

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017055157601**

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

RE: Donatas B. Vildzius, Respondent
General Securities Representative
CRD No. 2202883

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Donatas B. Vildzius 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

In January 1992, Vildzius first became registered with FINRA as a General Securities Representative (GS) through his association with a FINRA member. From July 1993 through April 2015, Vildzius was registered as a GS with FINRA through a number of different member firms. From March 2015 through May 2019, Vildzius was registered with FINRA as a GS through Network 1 Financial Securities Inc. (CRD No. 13577) (Network 1). On May 14, 2019, Network 1 filed a Uniform Termination Notice for Securities Industry Registration (Form U5), terminating Vildzius's registration.

Although Vildzius is not currently registered or associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

On January 31, 2014, Vildzius entered into an AWC (2013037424801) in which he consented to a one-month suspension in all capacities and \$2,500 fine for failing to timely disclose two outstanding judgments on his Uniform Application for Securities

Industry Registration or Transfer (Form U4) in violation of Article V, Section 2(c) of the FINRA By-Laws, and FINRA Rules 1122 and 2010.

On April 10, 2006, Vildzius entered into an AWC (E112003069901) in which he consented to a 30-day suspension in all capacities, a fine of \$9,000 and restitution of \$16,000 for exercising discretion in one customer account without prior written authorization and engaging in unsuitable and/or excessive trading in that customer's account in violation of NASD Conduct Rules 2510(b), 2310, 2110 and IM-2310-2.

OVERVIEW

Between August 2015 and April 2017, Vildzius excessively traded the accounts of two customers. By reason of the foregoing, Vildzius violated FINRA Rules 2111 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 2111(a) provides in pertinent part that "[a] member or an associated person must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile." As explained in the Supplementary Material found at 2111.05(c):

Quantitative suitability requires a member or associated person who has actual or de facto control over a customer account to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer's investment profile, as delineated in Rule 2111(a). No single test defines excessive activity, but factors such as the turnover rate, cost-equity ratio, and the use of in-and-out trading in a customer's account may provide a basis for a finding that a member or associated person has violated the quantitative suitability obligation.

Turnover rate represents the number of times that a portfolio of securities is exchanged for another portfolio of securities. The cost-to-equity ratio measures the amount an account must appreciate just to cover commissions and other expenses. In other words, it is the break-even point where a customer may begin to see a return. A turnover rate of six or a cost-to-equity ratio above 20 percent generally indicates that excessive trading has occurred.

During the relevant period, Vildzius engaged in quantitatively unsuitable trading in the accounts of customers GN and RR. Vildzius recommended the trading in the customers' accounts and they routinely followed his recommendations. As a result, Vildzius exercised *de facto* control over customer GN's and RR's accounts.

Vildzius's trading of the accounts, which utilized a short-term, active trading strategy that included frequent in-and-out trading, resulted in high turnover rates and cost-to-equity ratios as well as significant losses, as set forth below.

- GN's account was an Individual Retirement Account (IRA). GN's investment objective was "growth" and his risk tolerance "moderate." GN's account exhibited an annualized turnover rate of 6.42 and an annualized cost-to-equity ratio of 50.6%. GN's account incurred losses of \$26,694 and paid \$25,956 in commissions and fees.
- RR's account was an individual account. RR's investment objective was "growth" and his risk tolerance "moderate." RR's account exhibited an annualized turnover rate of 4.58 and an annualized cost-to-equity ratio of 41.3%. RR's account incurred losses of \$5,546 and paid \$7,493 in commissions and fees.

Vildzius's trading in GN's and RR's accounts was excessive and unsuitable given the customers' investment profiles. As a result of Vildzius's excessive trading, the two customers suffered collective losses of \$32,240 and paid \$33,449 in commissions and fees.¹

By virtue of the foregoing, Vildzius violated FINRA Rules 2111 and 2010.

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

- A suspension from association with any FINRA member firm, in all capacities, for six months; and,
- A fine of \$5,000.

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.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time hereafter, the monetary sanction 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, he 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.

¹ Network 1 paid restitution of commissions and fees to customers GN and RR.

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 him;
- 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 action 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.

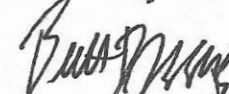
D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement 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; 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 him to submit this AWC.

9/30/20
Date


Donatas B. Vildzius
Respondent

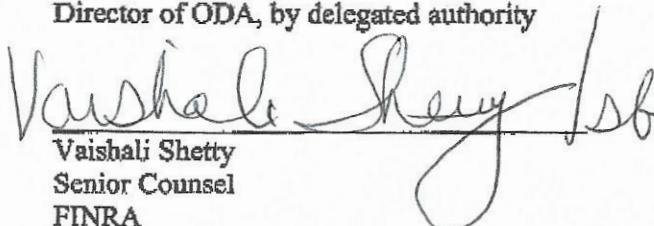
Reviewed by:


Brett D. Zinner, Esq.
Counsel for Respondent
Rosenberg Fortuna & Laitman, LLP
666 Old Country Road, Suite 810
Garden City, New York 11530

Accepted by FINRA:

10/9/20
Date

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


Vaishali Shetty
Senior Counsel
FINRA
Department of Enforcement
Two Jericho Plaza, 2nd Floor
Jericho, New York 11753