

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015044778301**

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

RE: Michael J. DeBoer, Respondent
Former Registered Representative
CRD No. 2114067

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

Michael J. DeBoer was employed in the securities industry from July 1990 to May 2015, during which time he was associated with several FINRA member firms. As relevant to this AWC, DeBoer was registered with former member firm Dalton Strategic Advisors Investment Services Inc. ("Dalton Strategic") from November 2009 to April 2013. On May 13, 2015, Fidelity Brokerage Services LLC ("Fidelity"), the member firm with which DeBoer was most recently associated, filed a Form U5 terminating his registrations with the firm for "loss of confidence related to [his] work at a prior firm." Prior to his termination, DeBoer held Series 6, Series 7, Series 9, and Series 24 licenses with Fidelity.

Although DeBoer is no longer associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4 of FINRA's By-Laws.

OVERVIEW

In June 2010, while registered with Dalton Strategic, DeBoer recommended that two customers collectively invest \$200,000 in securities offered by a software development company. In return for the referrals, DeBoer received \$32,000 in compensation from the software development company. The investors ultimately lost the entirety of their investments in the securities. The securities were not offered through Dalton Strategic, and DeBoer did not disclose his participation in the transactions to the firm. Before making his recommendation, DeBoer also failed to reasonably investigate the software company or its securities and therefore lacked a reasonable basis to believe the securities were suitable investments for at least some customers. Accordingly, DeBoer violated NASD Rule 3040, NASD Rule 2310, NASD IM-2310-2, and FINRA Rule 2010.

From November 2010 through December 2012, also while registered with Dalton Strategic, DeBoer marketed to his customers and other potential investors the services of an entity that provided separately-managed futures trading accounts. DeBoer received more than \$70,000 in payments from the futures trading entity in return for his referral of approximately 28 people who collectively invested more than \$1.8 million. Most or all of the people DeBoer referred to the futures trading entity lost a substantial amount of the money they invested. DeBoer did not disclose his involvement in this outside business activity to Dalton Strategic in violation of NASD Rule 3030 and FINRA Rules 3270 and 2010.¹

For the violations described above, DeBoer agrees to a permanent bar.

FACTS AND VIOLATIVE CONDUCT

Facts

DeBoer Recommended that Customers Invest in a Software Development Company

In June 2010, while registered with Dalton Strategic, DeBoer recommended that two of his customers consider making investments in IST, a software development company that DeBoer knew was seeking to raise money through the sale of securities that would allow purchasers to participate in a bridge loan to IST. DeBoer referred the two customers to IST's management, and the customers subsequently invested \$100,000 each in IST securities. In return for the referral, IST paid DeBoer fees totaling \$32,000. The IST securities did not perform, and DeBoer's customers lost the entirety of the \$200,000 they collectively invested.

¹ NASD Rule 3030 was superseded by FINRA Rule 3270 on December 15, 2010. Therefore, NASD Rule 3030 applies to conduct before that date and FINRA Rule 3270 applies to conduct on or after that date.

The IST securities were not offered through Dalton Strategic. Prior to recommending that his customers invest in IST's securities, DeBoer did not disclose to the firm, in writing or otherwise, his involvement in recommending the securities or his receipt of compensation for referring the customers to IST. Furthermore, before recommending that his customers consider investing in IST, DeBoer conducted virtually no inquiry into the company, its business model, its finances, its management, or its intended use of the proceeds generated through the sale of its securities.

DeBoer's Involvement with a Commodities and Futures Trading Entity

Prior to November 2010, DeBoer had a relationship whereby, in return for referral fees, he referred potential investors to HSG, a commodity and futures trading entity that offered separately-managed accounts. DeBoer's relationship with HSG was disclosed to and approved by Dalton Strategic.

In mid to late 2010, CS, a trader formerly employed by HSG, established his own company to provide investors with separately-managed commodities and futures trading accounts. The company, CAS, was registered with the National Futures Association and custodied its accounts with IB, a commodities and futures dealer. Beginning in November 2010, DeBoer began actively marketing CAS's managed commodities and futures accounts to his customers and other potential investors. Between November 2010 and December 2012, DeBoer referred approximately 28 people to CAS, who collectively invested more than \$1.8 million in accounts managed by CAS. In addition to referring the investors to CAS, DeBoer also assisted the investors in completing the paperwork required to establish their accounts with CAS and IB and monitored the performance of those accounts. DeBoer received more than \$70,000 from CAS in return for his referrals. Most or all of the investors DeBoer referred to CAS lost money on their investments. DeBoer did not disclose his outside business relationship with CAS to Dalton Strategic.

Violations

DeBoer Violated NASD Rule 3040 and FINRA Rule 2010

NASD Conduct Rule 3040 prohibited an associated person from "participat[ing] in any manner in a private securities transaction" unless, prior to participating in the transaction, the associated person provided "written notice to the member with which he is associated describing in detail the proposed transaction and the person's proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction." A "private securities transaction" was defined in Rule 3040(e)(1) as "any transaction outside the course or scope of an associated person's employment with a member..."²

² NASD Rule 3040 was superseded by FINRA Rule 3280 on September 21, 2015, after the conduct at issue in this AWC.

By participating in two customers' investments in IST for compensation without providing prior written notice to Dalton Strategic, DeBoer violated NASD Rule 3040. By virtue of that violation, DeBoer also violated FINRA Rule 2010.

DeBoer Violated NASD Rule 2310, NASD IM-2310-2, and FINRA Rule 2010

When recommending that a customer purchase, sell, or exchange a security, NASD Rule 2310 required that a registered representative "have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs." Additionally, NASD IM-2310-2 provided that "[i]mplicit in all member and registered representative relationships with customers is the fundamental responsibility of fair dealing."³ In order to determine whether a recommended security is suitable for a particular customer, NASD Rule 2310 required that a registered representative first perform reasonable diligence to understand the nature and potential risks and rewards of the recommended security, and to determine whether the recommended security was suitable for at least *some* investors based on that understanding. A registered representative cannot meet that obligation if he does not understand the recommended security himself, even if the security is suitable for at least some investors.

By recommending that two customers invest in IST without first undertaking reasonable diligence to understand the company or its securities, DeBoer lacked a reasonable basis to believe the recommended investment was suitable for at least some customers. Accordingly, DeBoer violated NASD Rule 2310 and NASD IM-2310-2. By virtue of those violations, DeBoer also violated FINRA Rule 2010.

DeBoer Violated NASD Rule 3030 and FINRA Rules 3270 and 2010

FINRA Rule 3270 provides that "[n]o registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member." NASD Rule 3030, the predecessor to FINRA Rule 3270, contained substantively identical requirements.

By engaging in an outside business relationship with CAS between November 2010 and December 2012 without providing written notice to Dalton Strategic,

³ NASD Rule 2310 and NASD IM-2310-2 were superseded by FINRA Rule 2111 on July 9, 2012, after the conduct at issue in this AWC.

DeBoer violated NASD Rule 3030 and FINRA Rule 3270. By virtue of those violations, DeBoer also violated FINRA Rule 2010.

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

- A permanent bar from associating with any FINRA member in any capacity.

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 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.

04/14/2016
Date (mm/dd/yyyy)

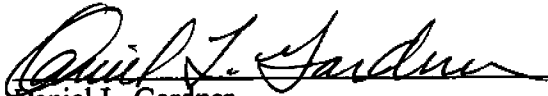


Michael J. DeBoer
Respondent

Accepted by FINRA:

5/16/2016
Date (mm/dd/yyyy)

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


Daniel L. Gardner

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