

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2014042031901**

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

**RE:** Mark Peter Koestner, Respondent  
General Securities Representative  
CRD No. 1302960

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Respondent Mark Peter Koestner, 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**

Koestner entered the securities industry in June 1984 and became registered as a General Securities Representative ("GSR") in September 1984. From September 1984 to October 2000, Koestner was consecutively registered as a GSR with several different FINRA member firms. From October 1, 2000 to July 3, 2014, Koestner was registered as a GSR in Naples, Florida branch office of Wells Fargo Advisors, LLC. ("Wells Fargo" or the "Firm")(BD No. 19616).

On July 23, 2014, the Firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") stating that Koestner voluntarily resigned from Wells Fargo on July 3, 2014. The Form U5 also stated that Koestner resigned while the Firm was conducting an internal review of the wire activity in Koestner's bank account to and from a law firm in Panama.

On August 11, 2014, the Firm filed an amended Form U5 that stated that the Firm's internal review concluded on July 31, 2014, and it appeared that "Koestner wired funds to a law firm in Panama to participate in an unapproved private

securities transaction.”

Since September 23, 2014, Koestner has been employed as an adviser representative at Capital Wealth Planning LLC, a non FINRA member firm. Koestner is not currently registered or associated with a FINRA member firm. FINRA retains jurisdiction over Koestner pursuant to Article V, Section 4 of FINRA’s By-Laws.

### **RELEVANT DISCIPLINARY HISTORY**

Koestner does not have any disciplinary history with any state securities agency, the Securities and Exchange Commission, FINRA, or any other self-regulatory organization.

### **OVERVIEW**

Koestner violated FINRA Rules 8210 and 2010 by failing to appear for an on-the-record interview (“OTR”) with FINRA Enforcement staff on March 1, 2016.

### **FACTS AND VIOLATIVE CONDUCT**

In January 2016, FINRA was investigating allegations that Koestner engaged in a private securities transaction or an outside business activity or both. As part of its investigation, FINRA sent Koestner a letter dated January 27, 2016, which requested that Koestner appear for an OTR pursuant to FINRA Rule 8210. The letter requested his presence on March 1, 2016 at FINRA’s offices.

By a letter dated February 9, 2016 sent by Koestner’s attorney to FINRA, and by this agreement, Koestner acknowledges that he received FINRA’s request for testimony and that he will not appear for an OTR at any time. Koestner failed to appear for the OTR on March 1, 2016. By refusing to appear for an OTR as requested pursuant to FINRA Rule 8210, Koestner has violated FINRA Rules 8210 and 2010.

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

- a bar from associating with any FINRA member in any and all capacities.

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. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

## **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.

I, Mark Peter Koestner, 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.

3/21/2016  
Date:

  
Mark Peter Koestner  
Respondent

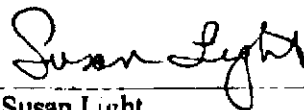
Reviewed by:

  
Victor Bayata, Esq.  
Vernon Litigation Group  
The Fifth Third Center, Suite 200  
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Naples, Florida 34108

Accepted by FINRA:

4/15/16  
Date

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



Susan Light  
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