

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035119901**

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

RE: American Financial Associates, Inc. (BD No. 29049),
Respondent

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure American Financial Associates, Inc. ("American Financial" or the "Firm") 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 American Financial 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

American Financial has been a member of FINRA since February 1992. The Firm maintains two branch offices and has 13 registered persons.

RELEVANT DISCIPLINARY HISTORY

American Financial has no relevant formal disciplinary history.

OVERVIEW

From May 20, 2009 to March 10, 2013 (the "Relevant Period"), American Financial stored registered representatives' emails on representatives' personal computer hard drives. As a result, the emails were not retained in the manner required under Rule 17a-4(f) as promulgated under Section 17(a) of the Securities Exchange Act of 1934 ("Exchange Act"). In addition, American Financial failed to establish, maintain and enforce a supervisory system and written supervisory procedures ("WSPs") reasonably designed to ensure the review of registered representatives' securities-related correspondence with customers.

FACTS AND VIOLATIVE CONDUCT

1. Failure to Retain Business-Related Electronic Communications in the Manner Required by Exchange Act Rule 17a-4

Pursuant to NASD Conduct Rule 3110(a) and FINRA Rule 4511, members must make and preserve records as required by all applicable laws, rules, and regulations, including the Exchange Act. Exchange Act Rule 17a-4 requires members to:

preserve for a period of not less than three years, the first two years in an easily accessible place . . . [o]riginals of all communications received and copies of all communications sent by the member . . . (including inter-office memoranda and communications) relating to their business as such . . .

Further, under Rule 17a-4, a member firm may maintain communications on electronic storage media ("ESM") if, among other things, the communications are stored "exclusively in a non-rewriteable, non-erasable format," and provided that the member has given FINRA advance notice of its use of ESM. The member must also have in place an audit system "providing for accountability regarding inputting of records to be maintained and preserved" to ESM. Additionally, the member firm must retain an independent third party that has access to and the ability to download information from the ESM.

During the Relevant Period, American Financial stored registered representatives' emails on each representative's computer hard drive. As a result, these emails were not kept in an "easily accessible" place, they were not stored exclusively in a "non-rewriteable, non-erasable" format, and no independent third party had the necessary access to these records. In addition, American Financial did not give FINRA advance notice of its use of ESM and the Firm lacked the required audit system. Based on the foregoing, American Financial violated NASD Conduct Rule 3110(a), FINRA Rules 4511 and 2010 and Exchange Act Rule 17a-4.¹

2. Failure to Establish, Maintain and Enforce an Adequate Supervisory System and WSPs Regarding the Review of Registered Representatives' Business-Related Electronic Correspondence

NASD Conduct Rule 3010(a) requires that each member "establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable [FINRA] Rules." NASD Conduct Rule 3010(b) requires each member to establish, maintain, and enforce written procedures to supervise its business and

¹ FINRA Rule 4511 replaced NASD Conduct Rule 3110 on December 5, 2011

its associated persons “reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of [FINRA].”

NASD Conduct Rule 3010(d) includes several provisions requiring the supervision and principal review of incoming and outgoing correspondence between a member firm’s representatives and the public. Among those provisions, Rule 3010(d)(2) requires firms to:

develop written procedures . . . for the review of incoming and outgoing written (i.e., non-electronic) and electronic correspondence with the public relating to its investment banking or securities business to properly identify and handle customer complaints and to ensure that customer funds and securities are handled in accordance with firm procedures.

During the Relevant Period, American Financial failed to establish, maintain and enforce a supervisory system and WSPs reasonably designed to ensure the review of registered representatives’ electronic correspondence with the public. American Financial’s WSPs required representatives to forward any emails with customers to the Firm for its review, but the Firm did not have a system or procedures to ensure that this requirement was followed. In addition, during the Relevant Period, American Financial failed to conduct any supervisory review of registered representatives’ emails. Based on the forgoing, American Financial violated NASD Conduct Rule 3010 and FINRA Rule 2010.

B. American Financial consents to the imposition of the following sanctions:

- A Censure; and
- A fine of \$12,500.

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

American Financial specifically and voluntarily waives any right to claim that it 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

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

- A. To have a Complaint issued specifying the allegations against it;
- 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, American Financial 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.

American Financial 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

American Financial 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 it;

C. If accepted:

1. this AWC will become part of its permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
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. Respondent 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. Respondent 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 its: (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; and

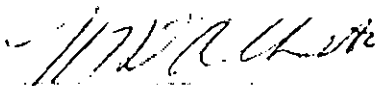
- D. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understand all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm 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 the Firm to submit it.

American Financial Associates, Inc.

7/20/15
Date (mm/dd/yyyy)

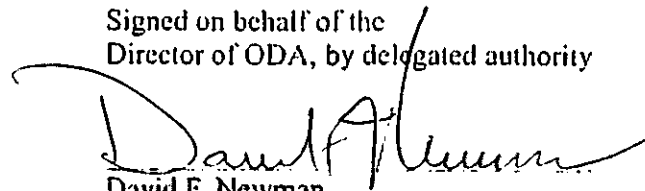
By:


Henry R. D'Alberto
President and Chief Compliance Officer

Accepted by FINRA:

August 4, 2015
Date

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

A handwritten signature in black ink, appearing to read "David F. Newman", with a large, sweeping flourish extending from the end of the name.

David F. Newman
Senior Regional Counsel
FINRA Department of Enforcement
1835 Market Street, Suite 19103
Philadelphia, PA 19103
Tel: (215) 665-1180
Fax: (215) 496-0434
E-Mail: david.newman@finra.org