

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2013036631201**

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

RE: Harry Appel, Respondent  
CRD No. 5915532

Patricia I. Bergman, Respondent  
CRD No. 3267615

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, we 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 either of us alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. We 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**

Harry Appel ("Appel") was associated with FINRA member Royal Alliance Associates, Inc. ("Royal Alliance") in a non-registered capacity from May 2011 until September 2011, and was registered with Royal Alliance from September 2011 until April 2013. He has been registered with FINRA member United Planners Financial Services of America, LP ("United Planners") since April 2013.

Patricia Bergman ("Bergman") was associated with a FINRA member from 1996 to 2001. She was associated with Royal Alliance in a non-registered capacity from 2003 to June 2008 and in a registered capacity from June 2008 until April 2013. She has been registered with United Planners since April 2013.

### **RELEVANT DISCIPLINARY HISTORY**

Appel has no relevant disciplinary history.

Bergman has no relevant disciplinary history.

### **OVERVIEW**

Appel and Bergman (jointly "respondents") accepted instructions from an individual, MG, to transact business in a securities account without first obtaining written authorization for MG to transact business in the account, or written acceptance from Royal Alliance of MG's authority to transact business in the account. By virtue of the foregoing, respondents violated NASD Rule 2510(b) and FINRA Rule 2010.

### **FACTS AND VIOLATIVE CONDUCT**

In 2011, Appel and Bergman opened a securities account at Royal Alliance on behalf of a pension plan. The only person with written authority to transact business in the pension plan's account was the plan trustee, TL. TL orally advised the respondents that they could accept instructions to transact business in the account from one of the plan participants, MG, however, respondents did not obtain written authorization from TL, or written acceptance from Royal Alliance, for MG to transact business in the account.

Nevertheless, on 14 occasions from January 14, 2013 through February 26, 2013, the respondents accepted orders to purchase stock in the pension plan account from MG. Although TL ratified the transactions in writing, respondents violated NASD Rule 2510(b) and FINRA Rule 2010 by accepting MG's orders without first obtaining written authority and acceptance for MG to transact business in the account.

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

- a. A fine of \$5,000 against Appel; and
- b. A fine of \$5,000 against Bergman.

We each agree to pay the monetary sanction upon notice that this AWC has been accepted and that such fine is due and payable. We each have submitted an Election of Payment form showing the method by which each of us proposes to pay the fine imposed.

We each specifically and voluntarily waive any right to claim that either of us unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

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

## **II.**

### **WAIVER OF PROCEDURAL RIGHTS**

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

- A. To have a Complaint issued specifying the allegations against us;
- 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, we specifically and voluntarily waive any right to claim bias or prejudice 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.

We 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**

We 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 us; and

C. If accepted:

1. this AWC will become part of each of our permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against either of us;
2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about either of our disciplinary records;
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
4. neither of us may 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. Neither of us may 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 our: (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. We may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. We understand that we 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.

We each certify that we have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that we 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 us to submit it.

8/15/14  
Date (mm/dd/yyyy)

8/15/14  
Date (mm/dd/yyyy)

Harry Appel  
Harry Appel

Patricia I. Bergman  
Patricia I. Bergman

Reviewed by:

Gilbert W. Boyce, Esq.  
Gilbert W. Boyce, Esq.  
Kutak Rock LLP  
1101 Connecticut Avenue, N.W.  
Suite 1000  
Washington, DC 20036

Accepted by FINRA:

9/5/14  
Date

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

James E. Day  
James E. Day  
Vice President and Chief Counsel  
FINRA Department of Enforcement  
15200 Omega Drive  
Third Floor  
Rockville, MD 20850  
Tel: 301-258-8520  
Fax: 301-208-8090