

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013037708301**

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

RE: Jack R. Kelly, Respondent
Registered Representative
CRD No. 1994768

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

Jack R. Kelly ("Kelly") entered the securities industry on September 10, 1989, when he associated with PFS Investments Inc. ("PFS"). Kelly obtained his Series 26 license on November 27, 1989, and his Series 6 and Series 63 licenses on December 1, 1989. Kelly was registered with PFS, a FINRA member firm, until July 19, 2013, when he was permitted to resign while under internal review for the conduct described herein and his registrations were terminated. Kelly has not been registered with FINRA since his registrations were terminated by PFS.

FINRA retains jurisdiction over Kelly pursuant to Article V, Section 4 of the FINRA By-Laws because the conduct that serves as the basis for this action commenced prior to his termination of registration from a member firm and this AWC has been filed within two years after the effective date of Kelly's last termination of registration from a member firm.

FACTS AND VIOLATIVE CONDUCT

On October 27, 2009, customer MW gave Kelly a check for \$30,000 to be invested in a fund that Kelly had represented would provide 7 percent interest. On July 29, 2011, customer MW gave Kelly an additional check for \$10,000 to be invested in the same manner. The \$40,000 in funds had been liquidated from a trust account held at PFS that was intended to provide for MW's disabled sister. Rather than investing the \$40,000 in the purported high-yield investment, Kelly converted the funds to his personal use.

On December 16, 2011, elderly customer JD gave Kelly \$20,000 to be invested in a fund that Kelly had represented would provide 7 percent interest. On January 25, 2012, customer JD gave Kelly an additional check for \$25,000 to be invested in the same manner. Rather than investing the \$45,000 from customer JD as promised, Kelly again converted the funds to his personal use.

FINRA Rule 2150(a) states that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds." FINRA Conduct Rule 2010 provides that "[a] member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

By converting \$40,000 from customer MW and \$45,000 from customer JD, Kelly violated FINRA Rules 2150(a) and 2010.

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

A bar from association with any FINRA member firm in any capacity.

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).

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

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 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.

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.

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.

1-13-14
Date (mm/dd/yyyy)

Jack R. Kelly
Jack R. Kelly
Respondent

Accepted by FINRA:

1/17/14
Date

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

Kristy M. Tillman
Kristy M. Tillman
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