

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2011026101501**

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

RE: Scott Shumate
CRD No. 1304562

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Scott Shumate ("Shumate" or "Respondent") 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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Shumate first became registered in the securities industry as a General Securities Representative ("GSR") with a FINRA member firm in 1984. From February 2010 until December 2010, Shumate was registered with MetLife as a GSR. Shumate's employment with MetLife was terminated on December 27, 2010.

Although Respondent is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the AWC was filed within two years after the effective date of termination of the Respondent's registration with MetLife Securities, Inc., and (2) the AWC charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to fully respond to FINRA requests for information and appear for on-the-record testimony during the two-year period

after the date upon which he ceased to be registered or associated with a FINRA member.

RELEVANT DISCIPLINARY HISTORY

Shumate has no disciplinary history.

OVERVIEW

Throughout his registration with MetLife, from February 2010 through December 2010 (the "Relevant Period"), Shumate used a personal email account to send and receive business-related correspondence without permission from MetLife. He engaged in this conduct even after receiving multiple instructions from MetLife to cease. In two of these emails, Shumate issued false, unwarranted, exaggerated and/or misleading statements, which were without basis or substantiation.

In addition, in or about September 2010, Shumate offered cash to Customer LB, in an effort to resolve the customer's complaint. Shumate did not inform MetLife of the complaint or of his offer to settle the matter away from MetLife.

Further, Shumate failed to fully cooperate with FINRA's requests for testimony and documents made pursuant to FINRA Rule 8210.

By virtue of this conduct, Shumate violated NASD Rule 2210(d)(1)(B), FINRA Rule 8210 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Shumate Used Personal Email for Firm Business

During the period of February 2010 through December 2010, Shumate used his personal "bellsouth.net" email account on numerous occasions to send and receive MetLife business-related emails to and from customers and others. On or about July 21, 2010, Shumate was contacted by a Firm compliance officer, MW, and told orally to cease using his personal email for business purposes. On September 7, 2010, MetLife issued a formal written warning to Shumate instructing him to cease the conduct, which Shumate signed. Shumate continued this practice despite those instructions. MetLife's procedures prohibited representatives from conducting Firm business on personal email accounts at third-party providers. Shumate's use of his personal email account prevented MetLife from monitoring, reviewing and retaining these business communications as required under NASD Rule 3010(d). Therefore Shumate violated FINRA Rule 2010 which requires the observance of high standards of commercial honor and just and equitable

principles of trade with regard to business practices.

Shumate Issued Exaggerated and Misleading Statements in Customer Communications

In two of the above-referenced emails, dated July 18, 2010 and December 22, 2010, Shumate made statements or claims that are unwarranted, exaggerated and misleading regarding MetLife's capacities and his own services. These statements were without basis or substantiation. For example, in Shumate's July 18, 2010 email to a customer, AB, Shumate stated that "legal/tax/and advanced securities division units work in concert with me to develop the strategy & document(s) that will form the basis for their safety net." In Shumate's December 22, 2010 email addressed to "Colleagues and Friends," which was sent to at least one customer, SW, Shumate stated: "MSI manages a Trillion dollars per year and I am pleased to report that I am working with their Senior Investment Advisor, who is in fact responsible for their guidance—along with his most excellent team of legal, political, economic, analytical, and Tax experts." In addition, in the same email, Shumate stated, "[i]t pleases me to note that [Company A] and I have reached such an agreement as well. They are an unparalleled yardstick by which all other investment models are measured due to their non-profit and unbiased opinions."

By virtue of the above-described conduct, Shumate violated NASD Rule 2210(d)(1)(B), which provides that communications with the public cannot contain unwarranted, exaggerated and misleading statements. In addition, Shumate violated FINRA Rule 2010 which requires the observance of high standards of commercial honor and just and equitable principles of trade with regard to business practices.

Shumate Attempted to Settle a Customer Complaint Away from his Firm without Notifying the Firm.

On or about August 3, 2010, LB, a customer of Shumate's, complained to Shumate that his bank account had been improperly debited for \$500 in connection with a MetLife insurance product. LB demanded that Shumate obtain a \$500 refund for him from MetLife. However, Shumate did not report the complaint to MetLife. Instead, on or about September 22, 2010, he offered LB cash in the amount of \$500.

By virtue of the above-described conduct, Shumate attempted to settle a customer's complaint away from his Firm without notifying the Firm, in violation of FINRA Rule 2010.

Shumate Failed to Cooperate with FINRA's Rule 8210 Requests

On February 22, 2011, FINRA staff issued a request for documents to Shumate pursuant to FINRA Rule 8210. The Request was sent to Shumate at his CRD address via first

class mail and certified mail requesting the production of documents by March 8, 2011. On March 6, 2011, Shumate acknowledged receipt of the request in written correspondence, but he did not produce the requested documents. On July 29, 2011, FINRA staff issued a request for documents pursuant to FINRA Rule 8210. It was sent via first class mail and certified mail to Respondent's CRD address. On August 13, 2011, Respondent acknowledged his receipt of the request in written correspondence but did not produce the requested documents.

By letter dated October 3, 2011, sent via first class and certified mail to Respondent's CRD address and to an additional address provided by the Respondent, FINRA Staff requested, pursuant to FINRA Rule 8210, that Shumate provide on-the-record testimony on November 14, 2011, at FINRA's offices in New York. Shumate acknowledged receipt of the request in written correspondence dated November 11, 2011, but stated that he would not appear for testimony. By letter dated November 21, 2011, sent via first class and certified mail to Respondent's CRD address, and to an additional address provided by Respondent, FINRA Staff requested, pursuant to FINRA Rule 8210, that Shumate provide on-the-record testimony on December 13, 2011, at a court reporter location near his home in Asheville, North Carolina. Shumate acknowledged receipt of the request in written correspondence dated December 7, 2011, but stated that he would not appear for testimony. By letter dated January 19, 2012, sent via first class and certified mail to Respondent's CRD address and to an additional address provided by Respondent, FINRA Staff requested, pursuant to FINRA Rule 8210, that Shumate provide on-the-record testimony on February 22, 2012, at a court reporter location in Asheville, North Carolina. Shumate acknowledged receipt of the request in written correspondence dated February 14, 2012, but stated that he would not attend. To date, Respondent has not provided on-the-record testimony.

By virtue of this conduct, Shumate violated FINRA Rule 8210, which provides that "No member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule." Additionally, Shumate's conduct violated FINRA Rule 2010.

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

A bar from association with any member in any capacity.

Respondent understands that if he is barred or 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, he 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. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent 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, Respondent 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.

Respondent 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

Respondent 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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's 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. Respondent 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. Respondent 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

Respondent certifies that he has read and understood all of the provisions of this AWC and have 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.

12/7/2012
Date

[Signature]
Scott Shumate

Accepted by FINRA:

12/13/12
Date

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

Susan Light
Susan Light
Senior Vice President &
Chief Counsel
FINRA Department of Enforcement
1 World Financial Center
11th Floor
New York, NY 10281