

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013039198501**

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

RE: David Levorchick, Respondent
Registered Representative
CRD No. 4849302

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, David Levorchick ("Levorchick" or "Respondent") 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 Levorchick alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Levorchick 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

Levorchick entered the securities industry in 2004 when he became registered as a General Securities Representative through a FINRA-registered firm. Prior to becoming registered through U.S. Bancorp Investments, Inc. ("U.S. Bancorp" or the "Firm") in 2007, Levorchick was associated with two other FINRA-registered firms. Levorchick was associated with U.S. Bancorp from 2007 through 2014, and currently is associated with another FINRA-registered firm.

RELEVANT DISCIPLINARY HISTORY

Levorchick has no prior disciplinary history.

OVERVIEW

Levorchick negligently misrepresented to his customer, PS, that the liquidation of her variable annuity would not result in a significant tax liability. Because the liquidation resulted in a substantial capital gain, however, PS incurred a tax

liability of approximately \$20,000. As a result of this tax consequence, Levorchick's recommendation to liquidate the variable annuity was unsuitable.

FACTS AND VIOLATIVE CONDUCT

PS became Levorchick's customer in October 2012. At that time, PS owned several variable annuity policies, including a Prudential Apex II Variable Annuity (the "Prudential VA"). As part of his financial plan for PS, Levorchick recommended that PS liquidate the Prudential VA and invest the proceeds in certain unit investment trusts. Levorchick told PS that the liquidation of the Prudential VA would not result in any tax liability.

In fact, the liquidation of the Prudential VA resulted in a tax liability of approximately \$20,000, and Levorchick was negligent in misrepresenting this fact to his customer. Levorchick should have known that the liquidation of the Prudential VA would result in substantial tax liability for PS. Shortly before he recommended the liquidation, Levorchick participated in a telephone conference with a Prudential representative. The Prudential representative provided Levorchick with both the cost basis for the Prudential VA and its surrender value, and further stated that the liquidation would result in a taxable capital gain. Levorchick took notes during the call but his notes reflected only the policy's surrender value, which Levorchick later mistook for the cost basis when representing to PS that there would be no tax liability as a result of the transaction. Levorchick was negligent in making this representation to PS because at the time it was made, Levorchick should have known that the liquidation of the Prudential VA would result in a substantial capital gain for PS, and, as a consequence, a significant tax liability. As a result of Levorchick's negligent misrepresentation to the contrary, he violated FINRA Rule 2010.

In light of the substantial tax liability resulting from the liquidation of the Prudential VA, Levorchick's recommendation to liquidate the Prudential VA also was unsuitable in violation of FINRA Rules 2111 and 2010.¹

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

A suspension of 30 calendar days from associating with any FINRA-registered firm in any capacity; and
A fine of \$7,500.

Levorchick agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Levorchick has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

¹ PS eventually was compensated by Levorchick and the Firm for the tax expense she incurred as a result of the unsuitable liquidation of the Prudential VA.

Levorchick specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

Levorchick 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, he 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

Levorchick 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, Levorchick 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.

Levorchick 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

Levorchick 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 him; and

C. If accepted:

1. this AWC will become part of Levorchick'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 accordance with FINRA Rule 8313;
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
4. Levorchick 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. Levorchick 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 Levorchick'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.

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

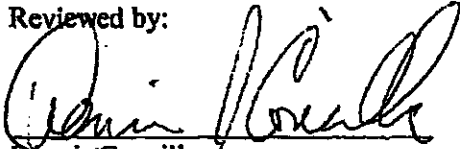
Levorchick certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit it.

04/20/2015
Date (mm/dd/yyyy)



David Levorchick, Respondent

Reviewed by:

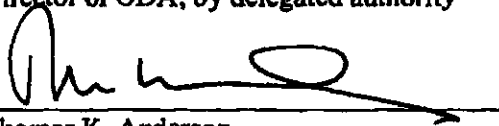


Dennis Concilla
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366 East Broad Street
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614.628.0771
Counsel for Respondent

Accepted by FINRA:

4/29/15
Date

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



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