

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
No. 2012030737501**

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

RE: Advanced Equities, Inc.
CRD No. 35545

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Advanced Equities, Inc. ("AEI") 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 the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. AEI 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

AEI became registered with the Securities and Exchange Commission ("SEC") on December 7, 1993 and became a member of FINRA on May 18, 1994. During all relevant times, the firm was a member of FINRA and was registered as a broker-dealer with the SEC. In or about November 2012, the firm ceased doing business and filed a Form BDW. As a consequence, FINRA terminated the firm's registration on November 20, 2012. Although AEI's registration has been terminated, it remains subject to FINRA's jurisdiction for purposes of this proceeding. The firm has no relevant prior disciplinary history.

OVERVIEW

Between approximately November 1 and December 1, 2011, AEI, which was acting as a placement agent for an issuer, failed to identify material information and correct omissions of material facts made by the issuer in connection with a private placement offering, in violation of FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

1. In or around February 2009, AEI agreed to act as a private placement agent in connection with the offering of shares in FA, an American automobile maker that manufactures hybrid electric vehicles. The shares were sold through limited liability companies to accredited investors.
2. In or around September 2009, FA obtained a "loan facility" in the approximate amount of \$529 million, which was overseen by the United States Department of Energy ("DOE") and established pursuant to a federal program that provided loans to manufacturers of advanced technology vehicles under the Energy Independence and Security Act of 2007.
3. Under the terms of the loan facility agreement, FA could seek reimbursement for certain project and engineering costs associated with the production of two advanced technology vehicles, provided FA was in compliance with certain financial covenants and project milestones required under the loan facility agreement. Those covenants and milestones included, requiring that FA achieve a certain level of earnings, sell a particular number of automobiles and complete certification requirements related to safety and environmental matters, to name a few.
4. The private placement offering documentation used in connection with the offering of shares in FA (Series A-1, B-1, C-1 and D-1) disclosed that FA was receiving financial assistance from the DOE, pursuant to the loan facility agreement. The offering documentation described FA's continuing obligations to meet certain financial covenants and project milestones required under the loan facility agreement, and generally stated that FA may not meet the covenants. .
5. Additional information related to the offering of shares in FA could be found in AEI's Venture Gateway, the firm's internet based document room, and in supplemental written documentation sent to the investor immediately prior to closing.
6. As of early 2011, AEI, through sales made by the firm's registered representatives, assisted FA in raising approximately \$500 million with regard to the Series A-1, Series B-1 and Series C-1 offerings. The Series D-1 offering, which began on or about August 15, 2011 and extended through early 2012, raised in excess of \$150 million.
7. An investment banker at AEI ("Lead Banker") had overall responsibility at AEI for its role in the FA private placement offering. His duties included, among other things, obtaining information about the offering

from FA, conveying that information to AEI's brokers and participating in presentations made to potential investors.

8. During early 2011, and prior to issuing the Series D-1 offering, the Lead Banker became aware that FA was *unlikely* to meet certain revenue and production volume covenants contained in the loan facility agreement by the December 31, 2011 deadline.
 9. Later, in or around October 2011, the Lead Banker became aware that FA had decided not to access the loan facility with the DOE.
 10. Despite knowing that FA had decided not to access the DOE loan facility, the Lead Banker failed to inform any future investor of such material information, while AEI continued to offer the product for sale.
 11. In fact, potential investors interested in the Series D-1 offering were not informed about FA's decision not to access DOE's loan facility until on or about December 14, 2011, at which time an Information Statement was placed on the Venture Gateway. The Information Statement disclosed, for the first time in writing, that FA had elected not to submit any advanced requests for additional funding under the DOE loan facility until discussions with the DOE had been completed.
 12. Between approximately November 1 and December 1, 2011, approximately 90 accredited individuals and/or entities invested approximately \$9 million in the Series D-1 offering.
 13. FINRA Rule 2010 requires firms and associated persons to "observe high standards of commercial honor and just and equitable principles of trade." Specifically, a broker's-dealer's failure to identify material information and correct omissions of material facts made by issuer in connection with a private placement offering for which the broker-dealer is also acting as a placement agent is inconsistent with just and equitable principles of trade.
 14. Between approximately November 1 and December 14, 2011, AEI failed to identify that the loan facility with the DOE would no longer be accessed, pending discussions with the DOE, and failed to correct the omission of such information in FA's offering documents.
 15. By virtue of the foregoing, AEI violated FINRA Rule 2010.
- B. AEI also consents to the imposition of the following sanctions: a fine of \$250,000 and a censure.

AEI agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The firm has submitted an

Election of Payment form showing the method by which it proposes to pay the fine imposed.

AEI specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanction imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

AEI specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- 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, AEI 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.

AEI 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.

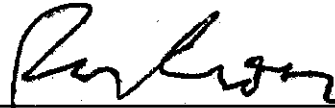
OTHER MATTERS

AEI 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 the firm; and**
- C. If accepted:**
 - 1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;**
 - 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. AEI 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. AEI 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.**

The undersigned, on behalf of Advanced Equities, Inc., certifies that a person duly authorized to act on its behalf has read and understand all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the undersigned 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 the Firm to submit it.

22 Apr 2014
Date


Respondent

Advanced Equities, Inc.

By: ROBERT F. CROSS, CEO

Date

Reviewed by:

Accepted by FINRA:

6-5-14
Date

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


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