

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2014043064701**

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

RE: Ameritas Investment Corp., Respondent
CRD No. 14869

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Ameritas Investment Corp. ("AIC") 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 AIC based on the firm's supervision of the representative who is identified herein.

I.

ACCEPTANCE AND CONSENT

- A. AIC 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

AIC is a general securities firm that has been registered with FINRA or its predecessor since 1984. As of June 2016, AIC had 554 branches and 1,393 registered persons.

RELEVANT DISCIPLINARY HISTORY

AIC has not been the subject of any relevant disciplinary history.

OVERVIEW

AIC did not detect that one of its representatives sought to change a customer's address of record to the address of the representative's branch office, then requested disbursements from the customer's account to her new address of record. As a result, AIC sent \$34,000 from the customer's account to the representative's branch, where he misappropriated the money.

By failing to adequately monitor and otherwise supervise the representative's activity, AIC violated NASD Rules 2110, 3010(a) and (b), and 3012(a)(2)(B).

FACTS AND VIOLATIVE CONDUCT

In November 2008, one of AIC's representatives asked the firm to change a customer's address of record to the address of the representative's branch office. Simultaneously, the representative asked AIC to disburse \$10,000 from the customer's account to her new address of record. The customer did not authorize either request.

At that time, AIC's written procedures stated that "client mail cannot be addressed in care of AIC or in care of an associate of AIC at ANY address, nor be handled by an associate or RR of AIC." AIC's written procedures did not specifically prohibit using a branch's address as a customer's address of record. While AIC notified customers about changes to their address of record by mailing a letter to their old address, AIC did not have a system for monitoring and validating such changes before disbursing funds to a new address.

AIC did not detect its representative's improper activities. AIC changed the customer's address of record and mailed a check for \$10,000 from her account to the representative's branch on the same day. The representative misappropriated the money. Several days later, AIC mailed a letter about the address change to the customer's previous address of record, but she did not respond. Over the next fifteen months, the representative requested three more disbursements totaling \$24,000 from the customer's account, and AIC mailed three more checks to the representative's branch, where he misappropriated the money.

In June 2014, the representative's improper activities were discovered. AIC terminated his association with the firm, reimbursed the customer's losses, and modified its policies governing customers' address changes.

In November 2008, NASD Rule 3012(a)(2)(B) required firms to establish, maintain, and enforce "procedures that are reasonably designed to review and monitor ... customer changes of address and the validation of such changes of address". At that time, NASD Rule 3010(a) required firms to "establish and maintain a system to supervise the activities of each registered representative ... that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules" and NASD Rule 3010(b) required firms to "establish, maintain, and enforce written procedures ... 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." Finally, at that time NASD Rule 2110 required firms to "observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business; violating any other NASD rule constitutes a violation of NASD Rule 2110.

AIC's supervisory system and procedures in November 2008 were not sufficient to adequately monitor its representative's requests to change the customer's address of record without her knowledge and to disburse funds to her new address. As a result, the firm violated NASD Rules 3010(a) and (b) and 3012(a)(2)(B). By virtue of violating those rules, AIC also violated NASD Rule 2110.

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

Censure
Fine of \$50,000

AIC agrees to pay the fine upon notice that this AWC has been accepted and that such payment is due and payable. AIC has submitted an Election of Payment form showing the method by which AIC proposes to pay the fine. AIC specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the fine. The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

AIC specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against AIC;**
- 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, AIC 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.

AIC 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

AIC 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 AIC; and
- C. If accepted:
 - 1. this AWC will become part of AIC's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against AIC;
 - 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. AIC 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. AIC 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 AIC'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. AIC may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. AIC 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 AIC, certifies that a person duly authorized to act on its behalf has read and understood all of the provisions of this AWC and has been given a full opportunity to ask

