

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013039507101**

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

RE: Anthony Sica, Respondent
General Securities Representative and General Securities Principal
CRD No. 1332626

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Anthony Sica ("Sica" or "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 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

Sica first became registered with FINRA as a General Securities Representative ("GSR") in August 1985. After working at three other FINRA member firms, in November 2003, Sica went on to work at Joseph Gunnar & Co. LLC (BD No. 24795) ("Gunnar" or the "Firm"). In November 2005, Sica became registered as a General Securities Principal ("GSP"). At Gunnar, Sica continues to be registered as both a GSR and a GSP.

RELEVANT DISCIPLINARY HISTORY

Sica has no prior disciplinary history with the Securities and Exchange Commission, FINRA, any self-regulatory organization, or any state securities regulator.

OVERVIEW

During the period January 2010 through October 2013 (the "Relevant Period"),

Sica made unsuitable recommendations to his customer, JM, in violation of NASD Rule 2310 and FINRA Rules 2111 and 2010.¹ Additionally, during the period September 2013 through November 2013, Sica engaged in unauthorized trading by placing trades in the IRA accounts of FL, a customer who Sica knew was deceased, in violation of FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Unsuitable Recommendations

FINRA Rule 2111 requires that a broker have a reasonable basis for believing that a recommended transaction or investment strategy is suitable for the customer based on the customer's investment profile, which includes, among other factors, the customer's age, financial situation and needs, investment experience, and risk tolerance. The predecessor to FINRA Rule 2111, NASD Rule 2310(a), similarly required brokers to have reasonable grounds for believing that a recommendation to a customer to purchase, sell, or exchange a security is suitable based on the facts disclosed by the customer as to his or her other security holdings and as to his or her financial situation and needs. By recommending unsuitable transactions, a registered broker acts inconsistently with just and equitable principles of trade and thereby violates FINRA Rule 2010.

A recommendation may be unsuitable if it results in an undue concentration in a particular security or category of securities and the correspondent increased risk of loss is inconsistent with the customer's investment profile.

During the Relevant Period, JM had two accounts with Gunnar. JM was in her 70s. She was widowed, unemployed and living on a fixed income, with a liquid net worth of approximately \$300,000. On her account opening forms at Gunnar, JM listed her investment objectives as growth, income and capital appreciation. JM originally listed her risk tolerance as "Moderate," but later changed it to "Moderately Aggressive," as required by Gunnar in order for her to purchase certain types of securities.

Sica's recommendations to JM were unsuitable in several respects. First, Sica repeatedly recommended that JM purchase high-risk, speculative securities that were inconsistent with JM's investment profile. For example, Sica recommended that JM invest \$72,000 in the initial public offering of a microcap pharmaceutical company. According to the prospectus, the investment involved "a high degree of risk . . . Our recurring losses from operations have raised substantial doubt regarding our ability to continue as a going concern." JM held the investment for no more than two days before selling the shares for a loss.

¹ NASD Rule 2310 applies to conduct that occurred prior to July 9, 2012. FINRA Rule 2111 applies to conduct that occurred on or after July 9, 2012.

Second, Sica's recommendations often resulted in an undue concentration of JM's account, which represented substantially all of her liquid assets, in speculative securities. For example, Sica recommended that JM invest \$104,850 in a development-stage drug development company. The prospectus described the investment as involving "a high degree of risk" and stated that the company had incurred losses in each year since its inception in 2000. This speculative investment represented approximately 35 percent of JM's liquid net worth. Sica recommended that JM sell the position the same day for a loss.

Further, Sica often engaged in short-term in-and-out trading of the speculative investments in JM's accounts causing substantial losses.

During the Relevant Period, Sica's recommendations that JM invest such significant portions of her liquid net worth in speculative trading, which resulted in losses of more than \$150,000, was not suitable in light of her age, financial situation and needs, and income.²

By virtue of the foregoing, Sica violated NASD Rule 2310 and FINRA Rules 2010 and 2111.

Unauthorized Trading

Customer FL had two IRA accounts at Gunnar. At the time of FL's death in 2013, Sica was FL's broker. After learning of FL's death, Sica placed four purchases and seven sales of securities in FL's IRA accounts. The aggregated losses on the trades totaled approximately \$3,039. These trades all were unauthorized.

Although FL's daughter, PS, who was the sole beneficiary of the accounts, had previously filed a Power of Attorney with Gunnar giving her trading authority over FL's accounts, that trading authority terminated upon her father's death. While Sica spoke to PS about the trades, neither PS nor anyone else had the authority to trade in FL's IRA accounts following his death until the accounts were transferred to her approximately three months later.

By engaging in unauthorized trading in FL's accounts, Sica failed to observe high standards of commercial honor and just and equitable principles of trade.

By virtue of the foregoing, Sica violated FINRA Rule 2010.

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

- A three-month suspension from association with any FINRA member in

² The Firm and Sica previously settled an arbitration in which JM alleged that Sica made unsuitable recommendations. The settlement amount was more than \$150,000.

any capacity;

- A \$20,000 fine;
- Restitution to PS in the total amount of \$3,039.11, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2); and
- The requirement that within 60 days of the date of the Notice of Acceptance of this AWC, I will undertake to attend and satisfactorily complete 10 hours of continuing education concerning suitability or dealing with senior customers by a provider not unacceptable to FINRA. Within 30 days following completion of such training, I will submit written proof that the continuing education program has been satisfactorily completed. Such proof shall be submitted by letter to Megan P. Davis, FINRA Department of Enforcement, Brookfield Place, 200 Liberty Street, New York, New York 10281, and by email to Megan.Davis@finra.org and EnforcementNotice@FINRA.org. All correspondence must identify the Respondent and Matter No. 20130395071.

I agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

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

Restitution is ordered to be paid to PS in the total amount of \$3,039.11, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the date of misconduct until the date this AWC is accepted by the NAC.

I shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Megan P. Davis, FINRA Department of Enforcement, Brookfield Place, 200 Liberty Street, New York, New York 10281, Megan.Davis@finra.org, either by letter that identifies the Respondent and Matter No. 20130395071 and includes a copy of the check, money order or other method of payment or by e-mail, with pdf copies of the payment documentation, to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 120 days after acceptance of the AWC.

If for any reason Respondent cannot locate PS after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by a FINRA staff member in writing, Respondent shall forward

any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. I shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

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 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. 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.

10/25/17
Date (mm/dd/yyyy)

[Signature]
Respondent Anthony Sica

Reviewed by:

[Signature]
Linda Riefberg
Counsel for Respondent
Cozen O'Connor
277 Park Avenue
New York, New York 10172
(212) 883-4900
LindaRiefberg@cozen.com

Accepted by FINRA:

November 30, 2017
Date

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

[Signature]
Megan P. Davis
Senior Regional Counsel
FINRA Department of Enforcement
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