

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2011027571901**

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

RE: Scottie Brent Chitwood, Respondent
CRD No. 4469472

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, 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

Scottie Brent Chitwood ("Chitwood") entered the securities industry in 2001 when he was hired by Edward D. Jones & Co., L.P. ("Edward Jones" or the "Firm"), a FINRA regulated broker-dealer. Chitwood was a registered representative with Edward Jones until April 2011. From April 11, 2011 until March 28, 2013, Chitwood was employed as a registered general securities representative with another FINRA regulated entity. Although Chitwood has not been associated with a FINRA regulated broker-dealer since March 28, 2013, pursuant to FINRA By-Law Article V, Section 4, he remains subject to FINRA's jurisdiction until at least March 27, 2015.

In May 2011, the Firm filed a Uniform Termination Notice For Securities Industry Registration, reporting the termination of Chitwood's employment on April 4, 2011, for improperly exercising discretion in customer accounts.

RELEVANT DISCIPLINARY HISTORY

Chitwood has no prior relevant disciplinary history.

OVERVIEW

During the period 2006 through 2010 (the "Relevant Period"), in connection with recommendations to purchase variable annuities, Chitwood inaccurately represented to three couples and three individuals that the principal of their investment would be protected from loss. Chitwood also failed to adequately disclose the surrender fees associated with some of these customers' variable annuity purchases. During the Relevant Period, Chitwood made inaccurate investment objective entries on new account documents for these customers. On two trade dates in January and February 2011, Chitwood improperly exercised discretion in the accounts of eight additional customers. He also engaged in one unauthorized trade on behalf of an additional customer in February 2011.

FACTS AND VIOLATIVE CONDUCT

During the Relevant Period, Chitwood worked in a two-person office located in Decherd, Tennessee. Chitwood was assisted at his office by one unregistered branch administrative assistant.

Chitwood did not have written authorization to trade in any of his customers' accounts with discretion. His business consisted of recommending and selling stocks, bonds, and variable annuities to his customers. During the Relevant Period, the sale of variable annuities constituted a significant portion of Chitwood's business, sometimes exceeding fifty percent of his sales.

In February 2006, Chitwood sold a \$139,360 variable annuity to Customer DF. Although DF was a conservative investor seeking to preserve her investment principal, Chitwood improperly identified her investment objective as including "growth" on her new account documents.

Chitwood sold a \$50,000 variable annuity to Customer PC in January 2007. Although PC was a conservative investor seeking to preserve his investment principal, Chitwood improperly identified his investment objectives as including "aggressive" and "aggressive income" on his new account documents.

Chitwood sold a \$25,000 variable annuity to a married couple, Customers CH and AH, in January 2008. Although CH and AH were conservative investors seeking to preserve their investment principal, Chitwood improperly identified their investment objectives as including "growth," "aggressive" and "aggressive income" on their new account documents. Chitwood also failed to disclose to CH and AH that a surrender charge would be assessed on their variable annuity if not held more than 7

years. When CH and AH surrendered their variable annuity in January 2011, they incurred a surrender charge of \$895.86.

In December 2008, Chitwood sold two variable annuities to Customers JF and PF, a married couple. JF purchased a \$39,000 variable annuity, using the proceeds from the liquidation of a mutual fund he owned. PF purchased the same annuity for \$74,000, using the proceeds from the liquidation of two mutual funds she owned. Although both were conservative investors seeking to preserve their investment principal, Chitwood improperly identified their investment objectives as including "aggressive" and "aggressive income" on their new account documents.

Chitwood sold a \$45,000 variable annuity to Customer RM in 2008. Although RM was a conservative investor seeking to preserve his investment principal, Chitwood improperly identified his investment objectives as including "growth," "aggressive" and "aggressive income" on his new account documents.

Chitwood sold two variable annuities to Customers CW and VW, a retired married couple. VW purchased a \$26,000 variable annuity for her individual IRA in August 2009. CW purchased a \$62,000 variable annuity for his IRA at the same time. Chitwood failed to disclose to VW and CW that a surrender charge would be assessed on their variable annuity if not held for more than 7 years. When VW and CW surrendered their VAs in October 2010, they incurred surrender charges of \$1,887.22 and \$4,324.92, respectively. Although both VW and CW were conservative investors seeking to preserve their investment principal, Chitwood improperly identified their investment objectives as including "aggressive" and "aggressive income" on their new account documents.

In connection with purchases of variable annuities, Chitwood inaccurately represented to the customers described above that the principal of their investment would be protected from loss. In addition, these customers were unaware of the inaccurate entries Chitwood made to their new account documents regarding their investment objectives.

Inaccurate Representations and Failure to Disclose

FINRA Rule 2010 and NASD 2110 require that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."¹

At various times during the Relevant Period, Chitwood made inaccurate representations to customers PC, CH & AH, DF, CW & VW, JF & PF, and RM, in connection with recommendations to purchase variable annuities. Such statements led these customers to believe incorrectly that their principal was protected from loss.

¹ On December 15, 2008, FINRA Rule 2010 superseded NASD Rule 2110.

Chitwood also failed to adequately disclose the surrender fees associated with the variable annuities he sold to Customers CH & AH and Customers CW & VW.

Chitwood's inaccurate statements and lack of disclosures constitute violations of NASD Rule 2110 and FINRA Rule 2010.

Improper Exercise of Discretion

NASD Rule 2510(b) provides that "[n]o registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization . . . and the account has been accepted by the member"

For the period January through February 2011, Chitwood handled non-discretionary accounts for eight customers: JP, TG, MG, MC, RC, SC, JW, and JS (the "Discretionary Trading Customers"). On two trade dates during this period, Chitwood made two mutual fund purchases for each of the Discretionary Trading Customers, without notifying them. Chitwood also failed to obtain these customers' authorization prior to effecting these trades for their accounts.

Based on the foregoing, Chitwood violated NASD Rule 2510(b) and FINRA Rule 2010.

Unauthorized Trading in a Customer Account

On February 22, 2011 Chitwood purchased 63.775 shares of a mutual fund for the account of customer HC without HC's prior authorization, in violation of FINRA Rule 2010.

Causing the Creation of Inaccurate Books and Records

NASD Rule 3110(a) requires member firms 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 this Association and as prescribed by the Securities Exchange Act of 1934, Rule 17a-3." In turn, Exchange Act Rule 17a-3(a)(17) requires member firms to make and keep, among other things, for each account with a natural person as a customer, the customer's name, tax identification number, address, telephone number, date of birth, employment status, annual income, net worth, and investment objectives."

During the Relevant Period, the Firm required its registered representatives to select one or more of the following investment objectives on new account documents, based on their conversations with customers as to their goals and needs: "Cash Equivalents," "Growth," "Growth & Income," "Income," "Aggressive," and

"Aggressive Income." Chitwood improperly selected all of these investment objectives on the new account documents for Customers PC, CH & AH, CW & VW, JF & PF, and RM. At the time, however, Chitwood's entries did not accurately represent the conservative investment style, or the preservation of principal investment objective, that the customers disclosed to Chitwood.

In addition, Chitwood selected "Growth" as one of the investment objectives for DF on her new account documents. At the time, however, this did not accurately represent DF's preservation of principal investment objective that she disclosed to Chitwood.

Based on the foregoing, Chitwood violated NASD Rules 3110(a) and 2110, and FINRA Rule 2010, in that he caused his Firm to create and maintain inaccurate books and records, in violation of Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-3 promulgated thereunder, and NASD Rules 3110(a) and 2110.

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

A bar from association with any member of FINRA in any capacity.

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. 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

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

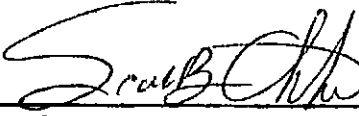
I understand that:

- 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.

5-2-13
Date:



Scottie Brent Chitwood

Accepted by FINRA:

5-6-13
Date

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



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