

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012033291202**

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

RE: David Lowenthal, Respondent
General Securities Representative
CRD No. 1609263

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

David Lowenthal ("Lowenthal") entered the securities industry in November 1986, when he became associated with a FINRA-member broker-dealer. In February 2009, he left to become associated as a registered representative with Ameriprise Financial Services, Inc. ("Ameriprise" or the "Firm"), where he remains employed in the branch office located in Plano, Texas. Lowenthal obtained the following licenses: Series 7 (1987), Series 63 (1987), Series 3 (1987), and Series 65 (1994).

RELEVANT DISCIPLINARY HISTORY

Lowenthal has no relevant disciplinary history.

OVERVIEW

In November 2011 ("the Relevant Period"), while associated with Ameriprise as a registered representative, Lowenthal personally invested \$10,000 in preferred

shares issued by BC, a biopharmaceutical company, without first providing notice to the Firm. Lowenthal violated NASD Rule 3040(b) and FINRA Rule 2010 by entering into a private securities transaction without providing prior written notice to the Firm regarding his personal investment.

FACTS AND VIOLATIVE CONDUCT

NASD Rule 3040(b) requires associated persons to provide written notice to their member firm employer "prior to participating in any private securities transaction." The term "private securities transaction," as defined by NASD Rule 3040(e)(1), means any security transaction outside the regular course or scope of an associated person's employment with a member and applies to both sales and purchases of securities. Associated persons are required to provide their FINRA-member employers notice of their outside investments in order to provide firms with full discretion to restrict its employees' securities activities, including activities performed on a non-compensatory basis.

FINRA Rule 2010 requires the observance of high standards of commercial honor and just and equitable principles of trade. A violation of NASD Rule 3040 is also a violation of FINRA Rule 2010.

I. Firm Policies and Procedures – Private Securities Transactions

Ameriprise's written policies and procedures prohibited Firm registered representatives from personally investing in privately issued securities that were not offered by Ameriprise without providing prior written notice to Ameriprise and receiving approval.

II. Lowenthal's Undisclosed Investment in BC

BC was a biopharmaceutical company that claimed to specialize in a purported transdermal drug delivery system. Ameriprise did not offer privately issued shares of BC for purchase by investors.

In November 2011, Lowenthal invested \$10,000 in a BC private offering, acquiring shares of BC preferred stock. Lowenthal did not inform Ameriprise of his investment in BC.

By personally investing in BC without providing prior written notice to Ameriprise, Lowenthal violated NASD Rule 3040(b) and FINRA Rule 2010.

B. Lowenthal also consents to the imposition of the following sanctions:

- A 10 business-day suspension from association with any FINRA member in any capacity;

- A \$7,500 fine; and
- An undertaking to cooperate with FINRA Department of Enforcement staff (the "Staff") in its continuing investigation of FINRA matter number 20120332912, including but not limited to testifying truthfully at any hearings in this matter, participating in meetings and/or interviews with and by the Staff, and providing the Staff with any requested documents, all without requiring the Staff to rely on FINRA Rule 8210.

Lowenthal understands that if he is barred or suspended from associating with any FINRA member, he will 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, Lowenthal may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the suspension (see FINRA Rules 8310 and 8311).

Lowenthal agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Lowenthal has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

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

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

- To have a Complaint issued specifying the allegations against him;
- To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- 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
- 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, Lowenthal specifically and voluntarily waives 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.

Lowenthal 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

Lowenthal understands that:

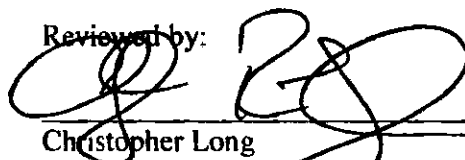
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against him; and
- C. If accepted:
 - 1. this AWC will become part of his permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against him;
 - 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. Lowenthal 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. He 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 Lowenthal's: (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. Lowenthal may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Lowenthal understands that he 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.

Lowenthal certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he 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 him to submit it.

10-26-15
Date (mm/dd/yyyy)


Respondent David Lowenthal

Reviewed by: 
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Accepted by FINRA:

December 29, 2015
Date


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