

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012032080901**

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

**RE: James Michael Johnson, Respondent
Former Registered Representative
CRD No. 827560**

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

James Michael Johnson ("Johnson") first entered the securities industry when he associated with a FINRA member firm in October 1981. He was registered with Commonwealth Financial Network ("Commonwealth" or the "Firm") from November 2006 through March 2012. Johnson's last registration with a FINRA member firm was terminated on November 27, 2013.

Although Johnson is no longer associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4, of FINRA's By-Laws.

OVERVIEW

In May, June, and November 2010, Johnson made negligent misrepresentations and omissions in connection with securities investments made away from Commonwealth by Firm customers JU and GU, thereby violating FINRA Rule 2010. Johnson also participated in these transactions away from the Firm in

violation of NASD Rule 3040¹ and FINRA Rule 2010. In addition, from November 2006 through March 2012, Johnson exceeded the scope of Commonwealth's approval of his involvement in one outside business activity ("OBA") and failed to disclose two other OBAs in violation of NASD Rules 3030² and 2110³ and FINRA Rules 3270 and 2010.

FACTS AND VIOLATIVE CONDUCT

Negligent Misrepresentations and Omissions

JU and GU invest \$375,000 in June 2010

In May and June 2010, Johnson discussed with Firm customers JU and GU, a married couple ("the customers"), their purchase of a 10-percent interest in West Virginia Farm Properties, LLC ("WVFP"). WVFP was a company formed to develop rural land into a residential neighborhood in West Virginia. Johnson inaccurately represented to the customers that (1) all development costs had been covered; (2) houses were ready to be built on the property; (3) the customers' investment, along with that of others, would allow WVFP to begin building houses immediately; and, (4) the infrastructure for building the houses was already in place. In fact, none of these statements was accurate.

Johnson also provided the customers with written materials, including a brochure, on which he made a handwritten note, "\$5 to \$9 million," to indicate the customers' ultimate expected profit from their investment in WVFP. He also provided them with a handwritten note stating that WVFP would have an immediate expected profit of \$20,000,000, of which their portion would be \$2,000,000, within three years of their investment. Johnson lacked a reasonable basis for believing that these statements were true.

Johnson also omitted material facts, of which he was aware, that should have been disclosed. These included: (1) WVFP had, days before the customers' investment, purchased from Johnson and another WVFP member the same interest being sold to the customers for substantially less than the amount the customers were paying; (2) seven months earlier, another investor had also purchased an identical interest in WVFP for substantially less than what the customers were paying; (3) in the months leading up to the customers' purchase in June 2010, WVFP had been meeting its expenses through capital calls on the members; (4) the county in which the subject land was located had previously refused to approve the WVFP development project, which necessitated WVFP going to the nearby city to annex the land and approve the project; the county had

¹ NASD Rule 3040 was superseded by FINRA Rule 3280, effective September 21, 2015.

² NASD Rule 3030 was superseded by FINRA Rule 3270, effective December 15, 2010.

³ NASD Rule 2110 was superseded by FINRA Rule 2010, effective December 15, 2008.

then appealed the city's annexation, and the case was on appeal before the West Virginia Supreme Court; (6) an associate of Johnson, and one of WVFP's original investors, had been indicted on Ponzi scheme charges and had sold his interest in WVFP at the request of the other owners because of those charges, less than three months earlier; (7) WVFP had \$8.3 million in outstanding debt (from two separate loans); and, (8) one of WVFP's loans was in arrears, and examiners were pressuring the bank in connection with the loan.

JU and GU invest \$75,000 in November 2010

In November 2010, the customers purchased a \$70,000 note from WVFP. In connection with the sale of this note, Johnson told the customers that their funds were needed to pay an expert WVFP had retained to secure Housing and Urban Development ("HUD") financing for the development project. In fact, the money was not going to be used to pay the expert. Johnson also told them that the HUD financing was "free money" rather than the loan it really was, and that WVFP was applying for the loan, rather than the city that had approved the project. Finally, Johnson also told the customers that the \$70,000 note would be repaid by WVFP in a short time. Johnson did not have a reasonable basis for making the above statements, and WVFP never repaid the customers' note.

FINRA Rule 2010 states that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." Negligent misrepresentations and omissions to customers violate Rule 2010.

By virtue of the above conduct, Johnson violated FINRA Rule 2010.

Participating in Private Securities Transactions

Johnson participated in the June and November 2010 sales described above without giving prior notice to Commonwealth. In connection with the June investment, in addition to having the discussions described above, Johnson also picked up paperwork and a check from JU, delivered the paperwork to WVFP's managing member, and deposited the check. With regard to the November 2010 note, in addition to having the discussions described above, Johnson signed the note on behalf of WVFP, picked up the paperwork from JU's office, and delivered it to WVFP's managing member.

NASD Rule 3040 required in pertinent part that prior to participating in any private securities transaction, an associated person provide written notice to the member with which he is associated describing in detail the proposed transaction and the person's proposed role therein. Johnson failed to provide such notice to Commonwealth with respect to either the June or November 2010 investments made by JU and GU in WVFP.

By virtue of the above conduct, Johnson violated NASD Rule 3040 and FINRA Rule 2010.

Undisclosed and Unapproved Outside Business Activities

During the period November 2006 through March 2012, Johnson failed to adequately disclose the following three OBAs:

West Virginia Farm Properties, LLC

Johnson disclosed WVFP to Commonwealth on November 14, 2006 and received permission to participate in it. In his disclosure, Johnson stated that he had no duties or obligations with respect to the company and did not have signing authority. However, throughout the period, Johnson was actively involved in the conduct of business on behalf of WVFP, thereby exceeding the permission granted him by Commonwealth. For example, Johnson served as a manager of WVFP, signed documents on behalf of the company, and served as a guarantor of its debt. He communicated with a bank regarding its loan to WVFP and was involved in the company's efforts to restructure and/or retire its debt. Johnson also dealt with WVFP's accountants and attorneys; was involved in providing updates regarding WVFP to, and obtaining capital calls from, the other members; and, helped find new investors for the company, including JU and GU.

Commonwealth's approval of Johnson's involvement in WVFPs was also subject to certain conditions. Johnson failed to abide by those conditions. Specifically, he failed to disclose all changes in WVFP's ownership, his increased level of activity in the company, and the recommendations he made in connection with the customers' investments in WVFP.

RAM & G Land Co., LLC

During this same period, Johnson also served as a member and manager of RAM & G Land Co., LLC, which owns a 200-acre farm in West Virginia. In 2009 and in 2011, Johnson paid bills on behalf of the entity from his own personal accounts and from a checking account in the entity's name over which he had signing authority. Johnson failed to disclose his involvement with the entity to Commonwealth.

DRM Land Co., LLC

During this same period, Johnson also served as a member of DRM Land Co., LLC ("DRM"), which owned a 240-acre farm in Virginia and had as its principal place of business Johnson's office. During 2008, Johnson served as managing member of DRM and granted written authority to an outside party to hunt on the entity's land. Johnson also failed to disclose his involvement in DRM to Commonwealth.

NASD Rule 3030 and successor FINRA Rule 3270 require registered representatives to provide written notice to their member firm prior to engaging in any outside business activities. Johnson failed to provide Commonwealth with the requisite notice of his full involvement in WVFP, as well as his involvement in RAM & G Land Co., LLC and DRM Land Co., LLC.

By virtue of the above conduct, Johnson violated NASD Rules 3030 and 2110 for his conduct prior to December 15, 2008, NASD Rule 3030 and FINRA Rule 2010 for his conduct beginning on December 15, 2008 and ending prior to December 15, 2010, and FINRA Rules 3270 and 2010 for his conduct on and after December 15, 2010.

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

- 1. A suspension in all capacities from association with any FINRA member firm for two years; and**
- 2. A fine of \$50,000.**

The fine shall be due and payable either immediately upon reassociation with a member firm following the two year 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(s) 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 III, 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 Chief Legal Officer, 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 accordance with FINRA Rule 8313;**

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.

10/27/2015
Date (mm/dd/yyyy)


James Michael Johnson, Respondent

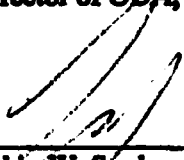
Reviewed by:


Peter E. Schurig, Esq.
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Accepted by FINRA:

11/25/15
Date

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



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