

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
No. 20110292860**

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

**RE: David M. Perham
CRD No. 1422512**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, David Perham, 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

In September 1994, Perham entered the securities industry as a General Securities Representative with a FINRA registered firm. In March 2003, he became registered in the same capacity with Berthel, Fisher & Company. He was registered with New England Securities until September 2011. Between September 2011 and March 2012, he was registered with another FINRA-registered firm. Since March 2012, he has not been registered with a FINRA firm. Perham has no prior formal disciplinary history.

OVERVIEW

In February 2010, Perham settled a customer complaint away from his firm, without its knowledge or approval, in violation of FINRA Rule 2010. Additionally, in connection with the investigation of the customer complaint, Perham failed to respond to FINRA staff's requests for information in a timely manner, in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

Settling Away

1. In or about 2003, Perham purchased a fixed annuity policy on behalf of JI, a customer of Perham and the firm.
2. In January 2010, JI called Perham to discuss the benefits provided under her fixed annuity policy. Specifically, JI questioned Perham about the absence of a death benefit involving that policy and the safety of her investment.
3. On or about February 11, 2010, Perham sent a letter to BL Life Insurance Company requesting, among other things, that JI be added as an additional beneficiary to his life insurance policy and that the policy be amended to allow JI to receive approximately \$80,000 upon Perham's passing. A copy of that letter was also sent to JI.
4. On or about December 21, 2010, Perham sent a letter to JI confirming that he had purchased life insurance coverage for her through BL Life Insurance Company and that the coverage was in effect between February 11, 2010 and August 4, 2026.
5. The firm's written policies provided that a representative could not make payments "of any kind" to resolve complaints or errors directly with customers. Furthermore, a representative was required to advise the Compliance Department of any such errors and complaints.
6. Perham never spoke with his Compliance Department or his supervisor about his decision to resolve JI's concerns about the absence of a death benefit and the safety of her investment by adding JI as a beneficiary to his policy.
7. As a consequence, Perham's request to BL Life Insurance Company was made without his firm's knowledge and authorization.
8. By virtue of the foregoing, Perham failed to observe high standards of commercial honor and just and equitable principles of trade and, therefore, violated FINRA Rule 2010.

Untimely 8210 Response

9. On or about May 30, 2012, FINRA staff sent Perham a written request that he provide certain information and documentation related to its investigation of JI's complaint by June 13, 2012, pursuant to and in accordance with the provisions of FINRA Rule 8210. The request for information was sent by first class mail and by certified mail, return receipt requested, to Perham's address of record in Boardman, Ohio, as contained in the records of the Central

Registration Depository ("CRD address"). The letter sent by certified mail was returned, while the one sent by regular mail was not. No response was provided.

10. On or about July 18, 2012, FINRA staff sent Perham another letter asking that he provide certain information and documentation related to JI's complaint and requiring that he respond by August 2, 2012. The request was made pursuant to and in accordance with the provisions of FINRA Rule 8210 and was sent by first class mail and by certified mail, return receipt requested, to Perham's CRD address of record. According to the return receipt card, the letter sent by certified mail was received by Perham. Furthermore, the letter sent by regular mail was never returned to the staff. Again, no response was provided.
11. On or about November 13, 2012, FINRA staff sent Perham a letter advising him that, pursuant to FINRA Rule 9552, he would be suspended from associating with any FINRA member in any capacity on December 7, 2012, due to his failure to provide information and documentation related to JI's complaint previously requested in letters sent on May 30 and July 18, 2012. The letter further provided that Perham would not be suspended if he took corrective action before December 7, 2012.
12. On or about December 6, 2012, Perham sent FINRA staff a response to the 8210 request by email. Although Perham's response was generally complete, he failed to provide the life insurance policy that purportedly added JI as an additional beneficiary.
13. On January 25, 2013, FINRA staff orally requested that Perham provide of copy of the insurance policy that purportedly added JI as an additional beneficiary.
14. On or about February 1, 2013, FINRA staff sent Perham a written request that he provide a copy of the insurance policy in which Perham added JI as an additional beneficiary by February 15, 2013, pursuant to and in accordance with the provisions of FINRA Rule 8210. The request for information was sent by first class mail and by certified mail, return receipt requested, to Perham's CRD address of record in Boardman, Ohio. According to the return receipt card, the letter sent by certified mail was received by Perham. Furthermore, the letter sent by regular mail was never returned to the staff. No response was provided. Staff sent Perham additional written requests for the same information on March 13, June 18 and July 2, 2013.
15. On July 9, 2013, Perham provided FINRA staff the requested information related to the insurance policy that purportedly added JI as an additional beneficiary.

16. By failing to respond to FINRA's requests for information in a timely manner, Perham violated FINRA Rules 8210 and 2010.

- B. I also consent to the imposition of a six-month suspension from association with any FINRA firm in all capacities and a fine of \$10,000.

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

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

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.)

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 of 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 Formal Complaint issued specifying the allegations against me;
- B. To be notified of the Formal 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.

D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

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.

12/10/2013
Date

David M. Pechman
David M. Pechman

Reviewed by:

Date

Reviewed by:

Decker Johnson, Esq.
Decker Johnson, Esq.
Mallon & Johnson
33 North Dearborn Street, Suite 300
Chicago, IL 60602
312-346-8891

Accepted by FINRA:

12/31/13
Date

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

Richard A. March
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