

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012032574701**

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

RE: David C. Key, Respondent
CRD No. 5339149

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. Respondent 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

Respondent was employed with PFS Investments, Inc. (the "Firm" or "PFSI"), a FINRA regulated broker-dealer, from May 15, 2007 until May 9, 2012.¹ Key became a Series 6 limited registered representative ("RR") on June 26, 2007, and obtained his Series 63 and 26 licenses on July 9, 2007 and August 1, 2007, respectively. The Firm terminated Key's employment on May 9, 2012. On May 10, 2012, the Firm filed a Uniform Termination Notice of Securities Industry Registration ("Form U5"), reporting that Key was terminated for alleged misappropriation of client funds.

Although Key has not been associated with another FINRA regulated entity since May 10, 2012, pursuant to By-Law Article V, Section 4, Key remains subject to FINRA jurisdiction until May 9, 2014.

RELEVANT DISCIPLINARY HISTORY

Key has no prior relevant disciplinary history.

¹ Respondent was concurrently employed as an insurance agent by Primerica Financial Services, the parent company for PFS Investments from September 2003 through May 2012.

OVERVIEW

During the period March 2011 through February 2012 (the "Relevant Period") while employed with the Firm, David Key ("Key" or "Respondent") converted approximately \$308,000 from seven PFSI customers. Key represented to these seven individuals that he would invest their funds in products sold by PFSI. Instead, he improperly used the funds for his personal use. Furthermore, Key failed to cooperate with FINRA's requests that he appear and provide testimony on two occasions.

FACTS AND VIOLATIVE CONDUCT

Conversion/Improper Use of Customer Funds

FINRA Rule 2010 provides that a member, "in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade."

Conversion is "any unauthorized act which deprives an owner of his property permanently or for an indefinite time" or the "unauthorized and wrongful exercise of dominion and control over another's personal property, to exclusion of or inconsistent with rights of the owner."

FINRA Rule 2150(a) states "[n]o member or person associated with a member shall make improper use of a customer's securities or funds."

PFSI Customers GP and KP

Between March 26, 2011 and December 20, 2011, customers GP and KP, husband and wife, gave Respondent a total of \$136,000 in personal checks for the purpose of investing in an unspecified Firm product to be selected by Key. In the memo section of checks dated March 26, 2011 and May 17, 2011, GP and KP wrote: "P.F.S." Similarly, in the memo section of a check dated August 22, 2011, GP and KP wrote: "Investments." Based on Key's representations, GP and KP believed that Key invested their funds in a Firm investment product. Key provided GP and KP with fictitious correspondence on PFSI letterhead that thanked GP and KP for their "recent investments." One of the letters, dated September 19, 2011, stated that: "A total of \$80,000 has been invested. With a guarantee of 20% which equals \$96,000."

PFSI Customer MK

On June 7, 2011, customer MK withdrew funds from her PFSI account and gave Key a check in the amount of \$30,000 to invest for MK's benefit. Based on Key's representations, MK believed that Key would invest her money in a PFSI investment product.

PFSI Customer WW

On July 19, 2011 and January 17, 2012, customer W.W. gave Respondent two personal checks, totaling \$55,000, for the purpose of investing in Firm products. Based on Key's representations, W.W. believed that Key would invest his funds in a PFSI Firm investment. WW evidenced his understanding by writing: "PFS-Inv." in the lower left hand corner of the July 19, 2011 check.

PFSI Customer BA

On November 3, 2011, customer B.A. gave Respondent a check from an outside bank account in the amount of \$27,000 for the purpose of investing. Based on Key's representations, B.A. believed that Key would invest her funds in a Firm investment product. She wrote "Invest Primerica" in the lower left hand corner of the check.

PFSI Customers HL and JL

On February 2, 2012, customers HL and JL, husband and wife, gave Key a check for \$30,000 to invest for their benefit. Based on Key's representations, HL and JL believed that Key would invest their funds in an unspecified Firm investment to be selected by Key. On February 24, 2012, HL and JL gave Respondent another check for \$30,000 for the purpose of investing in Firm products.

Instead of investing his seven customers' funds in Firm products, Key used the funds to repay gambling debts. By converting approximately \$308,000 from seven PFSI customers, and improperly using the funds for his own personal use, Key violated FINRA Rules 2150(a) and 2010.

Failure to Appear and Provide Testimony

FINRA Rule 8210 provides, in relevant part, that FINRA "shall have the right to require a member, person associated with a member, or person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically. . . and to testify. . . , under oath or affirmation . . . if requested, with respect to any matter involved in an investigation, complaint, examination, or proceeding." Moreover, FINRA Rule 8210(c) states that "no member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule."

On November 20, 2012, Enforcement staff sent Key a request pursuant to FINRA Rule 8210 to appear for testimony on December 4, 2012. Key failed to appear on December 4, 2012. On January 9, 2013, Enforcement staff sent another request to Key pursuant to FINRA Rule 8210 to appear and provide testimony on February 12, 2013. Key then contacted Enforcement to postpone his testimony and, as a result, Enforcement confirmed via FINRA Rule 8210 a new testimony date of February 14, 2013. Thereafter, Key advised Enforcement verbally, and in writing, that he would not to appear for testimony on February 14, 2013. Key failed to appear on February 14, 2013. On May 8, 2013, Key

again advised Enforcement that he will not cooperate with Enforcement's investigation in the future and confirmed his willingness to accept a permanent bar from the industry. To date, Key has failed to provide the testimony requested in the November 20, 2012 and January 9, 2013 letters.

Based on the foregoing information, Key violated FINRA Rule 8210 and FINRA Rule 2010.

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

A bar from association with any member of FINRA in any capacity.

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).

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

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.

10-10-13
Date

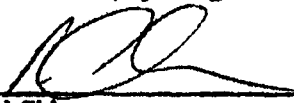

David C. Key

By: _____

Accepted by FINRA:

10-15-13
Date

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


Richard Chin
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FINRA Department of Enforcement
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