

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT NO. 20130358301**

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

RE: EverTrade Direct Brokerage, Inc., Respondent  
Member Firm  
CRD No. 47388

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent EverTrade Direct Brokerage, Inc. ("EverTrade" or "the Firm") 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 EverTrade alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. EverTrade 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**

EverTrade has been a registered broker-dealer with FINRA since September 1999, which registration currently remains in effect. EverTrade employs 43 registered individuals in two branch offices. The Firm's main office is located in St. Louis, Missouri.

**RELEVANT DISCIPLINARY HISTORY**

EverTrade has no relevant disciplinary history.

**OVERVIEW**

From August 1, 2011 through April 24, 2013, EverTrade failed to evaluate whether the activities of a former registered representative may have constituted private securities transactions, and also failed to document that analysis. As a result, EverTrade violated FINRA Rules 3270 and 2010.

**FACTS AND VIOLATIVE CONDUCT**

From August 1, 2011 through April 24, 2013, EverTrade failed to evaluate, and document, whether the activities of former registered representative, CT, on behalf of RE, Inc. ("RE"), an exploration and production company focused

on the acquisition, development, and marketing of natural gas, may have constituted private securities transactions ("PSTs").

Upon his association with EverTrade in August 2011, CT disclosed that he generated qualified leads and acted as an Investor Relations Liaison for RE.<sup>1</sup> CT received a salary from RE, as well as a bonus for each qualified lead he provided to RE. From August 2011 through February 2013, CT also made presentations regarding RE, along with the CEO of RE, at various conferences to develop qualified leads.<sup>2</sup> During these presentations, CT would discuss market trends for natural gas and oil, tax strategies for ownership of oil and gas, and strategies used by RE to explore fossil fuels. CT disclosed his activity on behalf of RE to EverTrade as an outside business activity ("OBA").

The Firm failed to evaluate whether the activities that CT disclosed could be deemed to be PSTs. The Firm also failed to maintain a record of its compliance with its obligation under FINRA Rule 3270 to determine whether CT's activities were properly reported as an OBA, or whether they should be treated as outside securities activity subject to the requirements of NASD Rule 3040.

As a result of the foregoing conduct, EverTrade violated FINRA Rules 3270 and 2010.

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

1. A censure; and
2. a fine of \$8,500.00.

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

EverTrade 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.

---

<sup>1</sup> RE considered a "qualified lead" to be the contact information for an accredited investor, as defined by SEC Regulation D, with knowledge of alternative investments.

<sup>2</sup> Specifically, from August 2011 through February 2013, CT and the CEO of RE made presentations regarding RE at approximately twenty-five different conferences.

## **II.**

### **WAIVER OF PROCEDURAL RIGHTS**

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

- A. To have a Complaint issued specifying the allegations against the Firm;
- 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, EverTrade 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.

EverTrade 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**

EverTrade 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 the Firm; and
- C. If accepted:
  - 1. this AWC will become part of EverTrade's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against EverTrade;

2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about EverTrade's disciplinary record;
  3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
  4. EverTrade 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. EverTrade 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 EverTrade'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. EverTrade may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. EverTrade 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 EverTrade 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 the Firm to submit it.

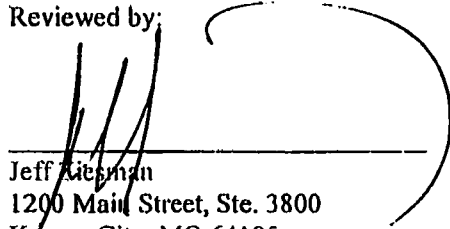
02/20/2015  
Date (mm/dd/yyyy)

EverTrade Direct Brokerage, Inc.

By: David L. Conover

Name: DAVID L. CONOVER  
Title: PRESIDENT & CEO

Reviewed by:

  
\_\_\_\_\_  
Jeff Ziesman  
1200 Main Street, Ste. 3800  
Kansas City, MO 64105  
Telephone: (816) 374-3225  
Facsimile: (816) 855-3225  
Email: [jeff.ziesman@bryancave.com](mailto:jeff.ziesman@bryancave.com)

Accepted by FINRA:

03/09/15  
\_\_\_\_\_  
Date

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

  
\_\_\_\_\_  
Seema Chawla  
Senior Regional Counsel  
FINRA Department of Enforcement  
120 W. 12th Street, Suite 800  
Kansas City, Missouri 64105  
Telephone: (816) 802-4712  
Facsimile: (816) 421-4519  
Email: [seema.chawla@finra.org](mailto:seema.chawla@finra.org)