

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015046056402**

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

RE: John N. Furkioti, Respondent
Former Registered Principal
CRD No. 5005622

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

Respondent John N. Furkioti ("Furkioti" or "Respondent") began in the securities industry in 2005 as a general securities representative. From 2005 until November 2012, he was registered as a general securities representative and sales supervisor with two FINRA registered firms. In June 2013, Furkioti became registered with First American Securities, Inc. ("FAS" or the "Firm") as a general securities representative and sales supervisor, and in February 2014, also as a general securities principal. He became the Firm's Chief Compliance Officer ("CCO") in April 2014. His registration with FAS was terminated on April 1, 2016, and he has not been registered with any FINRA member firm since that time. He remains subject to FINRA's jurisdiction pursuant to Article V Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

Respondent has no disciplinary history.

OVERVIEW

Furkioti violated NASD Rule 3040, and FINRA Rules 3110 and 2010, when he approved the participation of a firm representative ("TB") in a private offering as an "outside business activity," rather than as a private securities transaction, which was contrary not only to NASD and FINRA Rules, but also to the Firm's written supervisory procedures ("WSPs").

FACTS AND VIOLATIVE CONDUCT

NASD Conduct Rule 3040 provides: "If [a] member approves a person's participation in a [private securities transaction for which the associated person has or may receive selling compensation], the transaction shall be recorded on the books and records of the member and the member shall supervise the person's participation in the transaction as if the transaction were executed on behalf of the member."¹ Rule 3040 is broadly interpreted to reach a representative who participates in any manner in the transaction, with the goal of both protecting investors and permitting member firms to supervise transactions in which their representatives become involved. A violation of Rule 3040 is also a violation of FINRA Rule 2010, which requires registered persons to adhere to just and equitable principles of trade.

The Firm's WSP's mirrored the language in Rule 3040, and also required the Firm's CCO to review all requests by registered persons to participate in outside business activities ("OBAs") to determine, among other things, whether the activity should more properly be designated a private securities transaction ("PST") governed by NASD Rule 3040, and whether to approve the activity. If the activity was more properly considered as a PST, then the CCO had the obligation under the WSPs to ensure that the Firm adequately supervised the representative's activities, that the transactions were included in the Firm's books and records, and that proper documentation was maintained. As of April 2014, Furkioti was the Firm's CCO and was a registered principal, therefore, he was responsible under the WSPs to ensure compliance with NASD Rule 3040 and the relevant WSP provisions.

In March 2015, TB was presented with an exclusive opportunity to sell debt units of a private offering (the "Offering") being conducted by an entity owned by a person associated with the Firm ("CP"). TB was to solicit customers of the Firm to purchase short-term or medium-term notes, in exchange for which TB was to receive an 11.5% commission.

CP instructed or advised TB that his participation in the Offering was an OBA, and not a PST subject to the requirements of NASD Rule 3040. TB heeded these instructions or advice, filled out the Firm's OBA form, and submitted the form to Furkioti for approval. In the OBA form, TB disclosed that: (1) the nature of the

¹ See also, e.g., NASD Notice to Members 96-33, *NASD Clarifies Rules Governing RR/IAs* (May 1996).

business was "private placement," (2) the business was investment-related, and (3) his position and duties were sales-related. In addition, Furkioti understood that TB would be compensated for the sales activity. Furkioti approved TB's request to participate in the Offering as an OBA, despite the obvious indications that TB's participation in the Offering constituted outside securities activities for compensation subject to NASD Rule 3040. Furkioti failed to adhere to the requirements of his Firm's WSPs that he evaluate TB's OBA request to determine whether the activity should more properly be considered outside securities activity.

From March 2015 through July 2015, as a part of the Offering, TB sold \$1.645 million in short-term and medium-term notes to 20 Firm customers and received \$189,000 in commissions.

As a result of the treatment of TB's participation in the Offering as an OBA and not a PST for compensation, the transactions were not in FAS' books and records and FAS did not supervise the activity. Therefore, Furkioti violated NASD Rule 3040. In addition, because Furkioti was responsible for approving and supervising OBA and PST activities under the Firm's WSPs, and failed to adhere to the WSPs with respect to TB's participation in the Offering, Furkioti also violated FINRA Rule 3110. For both of these reasons, Furkioti violated FINRA Rule 2010.

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

A deferred fine of \$10,000 and a one (1) month suspension from associating with any FINRA registered firm in a principal capacity.

The fine shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member in a principal capacity, 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 a principal capacity, during the period of the bar or suspension (see FINRA Rules 8310 and 8311). Furthermore, because I am subject to a statutory disqualification during the suspension, if I remain associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

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.

- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

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.

05/06/2016
Date (mm/dd/yyyy)

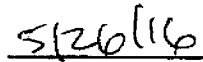
John N. Furkioti
John N. Furkioti, Respondent

Reviewed by:



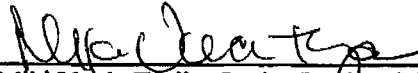
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(312)658-6564

Accepted by FINRA:



Date

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



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