

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017055395801**

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

**RE: Albert Foronda, Respondent
General Securities Representative
CRD No. 5737620**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Albert Foronda ("Foronda" 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

Foronda first became registered with FINRA through a FINRA member as a General Securities Representative (GS) in February 2010. From November 2016 through August 2017, Foronda was registered as a GS through his association with Worden Capital Management LLC (BD No. 148366) ("Worden"). Since August 2017, Foronda has been registered as a GS through Spartan Capital Securities, LLC (BD No. 146251) ("Spartan").

RELEVANT DISCIPLINARY HISTORY

Foronda does not have any disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

OVERVIEW

From June 2017 through August 2017, while associated through Worden, Foronda effected eight unauthorized transactions in two customers' accounts without the

customers' verbal or written authorization for the trades, in violation of FINRA Rule 2010. From March 2017 through August 2017, while associated through Worden, and in December 2017, while associated through Spartan, Foronda effected transactions in accounts of two customers using discretion without written authorization from the customers and without the member firms accepting the accounts as discretionary, in violation of NASD Rule 2510(b) and FINRA Rule 2010.¹

FACTS AND VIOLATIVE CONDUCT

Unauthorized Trading

FINRA Rule 2010 provides that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." Unauthorized trading is a violation of FINRA Rule 2010.

Foronda executed unauthorized trades in the accounts of two customers:

- Between July 11, 2017 and July 27, 2017, Foronda effected four unauthorized trades in customer JG's account at Worden. On July 11, 2017, Foronda sold one security JG owned and used the proceeds from the sale to purchase shares in another security that same day, without JG's authorization. On July 27, 2017, Foronda then sold the security at a loss, without JG's authorization. Worden compensated JG for his losses on the transactions. Also on July 19, 2017, Foronda purchased a security in JG's account without JG's authorization. Worden subsequently cancelled the trade in JG's account and reversed the commission charges.
- Between June 9, 2017 and August 11, 2017, Foronda effected four unauthorized trades in customer LS's account at Worden. Foronda purchased shares in one security through two transactions and later sold shares of the same security in two separate transactions without LS's authorization. LS suffered losses of \$2,765 resulting from the unauthorized transactions.

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

Exercise of Discretion

NASD Rule 2510(b) prohibits registered representatives from exercising discretion in a customer's account unless the customer has provided prior written authorization to the representative, and the representative's firm has provided prior written acceptance of the account as a discretionary account. A violation of NASD Rule 2510(b) is inconsistent with high standards of commercial honor and just and equitable principles of trade and is also, therefore, a violation of FINRA Rule 2010.

Between March 2017 and August 2017, while registered through Worden, Foronda

¹ Effective May 8, 2019, FINRA Rule 3260 replaced NASD Rule 2510.

effected 48 discretionary transactions in two accounts of married customers RR and JR. Foronda did not have written authorization from the customers to exercise discretion, and Worden did not accept the accounts as discretionary accounts.

On December 11, 2017, while registered through Spartan, Foronda exercised discretion while effecting the sale of a security in customer BB's account. Foronda sold the security when it increased in price. Foronda did not have written authorization from BB to exercise discretion, and Spartan did not accept the account as a discretionary account. Spartan did not permit its brokers to maintain discretionary accounts.

By virtue of the foregoing, Foronda violated NASD Rule 2510(b) and FINRA Rule 2010.

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

- A 45-calendar-day suspension in all capacities from association with any FINRA member firm;
- Restitution of \$2,765, plus interest; and,
- A fine of \$7,500.

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are 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 an inability to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

Restitution is ordered to be paid to the customer listed on Attachment A hereto in the total amount of \$2,765, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from June 9, 2017, until the date this AWC is accepted by the National Adjudicatory Council (NAC).

Respondent shall submit satisfactory proof of payment of restitution and pre-judgment interest (separately specifying the date and amount of each paid to each customer listed on Attachment A) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org. The email must identify the Respondent and the case number and include a copy of the check, money order or other method of payment. This proof shall be provided by email to EnforcementNotice@FINRA.org no later than 120 days after acceptance of the AWC.

If, for any reason, Respondent cannot locate the customer, identified in Attachment A after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by a FINRA staff member in writing,

Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. Respondent shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 calendar days of forwarding the undistributed restitution and interest to the appropriate state authority.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

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.

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 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 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.

1/3/20
Date


Albert Foronda
Respondent

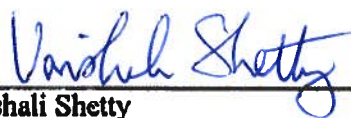
Reviewed by:


Liam O'Brien, Esq.
Counsel for Respondent
McCormick & O'Brien, LLP
9 East 40th Street, 4th Floor,
New York, NY 10016

Accepted by FINRA:

1/17/20
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

ATTACHMENT A

**Customer LS
(California)**