

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016050220701**

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

RE: Guy Charles Conger, Respondent
General Securities Representative
CRD No. 2280420

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Guy Charles Conger, 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

Conger first entered the securities industry when he associated with a FINRA Member Firm in 1992. He received his Series 7 license in 1997 and registered with FINRA as a general securities representative. He associated with multiple FINRA member firms thereafter. In October 2002, he associated with Money Concepts Capital Corp. ("Money Concepts" or the Firm) as a general securities representative. He remained there until February 2017, when Money Concepts filed a Form U5 terminating his association. Conger is not currently associated with a FINRA Member Firm. Although Conger is not currently associated with a FINRA member or registered with FINRA, he remains subject to the jurisdiction of FINRA, pursuant to Article V, Section 4(a) of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly-registered persons.

RELEVANT DISCIPLINARY HISTORY

Conger has no relevant disciplinary history.

OVERVIEW

From January 2014 through August 2016, Guy Conger improperly used discretion in two customer accounts to place over 200 trades without having written discretionary authority or acceptance from Money Concepts of the account as discretionary. As a result of such conduct, Conger violated NASD Rule 2510 and FINRA Rule 2010.

In addition, from January 2014 through August 2016, Guy Conger caused his firm's books and records to be inaccurate by mismarking approximately 2,000 order tickets as "unsolicited" when they were "solicited" and mismarking at least 200 order tickets as not discretionary trades when they were discretionary. As a result of such conduct, Conger violated FINRA Rules 4511 and 2010.

Separately, from February 2014 through December 2015, Conger falsely completed three annual compliance attestations stating that he had not used discretion in customer accounts during the prior year, when, in fact, he had. As a result of such conduct, Conger violated FINRA Rule 2010.

Finally, from September 2015 to May 2016, Conger made misleading and unwarranted statements in e-mail communications with customers. As a result of such conduct, Conger violated FINRA Rules 2210 and 2010.

FACTS AND VIOLATIVE CONDUCT

Improper Use of Discretion

NASD Conduct Rule 2510(b) provides that "[n]o member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual... and the account has been accepted by the member" A violation of Rule 2510 is also a violation of FINRA Rule 2010, which requires registered persons to adhere to just and equitable principles of trade.

At various times from January 2014 through August 2016, Conger improperly used discretion to place approximately 200 trades in two accounts. One account was a joint account belonging to customers RS and GS, and the other account was an IRA account belonging to customer GS. Although customers RS and GS had given Conger verbal permission to use discretion in the account, Conger did not receive written authorization to use discretion in either account. In addition, Money Concepts had not accepted the accounts as discretionary.

By virtue of the foregoing, Conger violated NASD Conduct Rule 2510 and FINRA Rule 2010.

Falsification of Records

FINRA Rule 4511 requires, *inter alia*, that “(a) Members shall make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules.” An individual may violate FINRA Rule 4511 by causing his or her member firm to fail to maintain accurate books and records. A violation of FINRA Rule 4511 is also a violation of FINRA Rule 2010.

Conger’s employing FINRA member firm required Conger to mark on the order ticket whether or not a trade was discretionary and whether or not a trade was solicited for the trade to be entered into the firm’s trading systems. As noted above, from January 2014 through August 2016, Conger placed approximately 200 trades using discretion. However, on each order ticket, Conger inaccurately marked the trade as “not discretionary.” In addition, from January 2014 through September 2015, Conger mismarked approximately 2,000 order tickets as “unsolicited” when they should have been marked “solicited.” As a result of such conduct, Conger caused his member firm’s books and records to be inaccurate.

By virtue of the foregoing, Conger violated FINRA Rules 4511 and 2010.

Separately, from February 2014 through December 2015, Conger completed three annual compliance attestations falsely stating that he had not used discretion in customer accounts during the prior year when, in fact, he had. These included a 2013 Annual Compliance Questionnaire (completed February 11, 2014), a 2014 Annual Compliance Questionnaire (completed January 21, 2015), and a 2015 Annual Compliance Questionnaire (completed December 21, 2015).

By virtue of the foregoing, Conger violated FINRA Rule 2010.

Misleading Communications with Customers

FINRA Rule 2210 replaced NASD Conduct Rule 2210 effective February 4, 2013.

FINRA Rule 2210(d)(1)(A) requires that “[a]ll member communications must be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service.” Rule 2210(d)(1)(A) prohibits any member from omitting “any material fact or qualification if the omission, in light of the context of the material presented, would cause the communications to be misleading.”

FINRA Rule 2210(d)(1)(B) prohibits any member from making “any false, exaggerated, unwarranted, promissory or misleading statement or claim in any communication. No member may publish, circulate or distribute any communication that the member knows or has reason to know contains any untrue

statement of a material fact or is otherwise false or misleading.”

FINRA Rule 2210(d)(1)(F) prohibits members from making any communication that would “predict or project performance, imply that past performance will recur or make any exaggerated or unwarranted claim, opinion or forecast.” A violation of FINRA Rule 2210 is also a violation of FINRA Rule 2010.

In February 2016, Conger sent an email to Customer JO. This email violated Rule 2210(d)(1)(A) because he made the statement that “[Company A] is worth \$200 a share...” without providing a sound basis for the claim.

In May 2016, Conger exchanged a series of emails with customer RN. Conger’s statements in the email chain to customer RN violated FINRA Rule 2210(d)(1)(B) because they included “false, exaggerated, unwarranted, promissory or misleading statement[s] or claim[s].” Specifically, the emails included the promissory claims that “The only good news is that commodities will finally hit bottom this year...”; “The [F Fund] has dropped in value but will rebound this year”; and “[F Fund] will rebound.” The emails also included the unwarranted claim that “So right now is when people should be buying [Company A] and any other Blue Chip stock at a year low,” which is advice that may not be suitable for all investors, and “Volatile [sic] not an issue it is [Company A] sitting on 158 Billion.” The emails also included the exaggerated and unwarranted claim that “[stocks X, Y, and Z] and many other bluechips ... never stay down for more than a week....” Finally, Conger also claimed that “[F Fund] is like cash...I use it as a money market substitute (Since money markets don’t pay anything),” which is a misleading and unwarranted comparison.

Lastly, in September 2015, Conger sent an email to Customer ER. This email violated Rule 2210(d)(1)(F), because he made the statement “Of course in the long run it [Company A] will hit \$200 a share,” which constitutes an unwarranted prediction of performance.

By virtue of the foregoing, Conger violated FINRA Rules 2210 and 2010.

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

A \$15,000 fine and a six month suspension from association with any FINRA member firm in all capacities.

The fine shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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, 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 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

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.

2-6-2018
Date

Guy Charles Conger
Guy Charles Conger

Accepted by FINRA:

2/8/2018
Date

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


Albert A. Starkus III
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