

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035959901**

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

RE: Brian S. Johnson, Respondent
General Securities Representative
CRD No. 4510220

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Brian S. Johnson (Johnson or Respondent), 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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Brian S. Johnson first became registered with FINRA member Anchor Bay Securities, LLC (ABS or the Firm) as an Investment Company Products/Variable Contracts Representative (IR) from May 31, 2002 until April 4, 2012, as an Investment Company Products/Variable Contracts Principal from September 15, 2004 until April 4, 2012, as a Mutual Fund Securities Principal from November 9, 2004 until April 4, 2012, and as an Operations Professional from December 9, 2011 until April 4, 2012. While Johnson was registered at ABS he served as the Chief Compliance Officer from in or about September 2004 through March 2012.

Although Johnson is not currently registered with a FINRA member firm, Johnson is subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly registered persons. As a result, FINRA retains jurisdiction over Johnson through April 3, 2014.

RELEVANT DISCIPLINARY HISTORY

Johnson has no disciplinary history.

OVERVIEW

On March 13, 2012, while Johnson was employed at ABS, he sent an email from his ABS email address to his personal email address with attached excel files containing nonpublic personal information about some of the Firm's customers. After Johnson was no longer registered with ABS, he used this nonpublic personal information to solicit business at new place of employment. Consequently, Johnson violated FINRA Rule 2010, by possessing nonpublic personal information under Regulation S-P of the Securities Exchange Act of 1934.¹

FACTS AND VIOLATIVE CONDUCT

1. While Johnson was registered with ABS, on March 13, 2012, Johnson sent an email from his ABS email address to his personal gmail address with attached excel files containing customer information for approximately 232 ABS accounts, which included information for some customers Johnson did not service at ABS. Specifically, the excel files Johnson sent to his personal email address included customers' social security numbers and/or birthdates, which constituted nonpublic personal information under Regulation S-P.
2. After Johnson was no longer registered with ABS, he retained this information regarding the Firm's customers, which constituted nonpublic personal information under Regulation S-P. The Firm's customers were not provided with proper notice or a reasonable opportunity to opt-out prior to the disclosure of their non-public personal information to Johnson, who became a non-affiliated third party of the Firm when he resigned from ABS.
3. When Johnson became a portfolio manager and director of operations with a registered investment adviser firm that was unaffiliated with ABS, he utilized the nonpublic personal information to contact or attempt to contact some ABS customers between March 2012 and April 2012, wherein Johnson had not been the registered representative of record at ABS.

¹ 17 C.F.R. §§ 248.1 *et. seq.*

4. By possessing nonpublic personal information for customers at ABS and using it while he was no longer registered with ABS, Johnson acted in contravention of Regulation S-P, and he therefore violated FINRA Rule 2010.

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

1. A 10-business day suspension from association with any FINRA member in any capacity; and
2. A \$5,000.00 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the 10-business day suspension 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.

Respondent 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.

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

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

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

Respondent 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

Respondent 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 Respondent's 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 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.

Respondent 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 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 Respondent to submit it.

11/14/2013

Date (mm/dd/yyyy)


Brian S. Johnson, Respondent

Reviewed by:

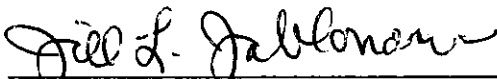

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Accepted by FINRA:

12/17/2013

Date

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


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