

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2011028804701**

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

RE: Julio A. Vitullo, Respondent
CRD No. 4549248

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. 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

From September 2001 to August 2011, Julio A. Vitullo ("Vitullo") (CRD No. 4549248) was associated with registered firm Mutual of Omaha Investor Services, Inc. ("MOIS" or "the firm") (CRD No. 611) and worked in a branch office located in Manassas, Virginia. For approximately the first year, he sold both life and health insurance policies to customers. In October 2002, Vitullo obtained both Series 6 and 63 securities licenses and began to offer 529 plans, variable annuities and mutual funds along with insurance products to the firm's customers. He remained in the same position until his termination on August 1, 2011. Pursuant to Article V, Section 4 of the FINRA By-Laws, Vitullo remains subject to FINRA's jurisdiction.

OVERVIEW

From September 17, 2009, to February 17, 2011 ("the relevant period"), while working as a registered representative at MOIS, Vitullo engaged in an outside business activity, a company named 4 Health Services that he created and operated, without providing the proper written

notice and obtaining his employer's approval prior to doing so, in violation of NASD Rule 3030 and FINRA Rules 3270¹ and 2010. Moreover, through 4 Health Services, Vitullo offered and sold what he misrepresented as "supplemental insurance coverage" to customers, but neither the state of Maryland nor Virginia had approved 4 Health Services as an insurance carrier. Vitullo thereby violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Vitullo Engaged in an Unauthorized Outside Business Activity

Throughout the relevant period, FINRA Rule 3030 required that Vitullo provide prompt written notice to his firm prior to engaging in any outside business activities. MOIS required that its registered representatives submit a completed MOIS Disclosure & Update Form ("the disclosure form") and obtain the firm's approval prior to engaging in any outside business activity. Vitullo was aware of these requirements.

However, on or about September 17, 2009, Vitullo failed to comply with the disclosure requirements when he created and began operating a limited liability company called "4 Health Services" ("4HS") without providing notice to MOIS and obtaining its approval.

During the relevant period, Vitullo represented 4HS to be an insurance carrier that offered a "supplemental health insurance plan" ("the plan") to customers who lived in Maryland and Virginia. 4HS was not a legally authorized insurance carrier at the time. Vitullo promised his customers that 4HS would pay up to 20% of any medical costs that were not otherwise covered by the customer's primary insurance policy. Vitullo convinced more than 70 customers, many of whom were also MOIS customers, to purchase the plan. MOIS did not discover Vitullo's outside business activities until July 13, 2011.

By knowingly engaging in an outside business activity without providing the proper written notice to his employer and obtaining his employer's approval, Vitullo violated NASD Rule 3030 and FINRA Rules 3270 and 2010.

Vitullo Sold Plans in an Unlicensed Insurance Carrier to Customers

During the relevant period, Vitullo operated 4HS as an unlicensed insurance carrier. He solicited several customers who lived in Maryland and Virginia to purchase "supplemental insurance plans" to supplement their existing health insurance policies. Vitullo misrepresented 4HS to be an insurance carrier when he knew it had not been approved as such by any state.

Vitullo told customers that the supplemental plan would assist them with covering health care costs. Vitullo directed customers to complete an enrollment process which consisted of: 1) an

¹ FINRA Rule 3270 replaced NASD Rule 3030 on December 15, 2010.

application; 2) enrollment fees of approximately \$400 dollars; and 3) monthly fees of around \$100. Vitullo provided the customers with a 4HS membership card. Vitullo offered and sold these plans to more than 70 customers in Maryland and Virginia who paid more than \$28,000 to purchase the unauthorized and unapproved health insurance plans.

By virtue of the foregoing, Vitullo operated an unapproved and unauthorized insurance carrier and misrepresented to customers that 4HS was as an insurance carrier, when in fact he knew it had not been approved as such by any state. Vitullo thus violated FINRA Rule 2010.

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

A permanent bar from the securities industry.

Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

Vitullo understands that if he is barred or suspended from associating with any FINRA member, he 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, Vitullo 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).

II.

WAIVER OF PROCEDURAL RIGHTS

Vitullo 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, Vitullo 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.

Vitullo 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

Vitullo understands that:

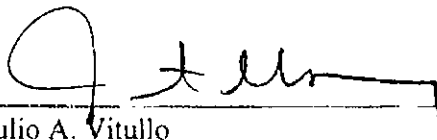
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against 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. Vitullo 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. Vitullo 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 Vitullo's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

Vitullo certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Vitullo 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.

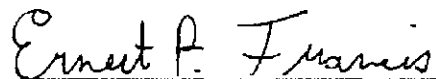
6/25/2012

Date (mm/dd/yyyy)



Julio A. Vitullo

Reviewed by:



Ernest P. Francis, Esq.
Counsel for Respondent
1655 North Fort Myer Drive
Suite 700
Arlington, VA 22209
(703) 683-5696

Accepted by FINRA:

7/26/12
Date

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

Thomas B. Lawson

Thomas B. Lawson
Vice President and Chief Counsel
FINRA Department of Enforcement
1801 K Street, 8th floor
Washington, DC 20006