

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035957101**

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

RE: John Domenic Muscolino, Respondent
Investment Company Products/Variable Contracts Representative and Principal
CRD No. 4215104

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 Domenic Muscolino ("Muscolino") entered the securities industry in June 2000, when he became registered with a FINRA-regulated firm. Muscolino became registered with Farmers Financial Solutions, LLC ("FFS") in September 2000, and with the exception of a five-month period in 2005, he remained registered with FFS until July 2012. Muscolino also worked for FFS' affiliate, Farmers Insurance Group ("FIG"), where he served as State Executive Director for Wisconsin from January 2011 to July 2012.

On July 30, 2012, FFS filed a Uniform Termination Notice for Securities Industry Registration (Form U5), which disclosed that Muscolino's registration had been terminated because he was no longer employed with FIG. Thereafter, on February 12, 2013, FFS filed an amended Form U5, which indicated that, at the time of Muscolino's termination, he was under internal review for having knowledge of and failing to report "improprieties on LUTC courses/tests." While Muscolino is not currently associated with a FINRA member, he remains subject to FINRA's jurisdiction until at least February 11, 2015.

RELEVANT DISCIPLINARY HISTORY

Muscolino does not have any relevant disciplinary history.

OVERVIEW

During January 2011 through July 2012, while serving as FIG's Wisconsin State Executive Director, and registered with FFS, Muscolino failed to adequately supervise the administration of Life Underwriter Training Council ("LUTC") examinations by Michael Zolondek ("Zolondek"),¹ a life insurance specialist who reported to him. Specifically, Muscolino failed to enforce a prohibition against Zolondek proctoring LUTC examinations and failed to adequately monitor Zolondek to ensure that he did not help FIG and FFS employees or contractors cheat on LUTC examinations or falsify proctor affidavits. Muscolino also failed to adequately supervise Zolondek by approving an outside business form for Zolondek without ensuring that the start date reflected on the form was accurate.

By failing to adequately supervise Zolondek, Muscolino violated NASD Conduct Rule 3010(a) and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

1. Muscolino was Zolondek's Supervisor

As State Executive Director and a FINRA registered principal, Muscolino was responsible for supervising Zolondek, who served as FIG's Life and Financial Services Specialist and was in charge of LUTC training at FIG and FFS. As Zolondek's supervisor, Muscolino was responsible for ensuring that Zolondek complied with FINRA's rules.

2. The LUTC Courses and Examinations

The Life Underwriter Training Council Fellowship ("LUTCF") is an industry designation owned by AB. For years, CD, a non-profit public educational institution, administered AB's LUTCF program on AB's behalf. Zolondek moderated the LUTC courses offered to FIG and FFS employees and/or contractors in Wisconsin and scheduled their final examinations.

¹ Zolondek consented to a bar from associating with any FINRA-regulated entity and findings that he violated NASD Conduct Rule 2110 and FINRA Rule 2010 by assisting others to cheat on insurance designation examinations, violated FINRA Rule 2010 by instructing others to make false statements on proctor affidavits for an insurance designation examination and violated NASD Conduct Rule 3010 and FINRA Rule 2010 by assisting a registered representative, over whom he had supervisory responsibility, to cheat on an insurance designation examination. See *In re Zolondek*, AWC No. 2013035948001 (Feb. 3, 2014).

At all times relevant to this matter, an individual could obtain the LUTCF designation by successfully completing six LUTC courses and satisfying certain other requirements. To successfully complete an LUTC course, a student had to pass the course's final examination. The LUTC program courses were designed for insurance professionals and taught product knowledge, marketing and sales, customer service and ethics. Neither the LUTC courses nor the LUTCF designation are required to sell any specific insurance or securities products.

Each online LUTC course was administered by a moderator via the Blackboard Learning System ("Blackboard"), a learning management system that allowed students to access a virtual learning environment. CD required students to designate a proctor for their final examination. After the student designated a proctor, CD sent an email to the designated proctor containing the proctor's user identification and a password, which would be used to log into the examination.

To take an LUTC examination, the student had to log into the Blackboard system and then separately log into the examination. A student would log into the Blackboard system using their login user identification and password. The designated proctor would then log the student into the examination using the proctor's user identification and password.

At the conclusion of each LUTC examination: (a) the student had to complete a Proctored Examination Affidavit ("Proctor Affidavit") attesting that he or she had completed the examination independently; and (b) the student's proctor had to sign the Proctor Affidavit attesting that: (i) he or she had proctored the examination; (ii) the proctor was not related to, or an employee or immediate supervisor of, the student; and (iii) the student completed the examination independently without assistance from the proctor or any study aides.

3. Muscolino Failed to Adequately Supervise Zolondek's Administration of the LUTC Examinations

In April 2011, CD sent Zolondek a letter informing him that it had identified irregularities in Zolondek's administration of the LUTC examinations and were investigating the matter. Zolondek informed Muscolino about the letter soon after he received it, and Muscolino notified others at FIG and FFS about CD's inquiry. FIG suspended the LUTC courses during the pendency of CD's investigation.

CD also held a meeting in April 2011 with Muscolino and Zolondek to discuss the irregularities that CD had identified in connection with Zolondek's administration of LUTC examinations. These irregularities included statistical anomalies such as a record number of perfect scores, an exceedingly low fail rate, unreasonably short exam completion times with passing scores and tests containing identical answers. CD also identified proctor-related issues such as Zolondek acting as proctor for all LUTC examinations in Wisconsin.

In or about May 2011, CD concluded its inquiry and issued directives regarding Zolondek's administration of the LUTCF program. In relevant part, CD stated that while Zolondek could continue to serve as a moderator for LUTC courses, he would no longer be able to serve as a proctor for the LUTC examinations. CD notified Muscolino about the prohibition on Zolondek acting as a proctor. The LUTCF program resumed in or about the third quarter of 2011, with the knowledge and approval of FIG and Muscolino.

Upon resumption of the LUTCF program: (a) Zolondek continued to proctor LUTC examinations; (b) Zolondek helped numerous FIG and FFS employees or contractors cheat on their LUTC examinations; and (c) Zolondek instructed FIG and FFS employees or contractors to sign Proctor Affidavits for LUTC examinations that they did not proctor.

Despite Muscolino's knowledge that Zolondek had allegedly engaged in improprieties in connection with the LUTCF program and was prohibited from serving as a proctor for LUTC examinations once the LUTCF program resumed, Muscolino failed to reasonably supervise Zolondek to not only make sure that Zolondek did not serve as a proctor, but also that Zolondek did not help FIG and FFS employees or contractors cheat on their LUTC examinations. Among other things, Muscolino did not inquire about who was proctoring the LUTC examinations, he did not attempt to identify LUTC test takers, and he did not observe the administration of any LUTC exams.

As a result of Muscolino's failure to adequately supervise: (1) Zolondek served as an LUTC exam proctor and admittedly helped numerous LUTC test takers, including registered representatives, cheat on their exams; and (2) Zolondek instructed others, including registered representatives, to falsify Proctor Affidavits.

4. Muscolino Failed to Adequately Supervise Zolondek's Disclosure of the LUTC Training as an Outside Business

On January 31, 2012, Zolondek submitted an outside business activity form seeking approval to provide LUTC training, stating that he would be resuming his LUTC moderator duties in February 2012. This disclosure was inaccurate. Contrary to his statement on the form, Zolondek had started offering LUTC courses in the third quarter of 2011.

Although Muscolino knew that Zolondek had resumed offering LUTC training in the third quarter of 2011, Muscolino did not ensure that Zolondek's outside business activity form reflected the correct start date. Accordingly, Muscolino failed to adequately supervise Zolondek.

By failing to adequately supervise Zolondek, Muscolino violated NASD Conduct Rule 3010(a) and FINRA Rule 2010.

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

- A 90-day principal suspension from association with any FINRA member firm; and
- A \$7,500 fine.

I understand that if I am suspended from associating with any FINRA member in a principal capacity, 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 a principal capacity during the period of the suspension (see FINRA Rules 8310 and 8311). Furthermore, because I am subject to a statutory disqualification during the suspension, if I remain associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

The fine shall be due and payable either immediately upon reassociation with a member firm following the principal suspension of 90 days 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 imposed in this matter.

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 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.

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

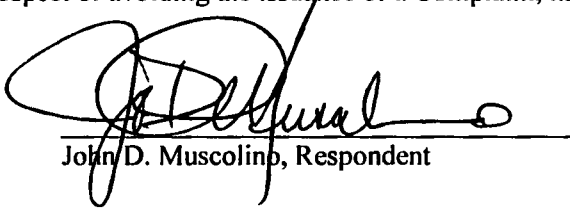
I understand that:

- 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.

08/25/14
Date


John D. Muscolino, Respondent

Reviewed by:

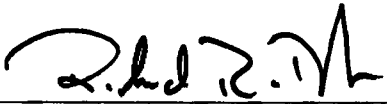


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Accepted by FINRA:

9.15.14
Date

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



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