

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016048603001**

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

RE: Daniel Staudacher, Respondent
General Securities Representative
CRD No. 2878221

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Daniel Staudacher ("Staudacher" or "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

Staudacher entered the securities industry in March 1997 when he associated with his current employer FINRA member firm, PFS Investments Inc. ("PFS"). During his career in the securities industry, Staudacher has obtained Series 6, 26 and 63 securities licenses.

Staudacher has no prior relevant disciplinary history.

OVERVIEW

During the period from August 2015 to September 2015 Staudacher, while associated with PFS, executed eight unauthorized transactions in two different customers' accounts. Additionally, in August 2015, Staudacher engaged in unapproved securities-related communications with the same two customers via text messaging, which violated PFS' written supervisory procedures ("WSP"). PFS did not capture, review or retain Staudacher's text message communications.

FACTS AND VIOLATIVE CONDUCT

1. Unauthorized Transactions

FINRA Rule 2010 requires associated persons to "observe high standards of commercial honor and just and equitable principles of trade."

During the period from August 2015 to September 2015 Staudacher, while associated with PFS, executed four unauthorized transactions in customer AK's account, and a total of four unauthorized transactions in two of customer YW's accounts. Specifically, on August 24, 2015, a date on which the Dow Jones Industrial Average suffered its largest intraday point drop of more than 1000 points, Staudacher sold three of AK's five equity mutual funds and used the proceeds to purchase shares of a bond fund. Staudacher contacted AK on the evening of the transactions to advise her of his trading activity in her account. Due to continued volatility in the equity market, on September 24, 2015, Staudacher sold the remaining two equity mutual funds in AK's account and purchased additional shares of the bond fund. Staudacher did not contact AK and obtain her authorization prior to executing any of the above-described transactions in her account. After AK complained, PFS reversed the transactions in her account and made her whole.

With respect to customer YW, on August 24, 2015 Staudacher sold half of the equity mutual fund positions in both her individual account and her IRA account, and used the proceeds to purchase shares of a bond fund in both accounts. Staudacher contacted YW on the evening of the transactions to advise her of his trading activity in her accounts. Staudacher did not contact YW prior to executing the transactions in her accounts. After YW complained, PFS reversed the transactions in her accounts and made her whole.

PFS imposed a total of \$10,000 in monetary sanctions on Staudacher as a result of his unauthorized trading in the customers' accounts.

As a result of the foregoing conduct, Staudacher violated FINRA Rule 2010.

2. Improper Text Message Communications

FINRA Rule 4511(a) requires members to "make and preserve books and records as required under FINRA rules, the Exchange Act and the applicable Exchange Act rules." Exchange Act Rule 17a-4(b)(4) requires member firms to maintain and preserve, for a period of not less than three years, originals of all correspondence sent and received relating to the member's securities business.

NASD Rule 3010(d)(3) requires each member to retain correspondence of registered representatives relating to its investment banking or securities business in accordance with Rule 3110 (now FINRA Rule 4511). NASD Rule 3010(d)(2)

requires member firms to review associated persons' correspondence to ensure compliance with the firms WSPs, as well as FINRA and SEC Rules. NASD Rule 3010(d)(1) mandates that a record evidencing the review maintained.

During the three-day period from August 25, 2015 to August 27, 2015, Staudacher utilized text messaging to communicate with customers AK and YW regarding activity in their securities accounts. During the relevant time period, the customers were traveling in area where they had limited cellphone coverage and were having difficulty communicating by phone. Customers AK and YW each initiated the text message communications with Staudacher. He subsequently sent a series of securities-related text messages to AK and YW regarding their securities accounts. These electronic communications were not captured, reviewed or retained by PFS, which, pursuant to its WSPs, prohibited the use of text messaging to conduct securities business with customers.

As a result of the foregoing conduct, Staudacher violated FINRA Rule 2010.

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

A one month suspension from association with any FINRA member firm in any capacity and a fine in the amount of \$5,000.

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 he proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, Respondent may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

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 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.

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;

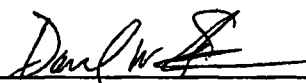
2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
4. Respondent may not take any action or make or permit 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 he 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 he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he 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 him to submit it.

12/09/2016

Date


Daniel Staudacher, Respondent

Reviewed by:

Robert Long, (with permission)

Robert Long
Counsel for Respondent
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Accepted by FINRA:

1/12/2017
Date

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

Karen E. Whitaker

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