

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035280501**

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

RE: Vestech Securities, Inc., Respondent
CRD No. 41409

Earle W. Evans
CRD No. 202874

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Vestech Securities, Inc., and Earle Evans 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 them alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondents 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

Vestech Securities, Inc. ("Vestech"), is a Broker-Dealer and registered Investment Adviser located in Wichita, Kansas. Vestech has been registered with FINRA and the NASD since 1996. It has five registered representatives and two branch offices. Its lines of business include equities, mutual funds, variable products, corporate and municipal bonds.

Earle Evans is currently registered with Vestech as a general-securities representative, general-securities principal, and options principal. Evans is the sole owner, President, and Chief Compliance Officer of Vestech, and has been registered with the firm since October 1996.

RELEVANT DISCIPLINARY HISTORY

In May 2012, Vestech and Evans signed a letter of Acceptance, Waiver, and

Consent in which FINRA alleged that the firm had conducted a securities business while failing to maintain its minimum net-capital requirement between February 2009 and February 2010, thereby violating SEC Rules 15c3-1 and 17a-5, NASD Conduct Rule 3110, and FINRA Rule 2010. FINRA further alleged that Evans caused the firm's failure to maintain accurate books and records and permitted the firm to conduct a securities business during a net-capital deficiency, in violation of FINRA Rule 2010. Vestech and Evans each accepted a censure and \$5,000 fine.

OVERVIEW

Between December 2010 and June 2013, Vestech had inadequate financial controls, including processes for tracking concessions and for ensuring appropriate communication between the firm and its offsite FINOP. These inadequacies led to repeated instances in which Evans initiated financial transactions that caused net-capital deficiencies during which Vestech continued to conduct a securities business. In connection with its net-capital deficiencies, Vestech also failed to maintain accurate books and records.

In addition, Vestech and Evans failed to develop an adequate supervisory system to correct violations identified by FINRA during its 2010 examination of the firm and failed to implement a process for review and approval of electronic correspondence.

Through this conduct, Vestech violated SEC Rules 15c3-1 and 17a-3, NASD Conduct Rules 3110 and 3010, and FINRA Rule 2010; and Evans violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Net-capital violations

In 2010 and 2011, Vestech provided management services to an affiliated hedge fund, Real Premium Partners 5 ("RPP5"). To pay these management fees to Vestech, Evans routinely withdrew amounts from the RPP5 general operating account and deposited the amounts in Vestech's general operating account. In December 2010, Evans withdrew an overpayment of management fees from RPP5 and deposited the overpayment into Vestech's account. This resulted in Vestech holding customer funds, which increased the firm's minimum requirement for excess net capital from \$5,000 to \$250,000.

Each of the five quarterly FOCUS filings that Vestech provided to FINRA from December 2010 through December 2011 reported net capital of less than \$250,000 on the last day of each reporting period. The firm conducted a securities business on each of those five days.

Vestech again conducted a securities business while operating under its net-

capital requirement on May 29, 2013 and June 28, 2013, at which time its excess-net-capital requirement was again \$5,000 because it was no longer holding customer funds. On those dates, the firm had negative net capital as a result of (1) failing to accrue deferred revenue relating to the receipt of prepaid quarterly investment-advisory fees and (2) failing to treat a receivable from an affiliated hedge fund as non-allowable.

Through this conduct, Vestech violated SEC Rules 15c3-1 and 17a-3, NASD Conduct Rule 3110, and FINRA Rule 2010; and Evans violated FINRA Rule 2010.

Supervisory failures

The operational and accounting errors that led to the net-capital violations describe above resulted from inadequate financial and accounting controls at Vestech. In particular, the firm did not have an adequate process for tracking its concessions and management-fee receivables. The firm instead relied on estimates that Evans provided, rather than on records of actual transactions.

Vestech also did not effectively communicate its outstanding liabilities to its FINOP, who worked from another state. For example, when Evans learned that he had overpaid the management fees from RPP5 to Vestech, he did not notify the FINOP of the liability, and the liability was not reflected in Vestech's general ledger. In addition, the FINOP was routinely unable to substantiate financial numbers provided by the firm or to verify the accuracy of journal entries of deposits and withdrawals in the firm's accounting system.

Vestech's procedures for review and approval of email correspondence were also deficient. During 2013, Vestech representatives were required to blind copy Evans on any email correspondence with customers. Evans was then supposed to review the emails and move them to a separate folder on his computer for retention. A subsequent review showed that the registered representatives did not copy Evans on all relevant correspondence between May and July 2013, and that Evans did not take steps to ensure that they did. As a result, the firm failed to conduct the necessary review of electronic correspondence.

In addition, Vestech failed to develop a supervisory system and procedures that were adequate to address previous violations that FINRA identified in a 2010 examination. In particular, a 2012 FINRA examination identified five violations that were found and brought to the firm's attention in 2010, but never corrected.

Through this conduct, Vestech and Evans violated NASD Rule 3010 and FINRA Rule 2010.

B. The Respondents also consent to the imposition of the following sanctions:

1. Censure of both Vestech and Evans;

2. A fine to be paid by Vestech of \$15,000;
3. A fine to be paid by Evans of \$10,000
4. No later than ten days after the Notice of Acceptance of this AWC, Vestech shall also change its supervisory system, including its written supervisory procedures, to require that all payments to Vestech from any affiliated entity (i.e., any entity managed or owned, in part or in whole, by Evans), and all payments from Vestech to any affiliated entity, must be approved by the firm's FINOP before deposit into or disbursement from any Vestech account

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

The Respondents each agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have submitted Election of Payment forms showing the method by which each proposes to pay the fines imposed.

Respondents both specifically and voluntarily waive any right to claim that they are unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against each Respondent;
- 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, Respondents 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.

Respondents 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

Respondents 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 either Respondent; and
- C. If accepted:
 - 1. This AWC will become part of each Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against either Respondent;
 - 2. This AWC will be made available through FINRA's public disclosure program in response to public inquiries about either Respondent's 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. Respondents 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. Respondents 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 either Respondent'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. Either Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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 understood 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.

July 8, 2014

Date (mm/dd/yyyy)

Earle W Evans III

Respondent

Vestech Securities, Inc.

By: Earle W Evans III

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.

July 8, 2014

Date (mm/dd/yyyy)

Earle W Evans III

Respondent

Earle Evans III

Reviewed by

J. Randle Henderson

J. Randle Henderson

Counsel for Respondents

16506 F.M. 529

Suite 115-107

Houston, Texas 77095

(713) 870-8358

(281) 758-0545 (fax)

Accepted by FINRA:

Date

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



Adam B. Walker
Principal Regional Counsel
FINRA Department of Enforcement
120 W. 12th Street
Kansas City, Missouri 64105
(816) 421-5700
(816) 421-4519 (fax)