

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2015046056404**

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

**RE:** Jervis B. Hough, Respondent  
CRD No. 4291302

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**

Jervis B. Hough ("Hough" or "Respondent") became registered with a FINRA member firm as a general securities representative in May 2004, and in November 2004 became registered as a general securities principal. He became registered with First American Securities, Inc. ("Firm" or "FAS") as a general securities principal in January 2013, and acted as the Firm's CCO from that point until April 2014. He is currently registered with another FINRA member Firm.

**RELEVANT DISCIPLINARY HISTORY**

Hough has no disciplinary history.

**OVERVIEW**

In 2013, while he was CCO of the Firm, Hough conducted the due diligence for a private placement, which due diligence was insufficient and not in accordance

with the Firm's written supervisory procedures ("WSPs"), and was therefore in violation of the NASD Rule 3010 and FINRA Rule 2010.

### **FACTS AND VIOLATIVE CONDUCT**

NASD Rule 3010 required that a member firm establish, maintain and enforce a supervisory system and WSPs that were reasonably designed to achieve compliance with applicable laws, rules and regulations. With respect to private placements, FINRA Notice to Members 10-22 ("NTM 10-22") reminded firms of their obligations to conduct a reasonable investigation of the issuers and the securities they recommend.<sup>1</sup> NTM 10-22 further reminded firms that they must have supervisory procedures under NASD Rule 3010 that are reasonably designed to ensure that the firm's personnel, *inter alia*, "engage in an inquiry that is sufficiently rigorous to comply with their legal and regulatory requirements," including a reasonable investigation concerning: (1) the issuer and its management; (2) the business prospects of the issuer; (3) the assets held by or to be acquired by the issuer; (4) the claims being made by the issuer; and (5) the intended use of the proceeds of the offering. NTM 10-22 also required firms to retain records documenting the investigation and the results of the investigation.

The Firm's WSPs had similar language to the above, and listed specific steps to be taken as a part of the due diligence of a private placement, including among other things:

- a description of the value of the drivers of the business, including a list of key strengths of the business, for example, market niche, customer relationships, and barriers-to-entry;
- a description of the company's competitive advantages and disadvantages, an identification of the company's major competitors, and market analysis;
- identification of industry market trends;
- biographical information for key managers; and
- any current financial projections or business plans, with a discussion of assumptions.

The WSPs designated the Firm's President as the principal responsible for supervising all procedures relating to private placements, including the due diligence requirements. The WSPs also stated: "The Compliance Department will at a minimum, review the issue, the PPM, and perform due diligence with respect to the issue and the affiliates of the issue."

On July 1, 2013, FAS entered into a placement agreement for the sale of securities offered in a private placement by a corporation called "PGC" (the "PGC Offering"). PGC was a new company with no prior operations. Its business plan was to lend money to third-party entities that would purchase, rehab, and resell

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<sup>1</sup> FINRA Regulatory Notice 10-22, *Regulation D Offerings, Obligation of Broker-Dealers to Conduct Reasonable Investigations in Regulation D Offerings* (April 2010).

distressed real estate in Michigan. The purpose of the PGC Offering was to issue preferred stock paying 7% or 8% dividends to fund the loans to the third-party entities. In total, 76 of the Firm's customers invested in the PGC Offering, raising \$3.25 million.

In light of the President's inexperience with private placements, Hough agreed to conduct the due diligence relating to the PGC Offering, but the diligence that he conducted was inadequate. Although Hough had previously met, and knew of, PGC's CEO and had conducted a Google search on the CEO in connection with the PGC Offering, he did not discover a bankruptcy the CEO had filed in 1998, and did not document the search. Hough also conducted an analysis of the issuer's potential profitability and ability to repay the investors, but did not document this analysis, and failed to take into account certain material facts affecting the issuer's ability to repay the investors' principal and interest in accordance with their terms.

Hough also identified an outside third-party consultant to conduct due diligence in connection with the PGC Offering. This consultant subcontracted with another individual to conduct due diligence and prepare a due diligence report ("Consultants' Due Diligence Report"). The Consultants' Due Diligence Report was nothing more than a verbatim cut and paste from the Private Placement Memorandum for the PGC Offering dated July 1, 2013 ("PGC PPM"), with no independent assessment, or any substantive analysis, of the issue or issuer. According to the Consultants' Due Diligence Report, in conducting the due diligence, the author reviewed the (1) PGC PPM, (2) PGC certificate of incorporation, (3) PGC form stock certificate, and (4) the PGC form subscription agreement. The report did not reflect the review of any other documents or information. The Consultants' Due Diligence Report also stated:

In conducting a review of the PPM and producing this report, [the author] was advised that he may rely upon, and therefore have relied upon and assumed, without independent verification, the accuracy and completeness in all material respect of all financial and other information furnished or otherwise communicated to [the author] through the documents reviewed above. [The author] has not performed an independent assessment of [the company], as they are start-up.

In addition to the above, others in the Firm besides Hough conducted some additional diligence. Before the Offering, the President and a Firm representative met and spoke with PGC's founders and CEO.<sup>2</sup> Although the CEO's CV was included in the PGC PPM, they did not request any additional documentation regarding his background. After the Offering commenced, the President and a Firm representative visited some properties whose rehabbing was being financed by the issuer, but did not ask to review any documentation.

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<sup>2</sup> One of the founders of PGC owned 50% of FAS's holding company. The other founder of PGC became its CEO.

As a result of the above, Hough failed to ensure that the Firm conducted adequate diligence regarding the PGC Offering and failed to enforce the Firm's WSPs relating thereto. Hough failed to document the due diligence he conducted. In addition, the work reflected in the Consultants' Due Diligence Report fell far short of the "reasonable investigation of the issuer and the securities" set forth in NTM 10-22. The Firm also failed adequately to: (1) investigate the value of the drivers of PGC's business; (2) investigate PGC's competitive advantages and disadvantages, identify its major competitors, or conduct any market analysis; (3) investigate any industry market trends; (4) investigate the biographical information for key managers; or (5) analyze any financial projections or business plans, despite express reference to these steps in the WSPs. Therefore, Hough failed to ensure that the Firm followed its own WSPs relating to due diligence requirements for private placements. As a result of all of the above, Hough violated NASD Rule 3010 and FINRA Rule 2010.

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

A fine of \$5,000 and a 15 business day suspension from associating with any FINRA registered firm in a principal capacity

I agree to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

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

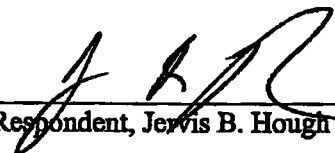
**C. If accepted:**

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.

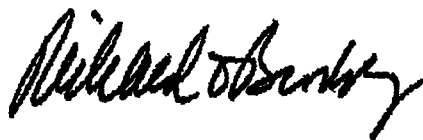
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute 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.**

7/22/2016  
Date (mm/dd/yyyy)

  
Respondent, Jervis B. Hough

Reviewed by:



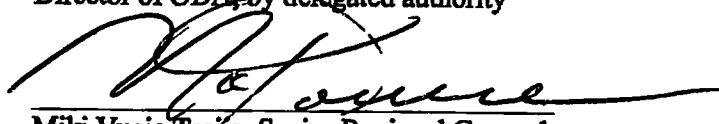
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305-777-0280

Accepted by FINRA:

8/2/16  
Date

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



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