

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE WAIVER AND CONSENT
NO. 2012031084801**

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

RE: David Eckess (CRD No. 1391486),
Respondent

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, David Eckess ("Respondent or Eckess") 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 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

Eckess first became registered with FINRA as a General Securities Representative through an association with a member firm on August 17, 1985. From November 18, 1985 through December 15, 2011, he remained registered in that same capacity through member firm Morgan Stanley, Inc. (BD No.149777) ("Morgan Stanley" or the "Firm").

On December 15, 2011, Morgan Stanley filed a Uniform Termination Notice for Securities Industry Registration (Form U5) terminating Eckess (effective December 15, 2011). Specifically, the Form U5 disclosed the following grounds for termination: "Management Loss of Confidence Due to Concerns regarding FA's Handling of Annuity Modifications." At Morgan Stanley, Eckess worked in Little Rock, Arkansas.

His most recent registration ended when the firm with which he was associated filed a Form U5 on February 21, 2014. Eckess is not currently associated with a member firm. However, pursuant to Article V, Section 4 of the By-Laws, FINRA retains jurisdiction over him.

RELEVANT DISCIPLINARY HISTORY

On May 10, 2012, Eckess agreed to a Consent Order with the Arkansas Securities Department based on the conduct alleged herein. Eckess consented to findings that he engaged in "unethical practices in the securities business" under the Arkansas Code by: "being named the beneficiary of annuities owned by one of his clients," and "failing to inform his employing broker-dealer and investment adviser of the matter." He was fined \$10,000 and consented to a requirement that any Arkansas-based brokerage firm that hired Eckess place him under heightened supervision for one year.

Eckess has no other formal disciplinary history with the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator.

FACTS AND VIOLATIVE CONDUCT

While registered with FINRA through an association with Morgan Stanley, Eckess engaged in unethical conduct involving customer MG, a 92-year old infirmed customer.

On or about November 11, 2011, Eckess agreed to being named the replacement (and sole) beneficiary on two variable annuities held by MG that were worth approximately \$94,000, which were issued by the Allstate Life Insurance Company ("Allstate").

Eckess facilitated this transaction by obtaining and providing MG with the Allstate forms necessary to effect a change in beneficiary (hereinafter the "Annuity Change Forms"). He then assisted MG in completing the Annuity Change Forms while she was bed-ridden and mailed the executed documents to Allstate.

When MG received a notification from Allstate approximately a week later advising her that the named beneficiary on her two annuities had been changed to her broker and agent, Eckess, she immediately objected and requested that the beneficiary be changed to her son, William. This change was accomplished shortly thereafter on November 23, 2011.

Eckess' actions were unethical and also violated Firm procedures which prohibited registered representatives from engaging in conduct that conflicts with a client's interests.

Based on the foregoing, Eckess violated FINRA Rule 2010.

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

- A suspension from association with any FINRA member in any and all capacities for one year; and
- A \$10,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the 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 Article II, 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.

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 Respondent's 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 it may not deny the allegations 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.

2/28/14
Date (mm/dd/yyyy)

David Eckess
David Eckess (CRD No. 1391486),
Respondent

Reviewed by:

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Accepted by FINRA

3/12/14
Date

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

A handwritten signature in dark ink, appearing to read 'Michael Newman', written over a horizontal line.

Michael J. Newman
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FINRA Department of Enforcement
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