

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013039086901**

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

RE: James Donald Gilbert ("Gilbert"), Respondent
CRD No. 5705667

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

Gilbert entered the securities industry in 2009 when he became associated with Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), a FINRA regulated broker-dealer. Gilbert became Series 7 registered in October 2009. He was associated with Merrill Lynch until July 8, 2010. On September 17, 2010, Gilbert became associated with Wells Fargo Advisors Financial Network LLC ("Wells Fargo"), a FINRA regulated broker-dealer, where he stayed until March 30, 2012. On April 5, 2012, Gilbert became associated with Chase Investment Services Corp., a FINRA regulated broker-dealer, and in October 2012, his registration was transferred to J.P. Morgan Securities LLC (collectively, "Chase"), also a FINRA regulated broker-dealer.

On November 14, 2013, Chase filed a Form U5 disclosing that Gilbert had been discharged as of October 25, 2013. The Form U5 disclosed that Gilbert had "failed to disclose a loan payment obligation to a customer that was undertaken prior to [his] employment with the firm." Although Gilbert has not reassociated with another FINRA regulated broker-dealer, pursuant to Article V, Section 4(a)

of FINRA's By-Laws, FINRA retains jurisdiction over Gilbert until November 13, 2015.

RELEVANT DISCIPLINARY HISTORY

Gilbert has no disciplinary history in the securities industry.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 3240 prohibits a registered person from borrowing money from or lending money to a customer, except in certain narrowly defined circumstances. First, the person's employing member firm must have written procedures allowing loans between registered persons and customers. The written procedures can only allow loans that meet one of the following five categories: (1) the customer is a member of the registered person's immediate family; (2) the customer is engaged in the business of lending money; (3) the customer is a registered person of the same firm; (4) the lending arrangement is based on a personal relationship outside the broker/customer relationship, and the loan would not have been made but for that relationship; or (5) the loan is based on a business relationship outside the broker/customer relationship. Second, the firm must pre-approve the specific lending arrangement in writing. Additionally, Rule 3240 requires the registered person to notify his firm and get written pre-approval for any modifications to the terms of loans with customers.

On February 17, 2012, while employed with Wells Fargo, Gilbert borrowed \$9,000 from GR, an elderly and infirm customer who had recently opened a brokerage account at Wells Fargo with a registered representative for whom Gilbert served as a registered sales assistant. Gilbert did not inform or obtain prior written approval for the loan from his employing firm, Wells Fargo. Furthermore, Wells Fargo's written supervisory procedures ("WSPs") prohibited loans with customers unless they were immediate family members. Customer GR was not related to Gilbert.

In April 2012, Gilbert became employed with Chase. Thereafter, in August 2012, GR transferred his brokerage account from Wells Fargo to Chase and became Gilbert's customer at Chase. From January 2013 to September 2013, Gilbert discussed and entered into modifications to the terms of the loan arrangement with GR. These modifications included the forgiveness of approximately \$6,000 of the loan balance and the subsequent revocation of that forgiveness. Gilbert never informed Chase of, or obtained written approval from Chase for, the loan or the modifications to the loan arrangement. Chase's WSPs prohibited loans with customers unless they were immediate family members.

By virtue of this conduct, Gilbert violated FINRA Rules 3240 and 2010.

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

A four- month suspension from associating with any FINRA member in any capacity and a \$5,000 fine.

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

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

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 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.

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

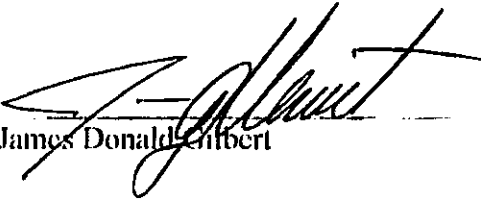
I understand that:

- 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.
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

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.

10/24/2014
Date (mm/dd/yyyy)


James Donald Gilbert

Accepted by FINRA:

11/6/2014
Date

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


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