

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20160482280-01**

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

RE: Healthios Capital Markets, LLC, Respondent
Member Firm
BD No. 115542

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Healthios Capital Markets, LLC 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

Healthios Capital Markets, LLC ("Healthios" or the "Firm"), which is now known as Third500, LLC, has been a member of FINRA since February 11, 2002. Healthios is a Mergers and Acquisitions boutique that specializes in the healthcare industries and acts as a placement agent for Regulation D private offerings. Healthios is headquartered in Evanston, Illinois. Between 2013 and 2016, Healthios had approximately 10 registered representatives.

RELEVANT DISCIPLINARY HISTORY

Healthios has no relevant disciplinary history.

OVERVIEW

Between January 14, 2013 and October 5, 2016 (the "Relevant Period"), Healthios allowed four individuals to conduct investment banking activities, including drafting marketing materials and documentation supporting the firm's

investment banking business, without requiring that those individuals pass the Series 79 examination, and become qualified and registered as Investment Banking Representatives. Healthios' failures resulted directly from the firm's inadequate supervisory system and written supervisory procedures, which were not reasonably designed to: i) ensure the proper registration of Healthios employees engaged in investment banking activities; and ii) review and/or restrict the activities of those employees who were not properly registered. As a result of the foregoing, Healthios violated NASD Membership and Registration Rule 1031, NASD Rule 3010 (for the period ending November 30, 2014), FINRA Rule 3110 (for the period beginning December 1, 2014), and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

NASD Membership and Registration Rule 1031 provides that all persons engaged or to be engaged in the investment banking or securities business of a member must be registered in the category of registration appropriate to the function to be performed as specified in NASD Membership and Registration Rule 1032. NASD Rule 1032(i) provides, in relevant part, that "[e]ach person associated with a member . . . shall be required to register with FINRA as a Limited Representative – Investment Banking and pass a qualification examination . . . if such person's activities involve: (A) advising on or facilitating debt or equity securities offerings through a private placement or a public offering . . . or (B) advising on or facilitating mergers and acquisitions" FINRA Regulatory Notice 09-41 specifically notified FINRA-registered firms that individuals whose activities are limited to investment banking activities are required to pass the Investment Banking Representative Examination (Series 79 Exam).

FINRA Rule 3110 and its predecessor, NASD Rule 3010, require that each member establish and maintain a system, and establish, maintain and enforce written supervisory procedures, to supervise the activities of each 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. A violation of NASD Rule 3010 or FINRA Rule 3110 also constitutes a violation of FINRA Rule 2010, which requires members and their associated persons to observe high standards of commercial honor and just and equitable principles of trade.

A. Failure to Register Individuals as Investment Banking Representatives

In connection with a FINRA routine cycle examination of Healthios, FINRA staff discovered that three individuals employed by the firm were not registered in any capacity, and that one individual was only registered as a General Securities Representative (Series 7), notwithstanding that all four individuals were conducting investment banking activities on behalf of the firm, which required them to pass the Series 79 examination and become registered as Investment Banking Representatives.

Specifically, at various times during the Relevant Period, Healthios allowed three persons who were not registered in any capacity with FINRA, and one person who was registered as a General Securities Representative only, to engage in investment banking on as many as 113 offerings. These individuals took part in various investment banking activities such as soliciting emerging companies to retain Healthios' services in preparing for private offerings, conducting investment banking research, creating models and presentations, and developing potential investor lists.

Healthios was aware of these four individuals' investment banking activities and that they were not qualified and registered to engage in such work. Healthios incorrectly concluded that the person registered as a General Securities Representative was already qualified as an Investment Banking Representative. Healthios instructed the other three individuals to take the Series 79 examination, at various times beginning in August 2013, but then failed to follow up to ensure they had taken and passed the examination. None of these individuals ever became qualified as Investment Banking Representatives, and Healthios allowed them to continue conducting investment banking business for up to three years.

By virtue of the foregoing, Healthios violated NASD Membership and Registration Rule 1031 and FINRA Rule 2010.

B. Failure to Reasonably Supervise

All of the above occurred as a direct result of Healthios' failure to establish, maintain and enforce supervisory systems and written supervisory procedures ("WSPs") reasonably designed to ensure that the firm and its registered representatives were in compliance with FINRA's registration rules, including that its representatives were properly qualified and registered to conduct the investment banking business they were engaged in. For instance, although Healthios' WSPs stated that "[c]ertain activities performed or supervised by the Firm's M&A advisory personnel may create a registration requirement in accordance with Rule 1032," and that the firm would "require Series 79 licensing" of persons engaged in those activities, the firm's supervisory system was unreasonable because it failed to identify who was responsible for ensuring the proper qualification and registration of the firm's investment banking representatives, and failed to describe how the responsible individual would ensure that representatives acquired the necessary qualifications before they engaged in investment banking activities.

By virtue of the foregoing, Healthios violated NASD Rule 3010 (for the period ending November 30, 2014), FINRA Rule 3110 (for the period beginning December 1, 2014), and FINRA Rule 2010.

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

- A censure; and
- A fine in the amount of \$50,000.

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 Respondent proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that Respondent is unable to pay, now or at any time hereafter, the monetary sanction(s) 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 Respondent;
- 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 prejudice 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 me; and
- 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 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. 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 Respondent 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 Firm, 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 I understand and acknowledge that FINRA does not represent or advise me and I cannot rely on FINRA or FINRA staff members for legal advice; 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 the Firm to submit it.

11-15-2018
Date (mm/dd/yyyy)

Healthios Capital Markets, LLC, Respondent

By: David B. P. [Signature]
President and CEO

Reviewed by:

Attorney Name
Counsel for Respondent
Firm Name
Address
City/State/Zip
Phone Number

Accepted by FINRA:

11/15/18
Date

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

Dale A. Glanzman [Signature]
Dale A. Glanzman
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FINRA Department of Enforcement
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