

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010025445301**

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

RE: Andrew M. Lesnak, Respondent
Investment Company & Variable Contracts Products Representative
CRD No. 1985755

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

Respondent Andrew Lesnak ("Lesnak") entered the securities industry in March 1992 when he became registered as an Investment Company & Variable Contracts Products Representative through a FINRA Member firm. He remained registered with that firm until August 1994. Thereafter he was registered through two other FINRA member firms, before joining First Allied Securities, Inc. (FAS) on January 2, 2004. He remained with FAS until he voluntarily withdrew his registration on May 1, 2010. Respondent Lesnak has not associated or registered with another FINRA member firm since May 1, 2010. Lesnak has no disciplinary history.

OVERVIEW

Lesnak failed to provide timely and complete responses to FINRA requests for

information and documents in violation of FINRA Rules 8210 and 2010. In addition, he failed to disclose three outside businesses to his employer in violation of NASD Rules 3030, 2110 and FINRA Rule 2010. Moreover, Lesnak provided inaccurate information on two documents submitted in connection with a variable annuity purchase in violation of FINRA Rule 2110. Finally, Lesnak willfully failed to disclose on his Form U4 a judgment lien entered against him by a creditor in violation of NASD Conduct Rule 2110, NASD IM-1000-1 and FINRA Rules 1122 and 2010.

FACTS AND VIOLATIVE CONDUCT

Failure to Provide a Timely Response to FINRA

On February 16, 2011, FINRA staff sent an 8210 request letter to Lesnak seeking documents and information pertaining to: i) a Complaint filed by the Cs alleging unsuitable recommendations; ii) his involvement with outside businesses and iii) a failure to disclose a judgment lien. FINRA sent the letter to Lesnak's CRD address and to an additional potential residential address ("second address.") A response was due by March 2, 2011. Lesnak received the request. Lesnak did not respond to this letter.

On February 22, 2011, Lesnak spoke with the FINRA examiner who had sent the February 16, 2011 letter. Lesnak explained that he chose not to respond to the letter, in part, because he believed the C's Complaint, which had been resolved through FINRA arbitration was "closed." The examiner explained that the resolution of the arbitration proceeding did not absolve him of his obligation to respond to FINRA's request for information and documents. Lesnak asked the examiner to re-send the letter and said he would then decide if he wanted to respond.

Therefore, on March 9, 2011, FINRA staff re-sent its request letter dated February 16, 2011, asking for a response by March 23, 2011. The letter was sent to Lesnak's CRD residential address and to the second address. Lesnak received the letter as evidenced by his signing the Domestic Return Receipt for the letter sent to his residential CRD address.

On March 16, 2011, Lesnak responded to FINRA's request by sending the Answer prepared by his attorney in connection with the C's arbitration Claim. However, the FINRA examiner had explained to Lesnak on February 22, 2011, that sending in the Answer to his arbitration Complaint would not be sufficient and that he needed to respond specifically to the questions in the 8210 letter. Lesnak's response did not answer other questions unrelated to the C's Complaint.

On May 18, 2011, FINRA re-sent the original 8210 letter to Lesnak's CRD address and to the second address. In the letter FINRA indicated that it was providing Lesnak with one last opportunity to provide a written response to all of the questions in FINRA's requests for information dated February 16, 2011 and March 9, 2011.

On May 24, 2011, Lesnak sent FIRNA a letter stating "I am considering this subject closed and no longer an issue." Lesnak did not provide any additional information or documentation.

On June 7, 2011, FINRA sent Lesnak a request to appear for an on-the-record interview in their New Jersey office on June 28, 2011. Lesnak asked to reschedule the date to August 25, 2011. FINRA agreed and Lesnak testified on August 25, 2011. At that time he provided a response to FINRA's letter dated February 16, 2011 and resent on March 9, 2011. However, his response was approximately six months late.

By failing to provide complete and timely responses to FINRA's requests for information, Lesnak violated FINRA Rules 8210 and 2010.

Undisclosed Outside Business Activities

Lesnak failed to disclose three outside business activities that were unrelated to FAS. More specifically, he failed to disclose that from approximately 2005 through April 2010, he referred insurance business to VD Group through a related entity known as BLWIA. He was a general partner of BLWIA. In return he received a monthly salary from VD Group based on the number of referrals. Lesnak also failed to disclose that he was a partner with WLLC and ALLC, the latter of which was incorporated in May 2005. It was his intention to refer potential restaurant related business to these two entities commencing or about early 2005, though it never materialized. Lesnak received no compensation from BLWIA, WLLA or ALLC.

NASD Rule 3030 provides that a registered representative is not permitted to be employed by, or accept compensation from, any other person for business activity outside of his employment with a FINRA broker-dealer (excluding activity covered by Rule 3040), unless he has provided prompt written notice to his FINRA member firm employer and received its approval to engage in that activity.

Lesnak did not provide prompt written notice to FAS concerning the three outside businesses and FAS did not approve of Lesnak's employment with or compensation by these three entities. In addition, Lesnak never disclosed any of these outside businesses to FAS, even though he completed an annual form each year from 2005 through 2009 in which he indicated that his only outside business was Lesnak Financial Services, LLC.

Accordingly, Lesnak violated NASD Rules 3030 and 2110 for conduct occurring before December 15, 2008 and NASD Rule 3030 and FINRA Rule 2010 for conduct occurring after December 15, 2008.

Providing Inaccurate Information in an Annuity Application

On or about March 15, 2006, Lesnak was completing an application to purchase a I.B Annuity for the Cs. The funds were derived from the surrender of a JNL Variable Annuity. Lesnak incorrectly answered "no" when asked "to the best of your knowledge

will this contract replace or exchange any existing life insurance or annuity from this or any other company?"

Moreover, on or about March 27, 2006, Lesnak sent forms to LB to facilitate the above-described transaction. When asked "are you considering using funds from your existing policy or contracts to pay premiums due on the new policy or contract", Lesnak incorrectly answered "no." Lesnak should have answered yes in response to both of the questions noted above.

By falsifying documents in connection with the LB annuity purchase, Lesnak violated NASD Conduct Rule 2110.

Failure to Disclose a Judgment Lien

In or about August 2006, a judgment lien was entered against Lesnak by AA, a creditor, for approximately \$830.00. While Lesnak claims he was not responsible for the charge and that it was the result of identity theft, he ultimately paid the judgment "four, five years ago" or sometime in 2006 or 2007. Lesnak willfully failed to disclose this material fact on his Form U4. By failing to disclose the judgment, Lesnak violated NASD Conduct Rule 2110 and NASD IM-1000-1.

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

A two-year suspension from associating with a FINRA member in any capacity and a \$15,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the two-year suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

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).

I understand that this settlement includes a finding that I willfully omitted to state a material fact on a Form U4, and that under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 and Article III, Section 4 of FINRA's By-Laws, this

omission makes me subject to a statutory disqualification with respect to association with a member.

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:

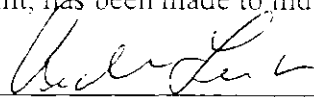
- A. Submission of this AWC is voluntary and will not resolve this matter unless and

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 to induce me to submit it.

10/21/2011
Date


Respondent Andrew Lesnak

Accepted by FINRA:

10/16/00
Date

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

Helen G. Barnhill
Helen G. Barnhill
Senior Regional Counsel
FINRA Department of Enforcement
4600 S. Syracuse St. Suite 1400
Denver, CO 80237
Telephone: 303 446-3111
Facsimile: 303 446-3150