

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013038535601**

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

RE: Earl Julius Johnson III, Respondent
General Securities Representative
CRD No. 4274899

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Earl Julius Johnson III ("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 accepts and consents, 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 September 2000 when he became associated with FINRA-regulated firm Waddell & Reed, Inc. (the "Firm"). Respondent acquired his Series 7 (General Securities Representative) securities license in November 2000.¹

The Firm filed a Form U5 Uniform Termination Notice for Securities Registration dated December 8, 2011 reporting Respondent's voluntary termination. The Firm subsequently filed an amended Form U5 dated October 8, 2013 which reported for the first time that Respondent failed to fully repay a \$10,000 loan that he received from Firm customer KJ.

Since his termination from the Firm, Respondent has not been registered with a FINRA-regulated firm, but remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of the FINRA By-Laws.

¹ Respondent also acquired his Series 66 (Uniform Combined State Law Examination) in December 2000 and Series 24 (General Securities Principal) in October 2005.

RELEVANT DISCIPLINARY HISTORY

Respondent entered into a Consent Order dated January 22, 2014 (the "Order") with the Nebraska Department of Banking and Finance for improperly "borrow[ing] money from a client who was not a broker-dealer, an affiliate of the [broker-dealer]..., or a financial institution engaged in the business of lending funds or securities." The Order required Respondent to pay a monetary sanction of \$3,500; to follow a three-year heightened supervision plan; and to take a course covering investment adviser regulation and ethical standards.

OVERVIEW

In June 2011, Respondent improperly accepted one loan from Firm customer KJ totaling \$10,000, in violation of FINRA Rules 3240 and 2010. In addition, Respondent falsely represented to the Firm in a September 2011 compliance questionnaire that he had not borrowed money from any Firm customer, in violation of FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 3240 prohibits registered persons from borrowing money from or lending money to his or her customers unless the firm has written procedures that permit lending arrangements and the lending arrangement meets one of five permissible conditions.

The Firm's written policies and procedures prohibited representatives from borrowing from a Firm customer, except for immediate family members, one of the five permissible conditions under FINRA Rule 3240.

FINRA Rule 2010 requires all associated persons to observe high standards of commercial honor and just and equitable principles of trade.

In March 2011, KJ opened a retirement account at the Firm with Respondent as her broker. KJ was a family friend who Respondent had known for over 25 years. At the time the retirement account was opened, KJ was a single, 69-year old retiree with a net worth of \$105,000.

In June 2011, Respondent improperly accepted a \$10,000 loan from customer KJ. KJ obtained the funds by taking a distribution from her Firm retirement account. The distribution resulted in tax withholdings of \$1,111. The loan was not memorialized in writing, and other than Respondent's promise to repay KJ a total of \$12,000 within a 12-month period, there were no specific loan terms.

Respondent made four \$1,000 payments by check to KJ in July, August, September, and October 2011. In or around December 2011, KJ allowed Respondent additional time to repay the outstanding loan balance. Respondent subsequently made two cash payments of \$200 in May 2013 (approximately 19 months since the last payment) and \$300 in

September 2013. In sum, over the 27-month period of July 2011 to September 2013, Respondent repaid KJ a total of \$4,500.

Customer KJ filed a complaint dated September 12, 2013 with the Nebraska Department of Banking and Finance in connection with the outstanding loan balance. After learning of the complaint, Respondent repaid KJ the loan balance of \$7,500 via a cashier's check dated September 30, 2013.

Respondent did not notify or receive approval from the Firm prior to entering into the loan arrangement with KJ. Moreover, given that KJ was not a member of Respondent's immediate family, the Firm's written policies and procedures precluded him from accepting such a loan.

Respondent was aware of the Firm's policies and procedures governing loans. In compliance questionnaires completed by Respondent in August 2010 and September 2011, Respondent certified that he would not borrow money from any Firm customer unless he received prior written permission from the Firm.

Furthermore, in the September 2011 compliance questionnaire, Respondent falsely answered "no" to the question, "Do you currently have any outstanding loans with a client where you have either borrowed funds or securities from a client or lent funds or securities to a client?"

For improperly borrowing funds from a customer of his Firm, Respondent violated FINRA Rules 3240 and 2010, and for making a misstatement to his Firm in a compliance questionnaire, Respondent violated FINRA Rule 2010.

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

1. A suspension in all capacities for 60 days; and
2. A deferred fine of \$5,000.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, Respondent 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 fine shall be due and payable either immediately upon re-association with a member firm following the 60-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(s) imposed in this matter.

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 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.

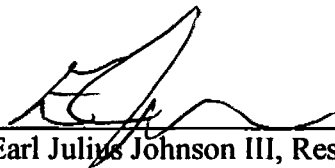
OTHER MATTERS

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 him;
 - 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 his: (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 him to submit it.

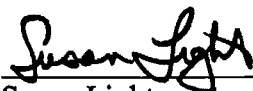
3/26/2014
Date (mm/dd/yyyy)


Earl Julius Johnson III, Respondent

Accepted by FINRA:

4/17/14
Date

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


Susan Light
Senior Vice President & Chief Counsel
FINRA, Department of Enforcement
One World Financial Center
200 Liberty Street, 11th Floor
New York, NY 10281
T: (646) 315-7333
E-mail: susan.light@finra.org