

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012033128701**

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

**RE: John Michael McDonough, Respondent
CRD No. 4425667**

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

John McDonough ("McDonough") was first registered with a FINRA member firm in August 2001. He became registered with AXA Advisors, LLC ("AXA") as a General Securities Representative (Series 7) on November 5, 2001 and as a General Securities Principal (Series 24) on October 30, 2003. McDonough remained registered with AXA until May 31, 2011. McDonough has not been registered or associated with a FINRA member firm since his termination from AXA.

On June 9, 2011, AXA filed a Form U5 notifying FINRA of McDonough's full, voluntary termination. On June 20, 2012, AXA filed an amended Form U5 describing an arbitration action filed by customer KW, which prompted the investigation resulting in this AWC. On May 20, 2013, AXA filed another amended Form U5 based on additional allegations by KW.

FINRA retains jurisdiction over McDonough pursuant to Article V, Section 4(a) of FINRA's By-Laws because the conduct that serves as the basis for this action commenced prior to McDonough's termination of registration from a FINRA

member firm, the amended Form U5 disclosing McDonough's conduct that forms the basis for this AWC was filed within two years of his initial Form U5 filing, and this AWC has been filed within two years after the last amended Form U5 filing on June 20, 2012.

OVERVIEW

John McDonough, a former registered representative at AXA, engaged in an undisclosed outside business activity from August 2010 through May 2011. In early 2011, McDonough also participated in four undisclosed private securities transactions. By virtue of his conduct, McDonough violated NASD Rule 3030¹ and FINRA Rules, 3040, 3270, and 2010.

FACTS AND VIOLATIVE CONDUCT

A. McDonough Formed and Conducted Business as SMW Ventures

In August 2010, McDonough and two other registered representatives at AXA signed a partnership agreement creating an entity called SMW Ventures ("SMW"). Each held a one third interest in the partnership, whose purpose was to provide a vehicle for the three to develop various business opportunities outside of AXA, including the sale of fixed annuity and insurance products, real estate investments, and business planning services. McDonough did not seek permission to participate in SMW, nor did he disclose its existence to AXA. McDonough remained a partner in SMW from August 2010 through May 2011.

AXA's Compliance Manual, dated February 2010, specifically requires prior written approval from the branch manager before engaging in any outside business activity ("OBA"). The manual also requires annual disclosure of all OBAs in the firm's OBA Form.

By engaging in an undisclosed outside business activity, McDonough violated NASD Rule 3030 and FINRA Rule 2010 for his conduct prior to December 15, 2010, and FINRA Rules 3270 and 2010 for his conduct on and after December 15, 2010.

B. McDonough Participated in the Private, Undisclosed Purchase of Promissory Notes

McDonough was introduced by a coworker to MC, the chief operating officer of MST. During the meeting in late 2010, MC explained to McDonough that he was seeking to borrow money for MST.

¹ NASD Rule 3030 was superseded by FINRA Rule 3270, effective December 15, 2010.

Based in part on recommendations by McDonough, his father, mother-in-law, and JY invested a total of \$150,000 in promissory notes issued by MC between January and April 2011. Additionally, McDonough participated in recommending to KW that she invest in an MC promissory note. KW invested \$100,000 in a promissory note issued by MC on March 23, 2011. The MC promissory notes were securities and were not investments approved by AXA. All four note investors were also customers of AXA.

To date, no payment has been made by MC on any of these notes.

AXA's Compliance Manual, dated December 2010, specifically prohibits engaging in private securities transactions unless prior written notice is provided and prior written permission is given. Moreover, the manual specifically lists the sale of promissory notes as being within the prohibition. McDonough never sought permission to participate in the transactions resulting in the issuance of the notes by MC to the customers. As a result, McDonough violated NASD Rule 3040 and FINRA Rule 2010.

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

1. A suspension in all capacities from association with a FINRA member firm for six months; and
2. 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(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 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**

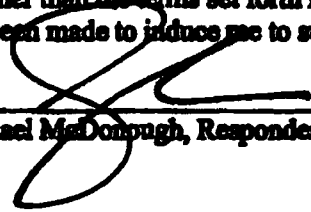
C. If accepted:

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.

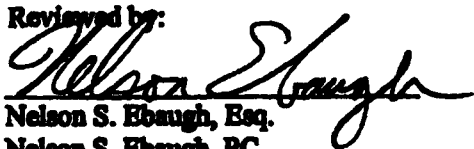
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute 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.

11/6/2013
Date (mm/dd/yyyy)


John Michael McDonough, Respondent

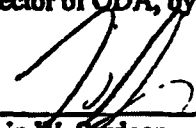
Reviewed by:


Nelson S. Ebaugh, Esq.
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(713) 752-0700

Accepted by FINRA:

12/3/13
Date

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



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