

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20100257086**

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

RE: Adam Spencer Deane, Respondent
Registered Representative
CRD No.: 2991971

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Adam Spencer Deane ("Deane"), 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Deane 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

Deane entered the securities industry in December 1997 with a FINRA registered broker-dealer and obtained his Series 7, Series 63 and Series 65 securities licenses in 1998. From December 1997 through February 2004, Deane was employed as a registered representative with two different FINRA registered broker-dealers.

On February 13, 2004, Deane became employed by FINRA registered broker-dealer Banc of America Investment Services, Inc. ("BOA"), as a registered representative. On January 4, 2010, BOA terminated its registration with FINRA after its merger with Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch" or the "Firm"). On December 6, 2010, Deane was terminated by Merrill Lynch for transacting insurance business without proper state registration and attempting to alter transaction records.

In June 1998, Deane was licensed to sell insurance products in the state of Florida. Over 12 years later, on or about October 4, 2010, Deane applied for a license to sell insurance

in the state of New York. Deane received his New York insurance license on November 1, 2010.

On April 11, 2011, Deane became associated with FINRA registered broker-dealer, Best Direct Securities, LLC ("Best Direct") as a registered representative and is presently employed at that firm.

RELEVANT DISCIPLINARY HISTORY

Deane has no prior disciplinary history in the securities industry.

OVERVIEW

Deane, while employed as a registered representative with Merrill Lynch, recommended and executed a variable annuity replacement contract for a Firm customer, who resided in New York. At the time of the transaction, Deane was not licensed to sell insurance products in New York State. Deane included false information in the Firm's electronic books and records that VS resided in the state of Florida, where Deane was licensed to sell insurance. Additionally, Deane made false entries on VS' annuity application to make it appear that the annuity transaction occurred in the Florida.

Deane's actions violated NASD Rule 3110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Providing False Information to a FINRA Member Firm Employer and Falsifying the Firm's Books and Records

NASD Rule 3110 requires broker-dealers to make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated thereunder and with the rules of FINRA as prescribed by Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-3. Exchange Act Rule 17a-3 requires that a broker-dealer "make and keep current" the records specified in the Rule, including, "an account record including...address."

FINRA Rule 2010 requires all associated persons to observe high standards of commercial honor and just and equitable principles of trade.

VS was a 73-year-old retiree who resided in Buffalo, New York. In September 2010, VS contacted Deane and arranged a meeting to discuss her finances. Deane had been VS and her husband's investment advisor since approximately the spring of 2006. VS met with Deane at the Firm's office located in Naples, Florida. During the meeting, Deane recommended that VS exchange a \$75,000 fixed annuity for a deferred variable annuity. VS agreed to enter into the replacement transaction and requested Deane process the transaction. VS returned to her residence in Buffalo, New York.

On September 9, 2010, Deane logged into Annuity eXpress, a Firm web-based system utilized by Merrill Lynch sales staff to complete transaction paperwork for annuity contract purchases. The Annuity eXpress system was also designed to reject annuity transactions that were submitted by registered representatives that did not hold the required states insurance licenses, as well as transactions involving annuity products that were not offered in the state in which the Firm customer resided. The Firm's Annuity eXpress system is part of its electronic books and records.

When Deane initially entered VS's replacement transaction into Annuity eXpress, he reported that VS was a New York state resident. Annuity eXpress rejected the VS replacement transaction because the deferred variable annuity product was not offered to New York residents and because Deane did hold the requisite state insurance license. Following a second unsuccessful bid to process VS's transaction through Annuity eXpress, Deane improperly input VS's state of residence as Florida. As a result of Deane's falsification of the Firm's electronic records, the Annuity eXpress system permitted the processing of VS's transaction.

By entering false information into the Firm's electronic books and records, Deane caused the Firm to violate SEC Rule 17a-3 by maintaining inaccurate books and records and therefore violated NASD Rule 3110 and FINRA 2010.

Deane also used the Annuity eXpress system to falsely indicate in the deferred variable annuity application that VS signed the annuity contract in the state of Florida. Deane prepared the variable annuity application in Florida and sent it to VS at her residence in Buffalo, New York, for her signature. VS signed the annuity application in New York and returned them to Deane, who submitted VS's annuity replacement paperwork for processing. The Firm determined that it could not honor VS's annuity contract because the variable annuity was not available to New York residents.

By including false information in the annuity application concerning the state in which VS signed the document, Deane violated FINRA Rule 2010.

B. Deane also consents to the imposition of the following sanctions:

- a. A three month suspension from associating with any FINRA registered broker-dealer in any capacity; and
- b. A fine of \$25,000.

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

Respondent 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, Respondent may not be associated with

any FINRA member in any capacity, including clerical or ministerial functions, during the three-month suspension imposed in this matter (see FINRA Rules 8310 and 8311).

The fine shall be due and payable either immediately upon reassociation with a member firm following the three-month 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.

Deane 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.

II.

WAIVER OF PROCEDURAL RIGHTS

Deane 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, Deane 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.

Deane 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

Deane understands that:

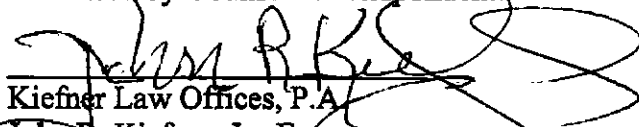
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will 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. Deane 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. Deane 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 his right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Deane may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Deane 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.

Deane certifies that he has read and understood 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.

8/1/12
Date (mm/dd/yyyy)


Adam Spencer Deane, Respondent

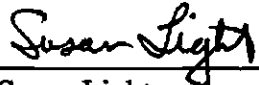
Reviewed by Counsel for Respondent:


Kiefner Law Offices, P.A.
John R. Kiefner, Jr., Esq.
146 Second Street North, Suite 300
St. Petersburg, FL 33701

Accepted by FINRA:

August 27, 2012
Date

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


Susan Light
Senior Vice President & Chief Counsel
FINRA Department of Enforcement
One World Financial Center
200 Liberty Street, 11th Floor
New York, New York 10281