

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 201604823260\**

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

**RE:** RKCA, Inc. ("Respondent" or "RKCA")  
CRD Number: 17655

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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**

RKCA became registered with the SEC in April 1986 and became a member of FINRA in August 1986. The firm's business includes, among other things, the sale of private placement offerings. The firm operates four branches and employs approximately 10 registered representatives. The firm's registration with the SEC and membership with FINRA currently remain in effect.

**OVERVIEW**

RKCA failed to memorialize the outside business activities of a registered representative and failed to evaluate whether those activities constituted outside securities activities, in violation of FINRA Rules 3270 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

FINRA Rule 3270 prohibits registered representatives from engaging in outside business activities unless “he or she has provided prior written notice to the member, in such form as specified by the member.” The Supplementary Material to Rule 3270, also known as FINRA Rule 3270.01, imposes several requirements upon the member. First, upon receipt of written notice of an outside business activity, the member shall consider whether the proposed activity will (1) interfere with or compromise the person’s responsibilities to the member and/or the member’s customers or (2) be viewed by customers or the public as part of the member’s business. Second, the member must evaluate whether to impose specific conditions or limitation on the outside business activity. Third, the member must “evaluate the proposed activity to determine whether the activity properly is characterized as an outside business activity or whether it should be treated as an outside securities activity subject to the requirements of NASD Rule 3040.” Fourth, the member must keep a record of its compliance with those obligations.

Between 2010 and 2016, RKCA was notified by one of its registered representatives that he was participating in multiple outside business activities and carrying out those activities through various entities. Despite such notification, the firm failed to meet all of the requirements of FINRA Rule 3270.01.

RKCA failed to evaluate the proposed activity to determine whether the activity should have been treated as an outside securities activity subject to the requirements of NASD Rule 3040. Specifically, the firm did not review any underlying documentation pertaining to the entities involved in the proposed outside business activity and did not conduct an analysis to determine whether the registered representative was participating in the sale of a security.

RKCA also failed to meet the requirement that it create and maintain records of the disclosed outside activities. Although the registered representative participated in the outside activities between 2010 and 2016, the firm did not document those activities until February 2017.

By virtue of the foregoing, Respondent violated FINRA Rules 3270 and 2010.

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

A censure and fine in the amount of \$10,000.<sup>1</sup>

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<sup>1</sup> Pursuant to the General Principles Applicable to all Sanction Determinations contained in the Sanction Guidelines, FINRA imposed a lower fine in this matter after it considered, among other things, the firm’s revenue and financial resources. See Notice to Members 06-55.

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 it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction 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 it;
- 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 Respondent; 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 Respondent;
  - 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 it 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.

Respondent 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; that Respondent has 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 Respondent to submit it.

10/30/17  
Date

  
RKCA, Inc.

Accepted by FINRA:

11-20-17  
Date

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

  
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