

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20110287357-01**

TO: Office of Fraud Detection and Market Intelligence
Financial Industry Regulatory Authority ("FINRA")

RE: Marc Duda, Respondent
CRD No. 2544960

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Marc Duda, 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

Duda was registered with FINRA member firms from August 1995 until January 2005. Duda was registered with his most recent employer from January 2005 through August 1, 2011 when the firm filed a Form U5 terminating his registration because of the conduct described herein. Duda is not currently associated with a FINRA member firm but remains subject to FINRA's jurisdiction pursuant to Article V, Section 4, of FINRA's By-Laws. Duda has no disciplinary history.

SUMMARY

While registered at a member firm, Duda devised a scheme to defraud more than 10 customers, including at least seven elderly customers, of approximately \$2.5 million. In furtherance of the scheme, Duda falsely represented to investors that he would invest their money in certificates of deposits with banks, secured note funds and lending investments (the "investment vehicles"). Instead of investing the funds as he represented to the customers, Duda converted the funds for personal use. Duda also failed to disclose his outside business activities to his employer member firm.

FACTS AND VIOLATIVE CONDUCT

1. Beginning in March 2008 and continuing until July 2011, Duda intentionally devised a scheme to defraud investors to obtain money through false representations and promises. Duda represented to more than 10 investors, including at least seven elderly investors, that he would purchase securities on their behalf including certificates of deposit with banks, secured note funds, and lending investments (the "investment vehicles").
2. Contrary to his representations to investors, Duda did not invest any of the proceeds in the investment vehicles. Instead, Duda used the investors' money to fund other business ventures and for personal expenses. With the investors' funds, Duda purchased and maintained an airplane and a boat. Duda also used the funds to make car, motorcycle and mortgage payments, to gamble in Las Vegas, and for child care expenses.
3. Duda liquidated stocks of one investor and used the proceeds from the sale of his securities for personal expenses. Duda also wired \$15,000 of investor's funds from an account in California to an account in Nevada and used that money for personal expenses.
4. To conceal his fraudulent scheme, Duda used investors' funds to make payments to other investors. Duda did not disclose to later investors that their investments were being used to pay earlier investors.
5. By reason of the foregoing, Duda, in connection with the purchase or sale of a security, directly or indirectly, by use of means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange, knowingly or recklessly, employed a device, scheme or artifice to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; and engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit upon any person, in willful violation of Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5 thereunder, and in violation NASD Rules 2110 and 2120 (for conduct on or before December 15, 2008) and FINRA Rules 2010 and 2020 (for conduct after December 15, 2008).

6. In addition, Duda's improper use and conversion of his customers' funds violated NASD Rule 2330 (for conduct on or before December 15, 2008) and FINRA Rule 2150 (for conduct after December 15, 2008).
7. While Duda was employed with a member firm, he failed to disclose to his member firm his affiliation with business activity outside the scope of the relationship with his employing member firm (namely, KAD Capital Group, LLC and Capistrano Beach Funding Corporation).
8. By failing to disclose to his employing member firm his outside business activities while he was a registered person, Duda violated NASD Rules 2110 and 3030 (for conduct on or before December 15, 2008) and FINRA Rules 2010 and 3270 (for conduct after December 15, 2008).

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

A bar in all capacities from association with any FINRA member.

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 Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. 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 violated Section 10b and Rule 10b-5 thereunder of the Securities Exchange Act of 1934. Pursuant to Article III, Section 4 of FINRA's By-Laws, this 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. Pursuant to FINRA Rule 8313(e), a bar 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

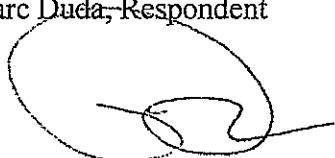
I understand that:

- 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 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.

3/13/12
Date

Marc Duda, Respondent

By: 

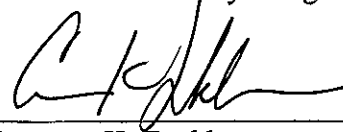
Reviewed by:

Counsel for Respondent

Accepted by FINRA:

5/9/12
Date

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



Cameron K. Funkhouser
Executive Vice President
Office of Fraud Detection and Market
Intelligence