

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014039092201**

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

RE: H.D. Vest Investment Securities, Inc., Respondent
Member Firm
CRD No.13686

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent H.D. Vest Investment Securities, Inc. ("HD Vest," the "Firm," 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 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

HD Vest has been a member firm since 1983. The Firm conducts a general securities business and is headquartered in Irving, Texas. HD Vest has approximately 4,800 registered individuals and 3,700 branch offices.

RELEVANT DISCIPLINARY HISTORY

In January 2013, FINRA issued an AWC (No. 2010024282701) in which HD Vest was censured and fined \$50,000 for violating NASD Rules 3010 and 2110, FINRA Rule 2010, and FINRA By-Laws, Article III, Section 3 for failing to respond to, or conduct appropriate follow-up regarding, 25 Disclosure Letters that it received from FINRA's Central Registration Depository ("CRD"), which allowed four statutorily disqualified individuals to register or associate with the Firm.

OVERVIEW

From May 2010 through March 2013, HD Vest failed to establish and maintain a reasonable supervisory system and written supervisory procedures (“WSPs”) to ensure that the Firm made timely and accurate amendments to registered representatives’ Uniform Application for Securities Industry Registration or Transfer (“Forms U4”) to disclose bankruptcies, judgments and liens. In addition, from September 2012 through July 2014, HD Vest failed to timely report 10 written customer complaints and the settlement of one complaint on its registered representatives’ Forms U4. As a result, the Firm acted in contravention of Article V, Sections 2 of FINRA’s By-Laws and in violation of FINRA Rules 1122 and 2010, and NASD Rule 3010.

From September 2012 through July 2015, HD Vest also failed to accurately report and/or timely report customer complaints in FINRA’s 4530 Complaint Reporting System in violation of FINRA Rules 4530, 2010, and 1122.

Finally, from May 2010 through September 2012, the Firm violated FINRA Rule 2330(c) and (d) and NASD Rule 3010 in that: (1) principals reviewing variable annuity (“VA”) transactions approved the transactions without sufficient information to make a reasonable determination that the transactions were suitable because they failed to take adequate steps to ensure that the information on the Insurance Purchase Exchange Disclosure (“IPED”) form was accurate and the Firm’s WSPs failed to require third party documentation of the surrendering asset or verification of such information; (2) it failed to follow the Firm’s WSPs and adequately document the principals’ suitability reviews when certain characteristics specified in the Firm’s WSPs were present in VA transactions; and (3) it failed to implement reasonable surveillance procedures to review for inappropriate rates of exchange.

FACTS AND VIOLATIVE CONDUCT

Late and/or inaccurate Form U4 filings.

FINRA By-Laws Article V, Section 2(c) provides that every application for registration (Form U4) filed with FINRA shall be kept current at all times by supplementary amendments. Those supplementary amendments must be filed within 30 days after learning of facts or circumstances giving rise to the amendment. Form U4 requires registered representatives to disclose certain customer complaints, bankruptcies, and unsatisfied judgments and liens. FINRA Rule 1122 prohibits members and associated persons from filing information that is incomplete or inaccurate so as to be misleading, or the failure to correct such filing.

NASD Rule 3010(a) requires that member firms establish and maintain a supervisory system that is reasonably designed to achieve compliance with applicable securities laws and regulations. NASD Rule 3010(b) requires each member to “establish, maintain, and enforce written procedures to supervise the types of business in which

it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD.”

A violation of FINRA By-Laws Article V, Section 2, FINRA Rule 1122 and NASD Rule 3010(a) is also a violation of FINRA Rule 2010.

Between May 2010 and March 2013, HD Vest’s supervisory system and WSPs were not reasonably designed to ensure that a representative’s Form U4 was timely amended to disclose bankruptcies, judgments, and liens. Specifically, although the Firm implemented a program to proactively search for liens and judgments as part of its branch exams, the Firm’s WSPs did not indicate any time frame for branch examiners to complete reviews of potentially undisclosed financial events and were unclear on who was responsible for ensuring that financial events detected through this process were timely disclosed. In addition, the Firm’s WSPs and systems divided responsibility for updating Forms U4 between the compliance and licensing departments, but failed to provide procedures to ensure information about potentially disclosable events was followed up on with the registered representatives. As a result of this inadequate system, HD Vest failed in 18 instances to timely and/or accurately amend a registered representative’s Form U4 to disclose a bankruptcy, judgment or lien. The tardiness of the amendments varied from 26 days to over three years.

In addition, from September 2012 through July 2014, HD Vest failed to timely report 10 written customer complaints and the settlement of one complaint on its registered representatives’ Forms U4. In these instances, the Firm made the appropriate 4530 filing, but failed to amend the named registered representatives’ Forms U4 at the time of the 4530 filing.

As a result of the foregoing failures, HD Vest acted in contravention of FINRA By-Laws Article V, Section 2, and violated FINRA Rules 1122 and 2010, and NASD Rule 3010.

Failure to accurately and/or timely report customer complaints on FINRA’s 4530 Complaint Reporting System.

FINRA Rule 4530(d) requires that member firms report statistical and summary information regarding customer complaints on a quarterly basis. FINRA Rule 4530(d) requires member firms to report statistical and summary information regarding customer complaints “in such detail as FINRA shall specify.” In Notice to Members 96-85, member firms were instructed that they were to report the “most egregious problem code alleged” when filing 4530 reports. In addition, since July 2010, FINRA’s website also has provided guidance to firms regarding regulatory filings pursuant to FINRA Rule 4530(d) by including a “valid list of Rule 4530 Products and

Problem Codes required for specified events.”¹ Member firms were informed that they should select “the most egregious” problem code to describe the allegations in a customer complaint.

From September 2012 through July 2015, HD Vest failed to accurately and/or timely report seven customer complaints in FINRA’s 4530 Complaint Reporting System. Specifically, the Firm:

- failed to accurately report three customer complaints to FINRA in that the Firm failed to select the most egregious problem code;
- failed to accurately report one customer complaint in that it identified the wrong registered representative associated with the complaint in the report;
- failed to timely report two customer complaints because the Firm failed to identify that a subsequent written complaint from a customer contained additional allegations of wrongdoing that required a second Rule 4530 filing; and
- failed to timely report one initial customer complaint.

As a result of the foregoing failures, HD Vest violated FINRA Rules 4530, 2010, and 1122.

Failure to adequately supervise variable annuity transactions.

FINRA Rule 2330(c) requires all VA applications to be reviewed and approved by a principal who “shall approve the recommended transaction only if he or she has determined that there is a reasonable basis to believe that the transaction would be suitable based on the factors delineated in paragraph (b) of this Rule” and requires that these determinations be documented and signed by the principal. Rule 2330(b) sets forth specific factors to be considered when determining whether there is a reasonable basis to believe the transaction was suitable, including additional factors that must be considered in the case of an exchange of a deferred VA. In addition, FINRA Rule 2330(d) requires members to establish and maintain specific WSPs reasonably designed to achieve compliance with the standards set forth in the Rule.

From May 2010 through September 2012, HD Vest’s principals approved at least 18 VA transactions without obtaining sufficient documents and information to determine that the VAs were sold to customers for whom the product was suitable. Specifically, HD Vest required each registered representative that recommended the exchange of a VA to complete an IPED form and forward it along with the customer’s VA application and related documents to the home office for principal review and approval. The IPED form required the registered representative to complete information about the surrendering asset and the prospective purchaser was required to review and sign the form. The Firm, however, did not take adequate steps to

¹ See www.finra.org/web/groups/industry/@ip/@comp/@rf/documents/appsupportdocs/pl17562.pdf.

ensure that the information on the IPED form was accurate. The Firm's WSPs did not require registered representatives to submit third-party documentation regarding the surrendering asset that would allow the reviewing principals to verify the accuracy of information about the surrendering asset. In addition, the Firm's WSPs failed to provide principals reviewing VA transactions with any guidance regarding how to verify such information.

Moreover, the Firm's WSPs contained a list of nine "characteristics", which, if noted in a VA exchange transaction, may require "additional review". The WSPs also required that the principal document the "explanation" of the additional review, documentation of any other resources used by the principal in performing the additional review, and the "explanation to why the transaction was approved." The WSPs, however, failed to provide guidance on how to conduct such "additional review". In practice, the decision to conduct an "additional review" and the determination of what additional review steps were to be taken were made solely by the principal reviewing the transactions.

In 64 transactions, the Firm failed document the "additional review" required by its WSPs. In 29 of those 64 transactions, the principal "documented" the basis for approval only by including a comment that stated, "See Section 4", which referred to the section of the IPED where the registered representative entered a justification for the trade. Accordingly, there was no meaningful documentation of the principal's review and justification for approval in each of these 29 transactions. In the other 35 transactions, there was no documentation whatsoever of the principal's review.

As a result of the foregoing, HD Vest violated FINRA Rule 2330(c) and (d) and NASD Rule 3010.

Failure to implement surveillance process to review for inappropriate rates of variable annuity exchange transactions.

FINRA Rule 2330(d) requires firms to: "(1) implement surveillance procedures to determine if any of the member's associated persons have rates of effecting deferred variable annuity exchanges that raise for review whether such rates of exchanges evidence conduct inconsistent with the applicable provisions of this Rule, other applicable FINRA rules, or the federal securities laws ('inappropriate exchanges'); and (2) have policies and procedures reasonably designed to implement corrective measures to address inappropriate exchanges and the conduct of associated persons who engage in inappropriate exchanges."

From May 2010 through September 2012, HD Vest did not have in place systematic surveillance procedures to identify possible inappropriate rates of VA exchanges. Instead, the Firm relied on its principals reviewing VA transactions to recognize significant trends in terms of a high volume of annuity exchange transactions, without providing any guidance or tools such as exception reports or trend analysis to assist the reviewers in evaluating whether exchange rates were excessive. Also, although

the Firm's WSPs stated that inappropriate replacement or exchanges, "switching", of VAs was prohibited, the WSPs failed to explain what may constitute an inappropriate rate of exchange. In 2012, 268 HD Vest representatives submitted at least one 1035 exchange; the six principals that reviewed every VA transaction, including 1035 exchanges, reviewed an average of 8 to 10 transactions per day. HD Vest relied on its six principals to have familiarity with the over 2,000 VA transactions he or she was assigned to review each year, and did not maintain historic information about rates of exchange. It was unreasonable to expect the reviewing principals to detect trends for this number of representatives and volume of VA sales with no access to historical data, systematic surveillance procedures or guidance from the Firm.

As a result of the foregoing, HD Vest violated FINRA Rule 2330(d) and NASD Rule 3010.

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

A censure and a fine of \$100,000.

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

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction 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 it;
- 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 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.

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 it; 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 it;
 - 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. 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 Respondent's: (i) testimonial obligations; or (ii)

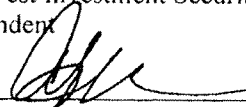
right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. 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 it 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.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf 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 the Firm to submit it.

June 9, 2016
Date

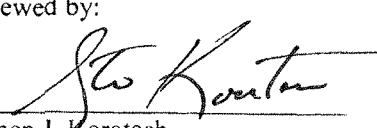
H.D. Vest Investment Securities, Inc.
Respondent

By: 

Name: Casey Griffin

Title: Chief Compliance Officer

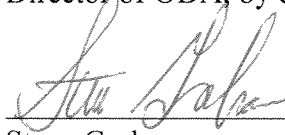
Reviewed by:


Stephen L. Korotash
Counsel for Respondent
Morgan, Lewis & Bockius LLP
1717 Main Street, Suite 3200
Dallas, TX 75201-7347
214-466-4114

Accepted by FINRA:

7/22/2016
Date

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

A handwritten signature in cursive script, appearing to read "Steve Graham", written over a horizontal line.

Steve Graham
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