

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013037649201**

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

RE: John Anthony, Respondent
Investment Company and Variable Contracts Products Representative
(CRD No. 1304792)

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, John Anthony ("Respondent" or "Anthony") 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 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

Respondent entered the securities industry in August 1984. In January 1985, he received his Series 6 and Series 63 registrations. On March 28, 2011, Respondent became employed with NYLIFE Securities LLC (the "Firm"), a FINRA regulated broker-dealer, as a registered Investment Company and Variable Contracts Products Representative on April 5, 2011. On July 16, 2013, the Firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") reporting that Respondent had been terminated on June 16, 2013 for failing to comply with the conditions of his employment. The Firm reported that Respondent failed to secure payment arrangements on his outstanding tax lien and failed to disclose on the Firm's variable annuity applications that two variable annuity purchases he recommended were in fact replacement transactions.

Respondent is not currently associated with a FINRA regulated broker-dealer. However, FINRA retains jurisdiction over Respondent until July 15, 2015, pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

Respondent does not have any prior disciplinary history in the securities industry.

OVERVIEW

While associated with the Firm, Respondent failed to timely update his Uniform Application for Securities Industry Registration or Transfer ("Form U-4") to disclose an IRS tax lien, in violation of Article V, Section 2(c) of the FINRA By-Laws, and FINRA Rules 1122 and 2010.

Additionally, in August 2011 and March 2012, Respondent included false and/or inaccurate information on two customer annuity applications portraying these transactions as new sales instead of annuity replacement contracts, thus causing the Firm to create and maintain inaccurate books and records, in violation of Section 17(a) of the Securities Act of 1934 and Rule 17a-3 promulgated thereunder. As a result, Respondent violated NASD Rule 3110 (for the conduct that occurred before December 5, 2011) and FINRA Rule 4511 (for the conduct that occurred on and after December 5, 2011) and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Article V, Section 2(c) of FINRA's By-Laws requires that every application for registration filed with FINRA be kept current at all times by supplementary amendments and that required amendments be filed with FINRA not later than 30 days after learning of the facts or circumstances giving rise to them. Form U-4 question 14M requires registrants to disclose whether they have any unsatisfied judgments or liens against them.

FINRA Rule 1122 prohibits filing with FINRA information regarding registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.

FINRA Rule 2010 requires the observance of high standards of commercial honor and just and equitable principles of trade.

On or about March 29, 2011, the IRS filed a tax lien against Respondent totaling \$289,203, and Respondent became aware of the lien at or about that time.

On or about March 23, 2011, Respondent completed and signed an initial Form U-4 application to become registered at the Firm, which was filed by the Firm on April 4, 2011. At that time, Respondent reported that he had no unsatisfied liens against him.

According to Article V, Section 2(c) of FINRA's By-Laws, Respondent was required to update his Form U-4 on or about April 29, 2011 to disclose his March 2011 IRS tax lien, but failed to do so.

Respondent knew or should have known that he was required to disclose any unsatisfied liens on his Form U-4 within 30 days of becoming aware of them.

On November 17, 2011, the Firm received an IRS tax levy on wages, salary and other income for Respondent in the amount of \$315,608, related to the tax lien against Respondent. On November 22, 2011, the Firm contacted Respondent and notified him that he was required to update his Form U-4 to report the levy.

On December 9, 2011, nearly eight months past the required disclosure date for the IRS tax lien, Respondent amended his Form U-4 with question 14M answered "Yes" and completed a Judgment/Lien Disclosure Reporting Page for the IRS tax levy.

By failing to timely update his Form U-4 to disclose his tax lien, as required, Respondent willfully violated Article V, Section 2(c) of FINRA's By-Laws and thus violated FINRA Rules 1122 and 2010.

NASD Rule 3110 and FINRA Rule 4511¹ require broker-dealers to make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated thereunder and with the rules of FINRA as prescribed by Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-3. In turn, Exchange Act Rule 17a-3(a)(6) requires that a broker-dealer must keep a copy of the application or other purchase agreement in lieu of an order ticket for transactions relating to variable annuities.

Making false entries onto the books and records of a broker-dealer is a violation of FINRA Rule 2010.

Respondent became employed at the Firm in March 2011. As a condition of his employment, Respondent was prohibited by the Firm from conducting any annuity replacement transactions for customers.

In August 2011, Anthony sold an annuity contract to customer DM and his wife, as joint-holders. In March 2012, Anthony sold another annuity contract to customer RS and his wife, as joint-holders. The annuity contracts were not new sales but replacements for annuity contracts the customers had previously liquidated. On the sponsor's annuity applications for these transactions, Anthony indicated falsely and/or inaccurately that each sale was a new contract and not a replacement contract. Additionally, Anthony signed an acknowledgement to the Firm in each case in which he falsely affirmed that the transaction did not involve a replacement contract. By falsely and/or inaccurately answering these questions and misrepresenting the transactions as new sales and not annuity replacements, Anthony was also able to avoid heightened supervisory scrutiny of his annuity transactions.

¹ NASD Rule 3110 was superseded by FINRA Rule 4511 on December 5, 2011.

By including this false information regarding these annuity transactions, Respondent caused the Firm to maintain false and/or inaccurate books and records, in violation of NASD Rule 3110 (for the conduct that occurred before December 5, 2011) and FINRA Rule 4511 (for the conduct that occurred on and after December 5, 2011) and FINRA Rule 2010. By entering the aforementioned false and/or inaccurate information on the annuity applications, Anthony violated FINRA Rule 2010.

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

- A five-month suspension from association with any member of FINRA in any capacity, and;
- A fine of \$10,000.

The fine shall be due and payable either immediately upon reassociation with a member firm following the five-month 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.

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

I understand that if I am barred or suspended from associating with any FINRA member, 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 any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

I understand that this settlement includes a finding that I willfully omitted to state a material fact on a Form U4, and that under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 and Article III, Section 4 of FINRA's By-Laws, this omission makes me subject to a statutory disqualification with respect to association with a member.

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 him;

- 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.

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:

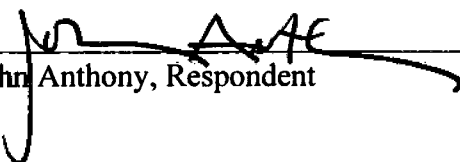
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will 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. 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 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.

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.

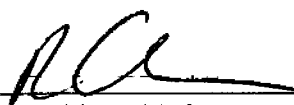
10/30/2014
Date


John Anthony, Respondent

Accepted by FINRA:

11/18/14
Date

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


Richard Chin, Chief Counsel
Enforcement Center

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