

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035346501**

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

RE: WFG Investments, Inc., Respondent
Member Firm
CRD No. 22704

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent WFG Investments, Inc. ("WFG," the "Firm," or "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 the Firm 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

WFG has been a FINRA member firm since 1988. WFG conducts a general securities business and is headquartered in Dallas, Texas. WFG currently has approximately 280 registered individuals and 102 branch offices.

RELEVANT DISCIPLINARY HISTORY

In May 2013, FINRA issued an AWC (No. 2011025624601) in which WFG was censured and fined \$45,000 for failing to timely update representatives' Form U4s and/or Form U5s to disclose required information in seven instances and for failing to report 265 transactions in structured products to PACE.

In March 2013, FINRA issued an AWC (No. 2010025332201) in which WFG was censured and fined \$200,000 for violations of Section 5 of the Securities Act of 1933, SEC Rules 17a-3 and 17a-4 and NASD Rules 2110, 3010(a), 3010(b), 3110(a) and 3110(c). Additionally, the firm was ordered to complete an

undertaking to review and revise its WSPs. WFG consented to findings that it participated in the unlawful distribution by a customer of nearly \$18 million in shares of an unregistered security, failed to establish and maintain a reasonable supervisory system and written supervisory procedures designed to achieve compliance with Section 5 of the Securities Act, and failed to maintain new account documents for six customers that traded in the unregistered security.

In June 2012, FINRA issued an AWC (No. 2009016279101) in which WFG was censured and fined \$40,000 for violations of SEC Rules 15c2-4, 17a-3(a) and 17a-4(b); MSRB Rules G-8 and G-27(c); and NASD Rules 2110, 2440, 6230 and 3010(b). The firm consented to findings that, among other things, it had inadequate supervisory systems and procedures to supervise all aspects of its securities business.

OVERVIEW

At various times from March 2007 through January 2014, the Firm failed to commit the necessary time, attention and resources to an array of critical regulatory obligations related to its supervision of registered representatives. These supervisory failures included the following:

- Failure to conduct appropriate due diligence and supervision with respect to a private placement offering that was sold by a registered representative away from the Firm as an approved private securities transaction;
- Failure to supervise the private securities transactions of one of its registered representatives that were executed through the representative's registered investment advisory firm;
- Failure to maintain an adequate supervisory system to ensure that transactions executed in its customer accounts were suitable;
- Failure to enforce its written supervisory procedures ("WSPs") regarding a registered representative's sales of alternative investments;
- Failure to supervise statements made by one of its registered representatives on his weekly radio broadcast; and
- Failure to timely report customer complaints, as well as to update the Forms U4 and U5 of its registered representatives.

By engaging in the foregoing misconduct, WFG violated FINRA By-Laws Article V, Section 2, FINRA Rules 2010 (for conduct on and after December 15, 2008) and 4530, NASD Rules 2110 (for conduct prior to December 15, 2008), 3010, and 3040.

FACTS AND VIOLATIVE CONDUCT

1. *WFG failed to conduct adequate due diligence and failed to properly supervise a registered representative's private securities transactions.*

NASD Rule 3040(c) provides that if an associated person “has received or may receive selling compensation” in connection with the sale of a private securities transaction, and the member firm approves the transaction, then the member firm must supervise the transaction and include it on its own books and records “as if the transaction were executed on behalf of the member.”

NASD Rule 3010(a) requires member firms to establish and maintain a supervisory system that is reasonably designed to achieve compliance with applicable securities laws and regulations.

FINRA Rule 2010, and its predecessor, NASD Rule 2110, requires member firms to “observe high standards of commercial honor and just and equitable principles of trade.”

In 2007, a WFG registered representative, SGD,¹ provided notice to the Firm that he intended to sell a private placement offering, ATMA, to his customers. ATMA was purportedly designed to offer an income stream to investors based on the acquisition and operation of automated teller machines (“ATMs”). In connection with its assessment of whether it would enter into a selling agreement with SGD, WFG assigned its compliance officer in charge of alternative investments, TS,² to conduct due diligence on ATMA. TS owned a 5% interest in ATMA.

SGD, who was the 90% owner and the operator of ATMA, had no prior experience in structuring and offering private placement investments. The entity that was to provide the ATM machines to ATMA, ATMFS, was engaged in fraudulent business practices, and most if not all of the ATMs that it sold to ATMA were fictional. Ultimately, WFG declined to enter into a selling agreement with SGD, but did permit SGD to sell interests in ATMA as private securities transactions. Between October 2007 and December 2007, SGD sold \$1,024,000 in interests to ATMA to seven investors, all of whom were also WFG clients. Due to the fraudulent business activities at ATMFS, these WFG customers lost 100% of their investments.

SGD was entitled to receive selling compensation in connection with his sale of interests in ATMA; thus, WFG was required to supervise these private securities transactions as if they were executed on behalf of WFG. WFG, however, failed to supervise this activity. In addition, WFG failed to conduct adequate due diligence into ATMA and thus failed to detect and follow up on red flags that ATMFS was

¹ SGD is no longer associated with WFG.

² TS is no longer associated with WFG.

engaged in fraudulent business practices. WFG's failure to appropriately supervise these transactions violated NASD Rules 2110, 3010(a), and 3040(c)(2).

2. *WFG failed to properly supervise private securities transactions that were executed through a registered representative's registered investment advisor.*

The NASD advised in its Notice to Members 94-44 that the requirements of NASD Rule 3040 applied "to all investment advisory activities conducted by [individuals dually registered as registered representatives and registered investment advisors] that result in the purchase or sale of securities by the associated person's advisory clients, with the exception of their activities on behalf of the member." Moreover, WFG's WSPs: (1) impose due diligence responsibilities on the Firm in connection with the recommendation and sale of private placement investments by the Firm's representatives; and (2) require that the Firm supervise and record transactions executed by the Firm's registered representatives through their affiliated registered investment advisors.

In 2009, WFG permitted one of its recently-hired registered representatives, RB,³ to continue operating his registered investment advisory ("RIA") firm, EC. Through his RIA, RB was involved in the structuring and sales of two private equity funds, the HO Fund, and the HD Fund. Both of these funds were heavily invested in BFC, a now-defunct entity that was operated out of EC's office space. Both funds' holdings in BFC exceeded the 50% limit set forth in their respective offering documents. Investors were kept unaware of the substantial declines in their investments over a six-month period in 2013 because the valuations in the funds were unchanged on the account statements prepared by EC.

WFG failed to comply with its responsibilities under NASD Rule 3040(c)(2) to supervise RB's "participation in the transaction[s] as if the transaction[s] were executed on behalf of the member." Specifically, the Firm failed to conduct due diligence into the RIA or the associated funds, and failed to detect that the funds' positions in BFC substantially exceeded the 50% threshold set forth in the offering documents. Moreover, the Firm failed to monitor the customers' EC account statements, and thus was unaware that the private equity valuations were not being updated on a timely basis. These failures violated WFG's WSPs. WFG's failure to appropriately supervise the RB's private securities transactions through his RIA also violated NASD Rules 3010(a) and (b), and 3040(c)(2), and FINRA Rule 2010.

³ RB is no longer associated with WFG.

3. *WFG's supervisory system concerning its suitability review of transactions was inadequate.*

FINRA Rule 2111, and its predecessor, NASD Rule 2310, pertain to the obligations of member firms and associated persons to ensure that transactions are suitable. FINRA Rule 2111 and NASD 2310(a) both require that a representative have a reasonable basis for believing a recommendation is suitable for each person to whom it is recommended, based upon the person's investment profile.

NASD Rule 3010(a) requires member firms to establish and maintain a supervisory system that is reasonably designed to achieve compliance with applicable securities laws and regulations.

Between 2009 and 2013, WFG violated NASD Rule 3010(a) and failed to appropriately supervise customer transactions for suitability. As a result, one of the Firm's registered representatives, MC,⁴ (1) traded with discretion in several of his customers' accounts without their written authorization; (2) MC also excessively traded in at least one of his customer's accounts in light of her investment objectives and risk tolerance. Many of the securities he traded were also qualitatively unsuitable in light of his customers' age, objectives, risk tolerance, and financial situation. Several of his accounts were charged both commissions and management fees, and this problem was not fully identified or corrected even after it was detected. MC also used unapproved charts and graphs and provided consolidated statements without the firm's knowledge or approval. Although exception reports highlighted the problematic trading activity in several of these accounts, several of these reports were either not reviewed or not properly processed. Indeed, one of the customers who complained about unsuitable activity in her accounts was not contacted by the Firm until after she had complained, despite the fact that her accounts had appeared on numerous exception reports.

Similarly, SGD was also permitted to engage in unsuitable trading in one of his customer's accounts, including the recommendation and sale of numerous high-risk equity and ETF purchases for a retired client with a conservative risk tolerance. SGD's supervisor failed to appropriately review and process exception reports pertaining to these unsuitable transactions.

As a result of the foregoing, WFG failed to maintain a supervisory system that was reasonably designed to achieve compliance with NASD Rule 2310 (prior to July 9, 2012) and FINRA Rule 2111 (on and after July 9, 2012), and thus violated NASD Rule 3010(a) and FINRA Rule 2010.

⁴ MC is no longer associated with WFG.

4. *WFG failed to appropriately supervise a registered representative's sale of alternative investments.*

NASD Rule 3010(b) requires that member firms not only establish and maintain written securities procedures that are designed to achieve compliance with applicable securities laws and regulations, but also that such written procedures be enforced by the firm.

In this case, between August 2012 and July 2013, WFG granted a blanket waiver to the compliance with the firm's WSP's with respect to the sale of alternative investments by one of registered representatives, SBD.⁵ SBD promoted an investment strategy of holding a portfolio of ten to fifteen alternative investments, including REITS and private equity. Although the firm had WSP's pertaining to the sale and supervision of alternative investments, and required heightened supervision when certain concentration limits were exceeded, the firm elected to implement a blanket waiver of its WSP-mandated review of concentration limits for all of SBD's customers. As a result of this decision, several of SBD's customers invested more than 25% of their liquid net worth in various alternative investments, and some even invested more than 90% of their liquid net worth, without any additional supervision by the Firm. Accordingly, WFG violated NASD Rule 3010(b) and FINRA 2010 by failing to enforce its own WSP's regarding the sale of alternative investments.

5. *WFG failed to appropriately supervise a registered representative's radio show broadcasts.*

NASD Rule 2210(d)(1)(A) requires that all "member communications with the public shall be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry or service." Similarly, NASD Rule 2210(d)(1)(B) provides that "[n]o member may make any false, exaggerated, unwarranted or misleading statement or claim in any communication with the public. NASD Rule 3010(a) requires that member firms establish and maintain a supervisory system that is reasonably designed to achieve compliance with applicable rules, including NASD Rule 2210.

Between August 2012 and July 2013, WFG failed to appropriately monitor SBD's promotion of his investment strategy on his weekly radio show broadcast. Specifically, although WFG purportedly reviewed the transcripts of SBD's broadcasts to ensure they complied with FINRA Rules, the Firm failed to recognize that SBD routinely made statements on his broadcast that were exaggerated, misleading, or unbalanced, both in his negative descriptions of conventional investments and in his praise for various alternative investments. SBD's statements thus violated NASD Rule 2210(d)(1) and (d)(2). As a result of the foregoing, WFG failed to maintain a supervisory system that was reasonably

⁵ SBD is no longer associated with WFG.

designed to achieve compliance with NASD Rule 2210(d)(1)(A) and (d)(1)(B), and thus violated NASD Rule 3010(a) and FINRA Rule 2010.

6. *WFG failed to timely report customer complaints, and failed to timely update the Forms U4 and Form U5 of its registered representatives.*

FINRA By-Laws Article V, Section 2 requires that FINRA member firms keep every associated person's application for registration current by submitting electronic amendments to the application "not later than thirty days after learning of the facts or circumstances giving rise to the amendment."

FINRA Rule 4530(a) requires that member firms report eight enumerated categories of events (including, for instance, that an associated person is the subject of a customer complaint) not later than thirty days after the firm knew or should have known of the event.

FINRA Rule 4530(f) requires that member firms promptly file with FINRA copies of any securities-related complaint that are filed in private civil litigation, as well as any securities-related arbitration claim that is not submitted to FINRA Dispute Resolution.

Between January 2012 and July 2013, WFG failed to report eight customer complaints to the 4530 reporting system in a timely manner, with the delays ranging from one to seven days. The Firm also failed to timely report two settlements, with delays of 44 and 61 days. Moreover, the Firm failed to timely update four Forms U4. Finally, with respect to complaints that were reported to SBD but not disclosed to WFG, the Firm failed to timely report the complaints after FINRA staff had notified the Firm about them. As a result of the foregoing, WFG violated FINRA By-Laws Article V, Section 2, NASD Rule 3010(a) and FINRA Rules 2010 and 4530(a) and (f).

- B. The Firm also consents to the imposition of the following sanctions:

A censure and a fine of \$700,000.

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

Respondent 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

The Firm specifically and voluntarily waives 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, Respondent 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.

Respondents 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

The Firm 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 Respondent; 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 Respondent;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about 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. 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 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. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands 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.

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

12/14/2014
Date (mm/dd/yyyy)

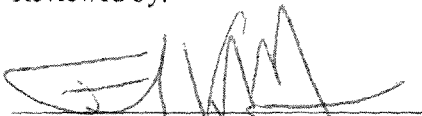
WFG Investments, Inc., Respondent

By: _____

Name: _____

Title: _____

Reviewed by:



Fred Knopf, Esq.
General Counsel, WFG Investments, Inc.
2711 Haskell Avenue, Suite 2900
Dallas Texas 75204
Counsel for Respondent

Accepted by FINRA:

Date

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

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