

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015043353301**

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

RE: Bruce A. Lefavi Securities, Inc., Respondent
CRD No. 10684

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Bruce A. Lefavi Securities, Inc. (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

Respondent, a FINRA member firm since August 1982, conducts a general securities business. Respondent has 8 registered representatives and operates out of its main office in Salt Lake City, Utah.

RELEVANT DISCIPLINARY HISTORY

In July 2014, Respondent consented to the entry of an AWC that found violations of NASD Rule 2210, FINRA Rule 2210, and FINRA Rule 2010. The Rule 2210 violations primarily pertained to content violations with respect to Respondent's website, radio broadcasts, and a book authored by Respondent's President. Respondent was censured and fined \$75,000. See AWC No. 2013034965201.

OVERVIEW

In 2014, Respondent sent to certain customers four communications relating to REITs (Real Estate Investment Trusts) and BDCs (Business Development Companies) that violated the content standards of FINRA Rule 2210 and FINRA Rule 2010. In addition, during the period July 2013 through December 2014, Respondent did not establish and maintain a supervisory system and procedures reasonably designed to ensure that

advisory products and services offered to, and related charges paid by, its customers were reasonable and appropriate in violation of NASD Rules 3010(a) and 3010(b) (for the period prior to December 1, 2014), FINRA Rules 3110(a) and 3110(b) (for the period subsequent to November 30, 2014), and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Violations of Content Standards of FINRA Rule 2210

FINRA Rule 2210(d)(1) requires, in part, that member communications “be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service” and states that “[n]o member may omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communications to be misleading. Under FINRA Rule 2210(d)(2), “[a]ny comparison in [retail communications] between investments or services must disclose all material differences between them, including (as applicable) investment objectives, costs and expenses, liquidity, safety, guarantees or insurance, fluctuation of principal or return, and tax features.”

In 2014, four retail communications prepared and disseminated by Respondent to numerous customers contained content that violated the standards of FINRA Rule 2210(d)(1). These retail communications pertained to REITs and/or BDCs and failed completely to identify the risks associated with investing in REITs/BDCs, failed to provide sufficient detail to allow customers to evaluate the investments, and, in some instances omitted material information. Examples of content violations included: (i) certain communications inaccurately suggested that the underlying REIT was not subject to market volatility and would remain stable; (ii) sources of potential distributions to customers were not identified; (iii) one of the communications referred to “dividends,” which was misleading given that the subject REIT was unable to pay distributions from the fund’s operations; (iv) and, one communication omitted material information regarding features, characteristics, and fees of the BDC to which it related.

Additionally, one of the retail communications violated Rule 2210(d)(2) by comparing the subject BDC to bond funds without identifying and explaining the material differences between the two products.

By virtue of the foregoing, Respondent violated FINRA Rule 2210(d)(1), FINRA Rule 2210(d)(2), and FINRA Rule 2010.

Violations of NASD Rule 3010 and FINRA Rules 3110 and 2010

FINRA Rule 3110(a) and its predecessor NASD Rule 3010(a)¹ require every FINRA member firm to “establish and maintain a system to supervise the activities of each

¹ NASD Rule 3010 was superseded by FINRA Rule 3110 effective December 1, 2014.

registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD [and FINRA] Rules.” Relatedly, FINRA Rule 3110(b) and its predecessor NASD Rule 3010(b) require every member firm 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 [and FINRA].”

Approximately 99% of the Respondent’s customers also have accounts with the Respondent’s affiliated investment advisor, LWM. During the period of July 2013 through December 2014, all of Respondents’ customers’ purchases of REITs and BDCs were processed through the Respondent, and the customers were charged a commission. For customers who also had accounts with the affiliated IA, the REIT and BDC securities were subsequently transferred to the customers’ account at the affiliated investment advisor. The dollar value of the securities became subject to an annual asset management fee.

Notwithstanding the above, Respondent did not establish and maintain a reasonable supervisory system and written supervisory procedures regarding the appropriateness of fee-based accounts and the charges associated with those accounts. Specifically, Respondent had no procedures that addressed whether the advisory products and services offered to its customers by its affiliated investment advisor and charges paid by its customers for those advisory services were reasonable and appropriate.

By virtue of the foregoing, Respondent violated NASD Rules 3010(a) and (b) (for conduct prior to December 1, 2014), FINRA Rules 3110(a) and (b) (for conduct subsequent to November 30, 2014), and FINRA Rule 2010.

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

- A censure and a \$25,000 fine.

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;
- C. If accepted:

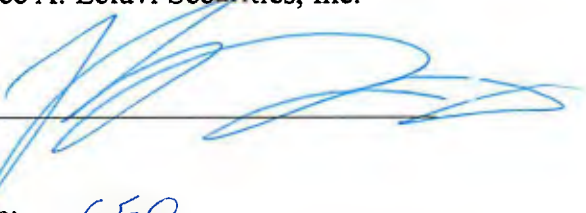
1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
3. FINRA may make 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 Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent to submit it.

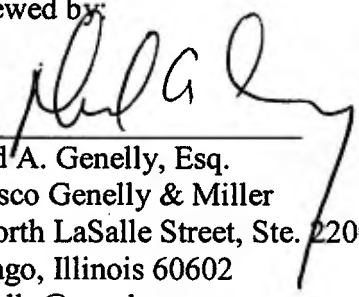
10/26/2017
Date (mm/dd/yyyy)

Bruce A. Lefavi Securities, Inc.

By: 

Title: CEO

Reviewed by:



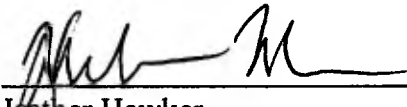
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Accepted by FINRA:

11/10/2017

Date

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



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