

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014040955701**

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

**RE: James P. O'Mara, Respondent
Registered Representative
CRD No. 3187406**

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

James P. O'Mara ("O'Mara") entered the securities industry in February 1999, when he became associated with 1st Global Corp. ("1st Global"), a FINRA member firm. O'Mara has been associated with 1st Global his entire career and is currently associated with the firm. O'Mara holds Series 6, 7, 63 and 65 licenses. O'Mara is subject to FINRA's jurisdiction because he is registered through a FINRA member.

RELEVANT DISCIPLINARY HISTORY

On September 20, 2011, the Commonwealth of Pennsylvania Bureau of Professional and Occupational Affairs reprimanded O'Mara and fined him \$1,000 for practicing as a CPA under a lapsed license.

OVERVIEW

During the period of March 28, 2009 through May 1, 2012, O'Mara failed to timely amend his Form U4 to disclose a personal bankruptcy filing. By engaging in such misconduct, O'Mara acted in contravention of Article V, Section 2 of FINRA's By-Laws and violated FINRA Rules 2010 and 1122 (for conduct on August 17, 2009 and after) and NASD IM-1000-1 (for conduct prior to August 17, 2009).¹

FACTS AND VIOLATIVE CONDUCT

Article V, Section 2(c) of FINRA's By-Laws provides that every application for registration filed with FINRA shall be kept current at all times by supplementary amendments, which must be filed within thirty days after learning of the facts or circumstances giving rise to the amendment.

FINRA Rule 1122 provides that: "No member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof."

Prior to August 17, 2009, the effective date for FINRA Rule 1122, NASD IM 1000-1 provided "[t]he filing with the Association of information with respect to membership or registration as a Registered Representative which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or the failure to correct such filing after notice thereof, may be deemed to be conduct inconsistent with just and equitable principles of trade and when discovered may be sufficient cause for appropriate disciplinary action."

Throughout the relevant time period, Question 14K on the Form U4 has asked "Within the past 10 years have you made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?"

On February 25, 2009, O'Mara filed a Chapter 7 bankruptcy petition in the U.S. Bankruptcy Court for the Middle District of Pennsylvania (Case No. 1:09-BK-01389-MDF). The bankruptcy was discharged on November 3, 2009. O'Mara did not amend his U4 to disclose the bankruptcy, however, until May 2, 2012, despite indicating on three annual compliance questionnaires that he understood his responsibility to timely report events such as bankruptcy.

As a result of the foregoing conduct, O'Mara failed to timely amend his Form U4 to disclose the bankruptcy petition in contravention of Article V, Section 2 of

¹ Effective August 17, 2009, NASD Interpretive Material (IM) 1000-1 (Filing of Misleading Information as to Membership or Registration) was adopted, with certain modifications, as FINRA Rule 1122. See Regulatory Notice 09-33.

FINRA's By-Laws, and in violation of FINRA Rules 2010 and 1122 (for conduct on August 17, 2009 and after) and NASD IM-1000-1 (for conduct prior to August 17, 2009).

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

One month suspension from associating with any FINRA member firm in all capacities and a \$5,000 fine.

I agree to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) 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 sanction(s) 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 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.

01/30/2015
Date (mm/dd/yyyy)

James P. O'Mara
James P. O'Mara, Respondent

Reviewed by:



Gregg Breitbart
Counsel for Respondent
Kaufman Dolowich Voluck
One Boca Place
2255 Glades Road, Suite 300E
Boca Raton, FL 33431
561.910.5651/888.464.798 (f)

Accepted by FINRA:

02-26-2015
Date

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



Suzanne H. Bertolett
Senior Regional Counsel
Enforcement Department
FINRA – Florida District Office
5200 Town Center Circle
Tower 1, Suite 200
Boca Raton, FL 33486
561.443.8127/561.443.7998 (f)
Authorized House Counsel
Member Georgia Bar Only