

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2015046716901**

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

RE: Cetera Advisor Networks LLC,
Respondent Member Firm
CRD No. 13572

Cetera Advisors LLC,
Respondent Member Firm
CRD No. 10299

Cetera Financial Specialists LLC,
Respondent Member Firm
CRD No. 10358

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondents Cetera Advisor Networks LLC, Cetera Advisors LLC, and Cetera Financial Specialists LLC 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 Respondents alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondents 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

Cetera Advisor Networks LLC (Networks) has been a FINRA member since June 1983, is headquartered in El Segundo, California, and conducts a general securities business. Networks has about 3,567 registered representatives and 1,633 branch offices.

Cetera Advisors LLC (Advisors) has been a FINRA member since January 1982, is headquartered in Denver, Colorado, and conducts a general securities business. Advisors has about 1,631 registered representatives and 810 branch offices.

Cetera Financial Specialists LLC (Specialists) has been a FINRA member since February 1982, is headquartered in Schaumburg, Illinois, and conducts a general securities business. Specialists has about 1,449 registered representatives and 870 branch offices.

From January 2011 through December 2018, Networks and Advisors and from November 2012 through December 2018, Specialists (collectively, the “Cetera Firms”) were owned by the parent company, Cetera Financial Group, a non-registered entity.

Respondents do not have any relevant disciplinary history.

OVERVIEW

From January 2011 through December 2018, Networks and Advisors, and from November 2012 through January 2018, Specialists (the relevant time periods) each failed to establish, maintain and enforce a supervisory system and written supervisory procedures reasonably designed to supervise certain private securities transactions conducted by their dually-registered representatives (DRRs) at unaffiliated or “outside” registered investments advisors (RIAs). By early 2018, these DRRs managed more than \$80 billion in customer assets across more than 47,000 accounts.

The Cetera Firms were aware of the supervisory deficiencies—they were identified in Securities and Exchange Commission (SEC) examinations in July 2013, August 2015, and September 2017—yet, despite several efforts to address such deficiencies, failed to implement systems and procedures to reasonably supervise the transactions. Networks, Advisors, and Specialists’ failure to supervise the DRRs’ participation in private securities transactions violated NASD Rule 3040(c) and FINRA Rules 3280(c) and 2010.¹ In addition, the firms’ failures to establish, maintain and enforce reasonable supervisory systems and written supervisory procedures violated NASD Rules 3010(a) and (b) and FINRA Rules 3110(a) and (b) and 2010.²

Networks, Advisors, and Specialists also failed to make and preserve related books and records in violation of NASD Rule 3110 and FINRA Rules 4511 and 2010.³

FACTS AND VIOLATIVE CONDUCT

FINRA Rules Required the Cetera Firms to Reasonably Supervise the Private Securities Transactions of their Dually-Registered Representatives.

When a firm approves an associated person’s participation in private securities transactions for which he or she may receive selling compensation, FINRA Rule 3280(c)(2)—and its predecessor NASD Rule 3040(c)(2)—require that the firm record

¹ FINRA Rule 3280 superseded NASD Rule 3040 on September 21, 2015.

² FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

³ FINRA Rule 4511 superseded NASD Rule 3110 on December 5, 2011.

those transactions on its books and records and supervise the person's participation in those transactions as if the transactions were executed on behalf of the firm.

In Notice to Members 94-44,⁴ NASD advised that these requirements apply "to all investment advisory activities conducted by [individuals dually-registered as registered representatives and registered investment advisors] that result in the purchase or sale of securities by the associated person's advisory clients, with the exception of their activities on behalf of the member." In Notice to Members 96-33,⁵ NASD emphasized that the recordkeeping and supervision of such dually-registered representatives must be adequate to ensure that full and complete transaction information is captured and must be reasonably designed to detect and prevent misconduct that could violate the securities laws and rules.

FINRA Rule 3110(a)—and its predecessor NASD Rule 3010(a)—require member firms to "establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules."

FINRA Rule 3110(b)—and its predecessor NASD Rule 3010(b)—require that "[e]ach member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules."

FINRA Rule 2010 requires members firms to "observe high standards of commercial honor and just and equitable principles of trade." Violations of NASD Rule 3040 and 3010 and FINRA Rules 3110 and 3280 also violate FINRA Rule 2010.

The Cetera Firms were aware of their Obligations to Supervise their Dually-Registered Representatives' Private Securities Transactions.

The Cetera Firms acknowledged their obligations to supervise private securities transactions of their DRRs during the relevant periods and, as discussed further below, initiated but failed to implement supervisory systems for certain private securities transactions.

FINRA rules obligated the Cetera Firms to supervise their DRR's private securities transactions. The Cetera Firms charged and collected fees from their DRRs for such supervision.

⁴ Notice to Members 94-44, Board Approves Clarification on Applicability of Article III, Section 40 of Rules of Fair Practice to Investment Advisory Activities of Registered Representatives (May 1994).

⁵ Notice to Members 96-33, NASD Clarifies Rules Governing RR/IAs (May 1996).

Also, the SEC issued examination findings on three occasions, between July 2013 and September 2017, citing the firms for failing to supervise representatives' private securities transactions conducted through outside RIAs.⁶

In May 2014, the Cetera Firms, led by Networks, initiated a project to obtain the information necessary to supervise ORIA transactions for DRRs. This project, however, was not completed and the automated system for ORIA transaction review was not implemented during the relevant time periods.

Networks, Advisors, and Specialists Failed to Supervise the Private Securities Transactions of their Dually-Registered Representatives.

During the relevant periods, Networks, Advisors, and Specialists failed to supervise certain private securities transactions of DRRs who were associated with outside RIAs. In addition, the firms had unreasonable supervisory systems and written supervisory procedures to supervise private securities transactions that the DRRs recommended through the outside RIAs.

Cetera Advisors

Although Advisors' written supervisory procedures stated that the firm would obtain electronic reporting information to facilitate supervisory reviews of outside RIA transactions, it had no specific guidelines or procedures that described how such reviews would be conducted.

In July 2013, the SEC issued examination findings stating that Advisors failed to maintain supervisory and recordkeeping controls over its DRRs' advisory business. In November 2013, Advisors responded that it "recognize[d] the need to develop enhanced processes to ensure the Firm monitors and supervises the transactions of registered representatives associated with [RIAs]" and outlined the steps it would complete by the end of 2014 to supervise its outside RIA transactions.

Advisors did not begin receiving transaction data for its DRRs' outside securities transactions until June 2018 and, thus, did not have the information necessary to reasonably supervise its outside RIA transactions. And even after Advisors began receiving transaction data, it did not receive the customer-specific account information to satisfy its supervisory obligations including, but not limited to, a suitability review.

In June 2018, Advisors had 41 DRRs who operated through 17 outside RIAs—with assets under management of about \$1.2 billion across about 4,400 accounts.

⁶ Another Cetera firm, which was under common ownership with the Cetera broker-dealers, was issued SEC examination findings in September 2017 stating that the firm failed to record dually-registered representative transactions on its book and records. In December 2019, this Cetera firm ceased operations and terminated its FINRA membership.

Cetera Advisor Networks

In August 2015, the SEC issued examination findings to Networks stating that the firm “failed to enforce its procedures requiring that [Networks] obtain electronic transaction reporting information from the custodian through which [DRRs] execute trades” for their outside RIA business. Networks responded that it expected to establish an electronic connection to obtain electronic reporting information (*i.e.*, a data feed) by the end of September 2015 to capture, monitor, and supervise ORIA transactions.

In January 2016, Networks established supervisory procedures to ensure that outside RIA transactions were consistent with clients’ investment objectives and other suitability considerations and processes for obtaining information about its DRRs’ outside RIA transactions. However, the data feed was provided by third-party custodians that sometimes restricted access to the information and, on occasion, cut off the Cetera Firms’ access to the information.

Networks did not receive automated data feeds from all custodians until June 2018, and, thus, did not have access to information about certain outside RIA accounts that were not custodied at its clearing firm. Even after Networks began receiving the transaction data, it did not receive complete customer-specific account information for all accounts and, thus, could not satisfy its supervisory obligations including, but not limited to, a suitability review of all account transactions.

In January 2018, Networks had 487 DRRs who operated through 12 outside RIAs—with assets under management of about \$77.8 billion across about 42,000 accounts.

Cetera Financial Specialists

Specialists had no supervisory procedures for outside RIA transactions until April 2014, when it adopted procedures that required its representatives to provide, on a monthly basis, a spreadsheet for all transactions conducted through the RIA. The procedures did not describe when the firm would review the transactions.

In practice, Specialists’ reviews were not reasonable because they were often delayed for months—in some instances up to 13 months—after the transactions occurred. In addition, the firm’s records evidencing its review revealed there were month-long gaps where transactions were not reviewed. Even when the spreadsheets were manually reviewed, the review was not reasonable because the spreadsheets did not capture the customer-specific information—such as net worth or income—necessary to review the transactions for suitability.

As of late March 2017, Specialists had seven DRRs who operated through three outside RIAs—with assets under management of about \$382 million across about 680 accounts.

Therefore, Respondents violated NASD Rules 3040(c)(2) and 3010(a) and (b) and FINRA Rules 3280(c)(2), 3110(a) and (b), and 2010.

Networks, Advisors and Specialists failed to make and preserve books and records.

FINRA Rule 4511—and its predecessor NASD Rule 3110(a)—require member firms to make and preserve books and records as required under FINRA [or NASD] rules, the Exchange Act and the applicable Exchange Act rules. Member firms are further required to preserve such books and records for at least six years if there is no specified period under FINRA or applicable Exchange Act rules.

A member firm's failure to maintain required books and records also violates FINRA Rule 2010.

During the relevant time periods, due to the above-described supervisory failures, the Cetera Firms failed to record DRR private securities transactions conducted through their outside RIAs on their books and records.

Therefore, Respondents violated NASD Rule 3110(a) and FINRA Rules 4511 and 2010.

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

Networks, Advisors, and Specialists consent to the imposition of the following sanctions:

1. A censure;
2. A total fine of \$1,000,000 allocated as follows: a \$750,000 fine for Cetera Advisor Networks LLC, a \$150,000 fine for Cetera Advisors LLC, and a \$100,000 fine for Cetera Financial Specialists LLC; and
3. A Certification Regarding Supervision of DRR Securities Transactions:
Networks, Advisors, and Specialists shall review and revise, as necessary, their systems, policies and procedures with respect to the supervision of their DRRs' securities transactions. Within 90 days of the date this AWC is accepted, the President of Networks, Advisors, and Specialists shall each certify in writing to Carolyn Craig, Senior Director, FINRA Department of Enforcement, that with respect to the areas described in this AWC: (i) The firm has engaged in the review described above; and (ii) as of the date of the certification, the firm has established and implemented systems, policies and procedures that are reasonably designed to achieve compliance with the applicable FINRA Rules cited herein. The Department of Enforcement may in its discretion, upon a showing of good cause, extend the dates for compliance with any of the terms of this provision.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have submitted an Election of Payment form showing the method by which they propose to pay the fine imposed.

Respondents specifically and voluntarily waive any right to claim an inability to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against them;
- 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, Respondents 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.

Respondents 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

Respondents 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 Respondents; and
- C. If accepted:
 - 1. this AWC will become part of Respondents' permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondents;
 - 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. Respondents 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. Respondents 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 Respondents': (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. Respondents may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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 Cetera Advisor Networks LLC, 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 it has agreed to the AWC's 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 it to submit it.

Respondent Cetera Advisor Networks LLC certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and 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 it to submit this AWC.

December 9, 2020

Date

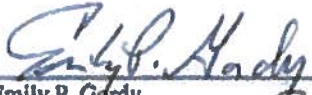
Cetera Advisor Networks LLC
Respondent

By: 

Print Name: Timothy Stone

Title: Chief Operating Officer

Reviewed by:


Emily P. Gordy
Counsel for Respondent,
Cetera Advisor Networks LLC
McQuireWoods LLP
2001 K Street N.W., Suite 400
Washington, DC 20006-1040

The undersigned, on behalf of the Respondent Cetera Advisors LLC, 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 it has agreed to the AWC's 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 it to submit it.

Respondent Cetera Advisor Networks LLC certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and 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 it to submit this AWC.

12-15-20
Date

Cetera Advisors LLC
Respondent

By: Brett Harrison

Print Name: Brett Harrison

Title: CFO

Reviewed by:

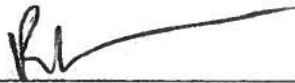
Emily P. Gordy
Emily P. Gordy
Counsel for Respondent,
Cetera Advisors LLC
McGuireWoods LLP
2001 K Street N.W., Suite 400
Washington, DC 20006-1040

The undersigned, on behalf of the Respondent Cetera Financial Specialists LLC, 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 it has agreed to the AWC's 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 it to submit it.

Respondent Cetera Advisor Networks LLC certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and 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 it to submit this AWC.

12/9/2020
Date

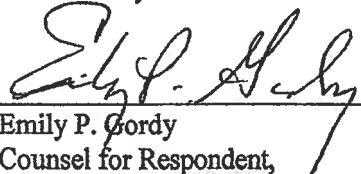
Cetera Financial Specialists LLC
Respondent

By: 

Print Name: Ron Krueger

Title: PRESIDENT

Reviewed by:


Emily P. Gordy
Counsel for Respondent,
Cetera Financial Specialists LLC
McGuireWoods LLP
2001 K Street N.W., Suite 400
Washington, DC 20006-1040

Accepted by FINRA:

12-15-2020
Date

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



Carolyn Craig
Senior Director
FINRA Department of Enforcement
300 S. Grand Ave. Suite 1600
Los Angeles, CA 90071