debentures prior to recommending and selling the debentures to customers. By selling debentures that were unregistered and did not qualify for an exemption from the registration requirements, Giordano violated NASD Rule 2110 and FINRA Rule 2010 (for conduct on and after December 15, 2008) by virtue of violating Section 5 of the Securities Act.

In 2008, Giordano's selling activities in the Empire debentures increased significantly. Giordano sold over \$900,000 of the Empire debentures in 2008. In 2009, Giordano sold over \$1.4 million of the Empire debentures. The Empire debentures were speculative investments considering their high-yield, lack of credit analyses or an effective registration statement, and the complete absence of a secondary market.

In 2008 and 2009, Giordano recommended the purchase of Empire debentures to at least 14 customers for whom the debentures were not suitable investments based on their investment objectives, risk tolerances, and financial profiles. Giordano recommended that five of these customers purchase an Empire debenture in their qualified retirement account. Furthermore, Giordano also recommended the purchase of the debentures at unsuitable concentration levels. For instance, based on Giordano's recommendations, one customer had 111% of his stated net worth concentrated in the Empire debentures and four customers had more than 30% of their stated net worth concentrated in the Empire debentures, two of which had 50% of their stated net worth concentrated in the Empire debentures. By recommending the purchase of an Empire debenture to customers without having a reasonable basis for believing that the debentures were a suitable investment, Giordano violated NASD Rule 2310 and FINRA Rule 2010.

Giordano also made false and misleading statements to the Firm in connection with the sales of the Empire debentures. Giordano advised the Firm in 2006 that he was not soliciting sales of the Empire debentures when, in fact, he was soliciting investors to purchase the Empire debentures. Giordano violated NASD Rule 2110 when he falsely stated to the Firm that he did not solicit sales of the Empire debentures.

In addition, Giordano previously advised the Firm that he was not receiving any compensation in connection with the sales of the Empire debentures. In 2009, Giordano received checks totaling \$63,900 from Empire Corporation in connection with the sales of the debentures. Giordano failed to disclose the

receipt of such payments to the Firm. Giordano's failure to disclose that he received compensation from Empire Corporation when he previously told the Firm that he did not receive any compensation in connection with sales of the debentures violated FINRA Rule 2010.

Beginning in April 2009, Giordano became aware of instances where redemption checks issued by Empire Corporation were returned for insufficient funds, which caused existing investors to receive significantly untimely redemption payments. Between April 16, 2009 and May 20, 2009, Giordano contacted Empire Corporation's chief executive officer by email on seven occasions regarding late redemption payments and returned redemption checks issued by the issuer to investors. In September 2009, Giordano became aware of another instance of a returned check issued by the issuer to an investor.

Notwithstanding his knowledge of multiple instances of returned redemption checks and late redemption payments, Giordano continued to solicit additional investors to purchase the Empire debentures in May through November 2009, misrepresenting to at least one investor in November 2009 that the debenture was "safe" and that "the issuer will have no problem paying back the principal plus interest." In other instances, Giordano intentionally failed to disclose to investors that the issuer had been experiencing difficulties meeting redemption payments.

The misrepresentations and omissions by Giordano were material in that Giordano failed to disclose to customers at the time of the purchase of their Empire debenture that the issuer had been making untimely redemption payments to existing investors and, in some instances, was unable to pay on maturing debentures. Giordano's conduct constituted a willful violation of Section 10(b) of the Exchange Act of 1934 and Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010.

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

1. A bar in all capacities from associating with any FINRA member.

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 Article III, Section 4, of FINRA's By-Laws, incorporating Section 3(a)(39) of the Exchange Act. 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). I further understand that this settlement includes a finding that I willfully violated Section 10(b) of the

Exchange Act and Rule 10b-5 thereunder, and that under Article III, Section 4, of FINRA's By-Laws, this makes me subject to a statutory disqualification with respect to association with a FINRA member.

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:

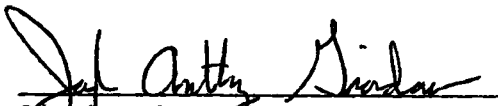
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule

9216;

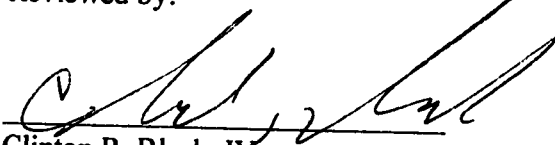
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against 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: (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.

8/23/13
Date


Joseph Anthony Giordano

Reviewed by:



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Accepted by FINRA:

9/16/13
Date

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



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