

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017055821401**

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

RE: Robert L. Harger, Jr., Respondent
General Securities Representative, General Securities Principal, Municipal Securities
Representative, Municipal Securities Principal, and Operations Professional
CRD No. 863069

Christopher Michael Dowden, Respondent
Financial and Operations Principal, General Securities Representative, General Securities
Principal, Investment Company and Variable Contracts Products Representative and
Operations Professional
CRD No. 4089978

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Robert L. Harger, Jr. ("Harger") and Respondent Christopher Michael Dowden ("Dowden") (collectively the "Respondents") 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 Respondents alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondents 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

Harger entered the securities industry in December 1978, when he became registered with FINRA as a General Securities Principal of a former FINRA member. In March 1982, he became associated with FINRA member Harger and Company, Inc. ("HCI"). At all times relevant to this matter, Harger was associated with HCI and registered with FINRA as a General Securities Representative, General Securities Principal, Municipal Securities Representative, Municipal Securities Principal, and Operations Professional (since June 2014).

Dowden entered the securities industry in January 2000, when he became registered with FINRA as an Investment Company and Variable Contracts Products Representative through a former member of FINRA. He became associated with HCI in October 2000. At all times relevant to this matter, Dowden was associated with HCI and registered with FINRA as a Financial and Operations Principal, General Securities Representative, General Securities Principal, Investment Company and Variable Contracts Products Representative, and Operations Professional.

RELEVANT DISCIPLINARY HISTORY

On January 9, 1984, the Securities and Exchange Commission accepted an Offer of Settlement in which Harger consented to findings that, between September 1977 and October 1981 he violated antifraud provisions of the Securities Act by failing to disclose information in the offer and sale of securities regarding the offering's escrow account, and that he violated the net-capital and trustee/escrow accounting provisions of the securities laws. Harger was suspended in all capacities for 60 days, and further suspended in a supervisory capacity for nine months. (SEC Admin. Proc. No. 6292)

On December 7, 1983, NASD (FINRA) accepted a Decision and Order of Offer of Settlement submitted by HCI and Harger resolving two pending matters. In that Decision, HCI and Harger consented to the entry of findings by NASD that Harger violated Article III, Sections 1 and 32(a)(1) of the Rules of Fair Practice by: (1) engaging in private securities transactions without prior written notification thereof to his member firm; (2) made misrepresentations in the offer and sale of securities regarding the offering's escrow account; and (3) failed and neglected to obtain a cancellation rider on HCI's Fidelity Bonding Coverage. Harger was individually censured and fined \$1,000. Harger was also fined \$1,500 jointly and severally with HCI and assessed costs of \$80. (NASD Nos. NEW-356 and NEW-358)

On May 31, 1983 NASD (FINRA) accepted a Decision and Order of Offer of Settlement submitted by Harger in which he consented to the entry of findings by NASD that he failed to prepare and maintain accurate books and records; submitted inaccurate FOCUS Report Part II A; failed to file required telegraphic notice that books and records were not current and that net capital had fallen below required minimum and failed to file FOCUS Reports Part II A within required time periods; failed to maintain required net capital; failed to maintain insurance coverage; failed to establish adequate supervisory procedures to cover the review of daily activities of the firm's representatives and the review and preparation on a daily basis of the firm's books and records and financial reports; failed to register a principal accounting firm with NASD, as a representative, in that the firm was associated with and solicited business in securities on behalf of the Respondent member; failed to establish an escrow or separate bank account for customers funds for the best efforts, mini-maxi, new issue offerings of ten limited partnerships; and failed to comply with (k)(2)(A) exemption of SEC Rule 15c3-3 in violations of Article III,

Section 1, 21, 27(a), 32, appendix C(a)(1) of the Rules of Fair Practice. Harger was censured and fined \$5,000. (NASD No. NEW-340).

Dowden has no disciplinary history.

OVERVIEW

During the period March 2010 through October 2016 ("Relevant Period"), Harger permitted customers to sign without date partially completed Variable Annuity ("VA") Exchange Forms. Subsequently, Harger entered the missing information before submitting the forms to Dowden, the designated supervising principal, for review and approval of the proposed transactions. Dowden then wrote in a date next to the applicable customer's undated signature using the date he approved the transaction. By virtue of this conduct, Harger and Dowden violated NASD Rule 3110 (from March 2010 through December 4, 2011) and FINRA Rules 4511 (from December 5, 2011 through October 2016) and 2010.

FACTS AND VIOLATIVE CONDUCT

At all times during the Relevant Period, HCI's written procedures provided that any transaction involving a partial or full surrender of an existing VA must be "closely scrutinized . . . to ensure the new contract's suitability for the client." The procedures further required for all such transactions that a [VA Exchange Form] be completed by the recommending representative and approved by the designated supervising principal. At all times during the Relevant Period, Dowden served as the designated supervising principal for all VA transactions.

The VA Exchange Form required that the customer certify, by dated signature, that he/she had read and understood all of the information provided in the form, including the information regarding the general features (and fees) of the VA to be surrendered and the VA to be purchased. The VA Exchange Form also required the recommending representative to certify, by dated signature, that he/she had reviewed the form with the customer. Finally, if the recommended transaction was approved by the designated supervising principal, the principal was required to sign the form certifying that he/she had reviewed the information contained in the form and determined that the proposed transaction was suitable for the customer.

On 26 occasions during the Relevant Period, Harger, after recommending and discussing a proposed VA exchange with a customer, permitted the customer to sign without date a partially completed VA Exchange Form that did not include all required information concerning VA product fees and surrender charges, though he had disclosed that information to the customer while discussing the proposed exchange. Harger subsequently entered the information that was missing on the VA Exchange Form and submitted the form to Dowden for review and approval of the proposed VA exchange.

In each case, Dowden reviewed the VA Exchange Form and approved the proposed transaction. Although Dowden was not aware that the customers had signed the forms while partially complete, he observed that the customers had left their signatures undated. Upon approving the transactions, Dowden altered the VA Exchange Forms by writing in dates for the customers' signatures, using the date on which he had approved the transaction. After approving the proposed VA exchanges, Dowden provided a copy of the completed VA Exchange Forms to the customers.

FINRA Rule 4511, like its predecessor, NASD Rule 3110, requires members to make and preserve accurate books and records as required under the FINRA rules, the Securities Exchange Act of 1934 ("Exchange Act") and the applicable Exchange Act rules.¹ SEC Rule 17a-3 requires every broker-dealer to make and keep current a memorandum of each brokerage order and "any other instruction given or received for the purchase or sale of securities." Implicit in Rule 4511 is the requirement that the records maintained be true and accurate. A violation of FINRA Rule 4511 also constitutes a violation of FINRA Rule 2010.

Additionally, FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade. Having customers sign without date partially completed forms and subsequently unilaterally entering missing information and signature dates on the forms violates FINRA Rule 2010.

By permitting customers to sign partially completed VA Exchange Forms and subsequently entering missing information on the forms, Harger violated FINRA Rule 2010. Harger also violated NASD Rule 3110 (from March 2010 through December 4, 2011) and FINRA Rules 4511 (from December 5, 2011 through October 2016) and 2010, by causing HCI to create and maintain inaccurate books and records in violation of Section 17(a) of the Exchange Act and Rule 17a-3 thereunder.

By altering the VA Exchange Forms to supply dates for undated customer signatures, Dowden violated FINRA Rule 2010. Dowden also violated NASD Rule 3110 (from March 2010 through December 4, 2011) and FINRA Rules 4511 (from December 5, 2011 through October 2016) and 2010, by causing HCI to create and maintain inaccurate books and records in violation of Section 17(a) of the Exchange Act and Rule 17a-3 thereunder.

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

Harger: a suspension from association with any FINRA member firm in any and all capacities for a period of three months and a \$15,000 fine;

¹ FINRA Rule 0140 provides that "[p]ersons associated with a member shall have the same duties and obligations as a member under the Rules."

Dowden: a suspension from association with any FINRA member firm in any and all capacities for a period of two months and a \$10,000 fine.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have each submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Respondents specifically and voluntarily waive any right to claim that Respondents are unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff. The suspensions of Harger and Dowden shall not run concurrently. Harger's suspension shall commence on the first business day following the conclusion of Dowden's suspension.

Respondents understand that if Respondents are 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).

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against them;
- 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, Respondents 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.

Respondents 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

Respondents 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 Respondents; 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 Respondents;
 - 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. Respondents 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. Respondents 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 Respondents: (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. Respondents may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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.

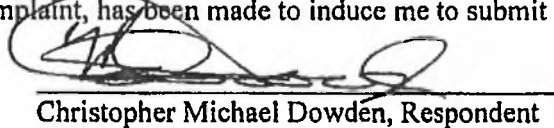
I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce me to submit it.

5-22-19
Date (mm/dd/yyyy)


Robert L. Harger, Jr., Respondent

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.

5/22/19
Date (mm/dd/yyyy)


Christopher Michael Dowden, Respondent

Reviewed by:

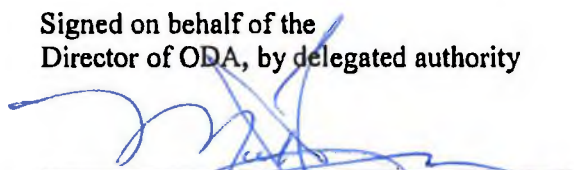

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Accepted by FINRA:

May 24, 2019

Date

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



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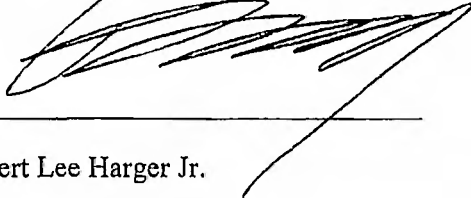
**This Corrective Action Statement is submitted by the Respondent.
It does not constitute factual or legal finding by FINRA,
nor does it reflect views of FINRA, or its staff**

STATEMENT OF CORRECTIVE ACTION

Since this matter has been brought to my attention I have learned that it is important to both fully and accurately complete all forms on which client signatures appear and insure that the client dates the forms at the time of signature even when I have fully explained all of the information contained on the form to the client. Had I done this I would have avoided the violation. I will do this in the future on any client form for which there is information which is confirmed by the client.

By taking the above steps I've alleviated any risk that the issues presented in my Letter of Acceptance, Waiver and Consent may be repeated in the future.

Date 04/30/2019

A handwritten signature in black ink, appearing to read 'Robert Lee Harger Jr.', written over a horizontal line.

Robert Lee Harger Jr.

CRD No. 863069

Respondent

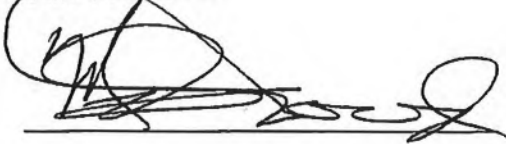
**This Corrective Action Statement is submitted by the Respondent.
It does not constitute factual or legal finding by FINRA,
nor does it reflect views of FINRA, or its staff**

STATEMENT OF CORRECTIVE ACTION

Since this matter has been brought to my attention, I have learned that it is important that all documents signed by a client be dated not only as of the actual date of the client's signature but be dated on the actual date of the signature. Had I insisted that the form be dated when the form was completed and signed by the client, I would have avoided the violation. I will do this in the future on any form submitted to me for approval.

By taking the above steps I've alleviated any risk that the issues presented in my Letter of Acceptance, Waiver and Consent may be repeated in the future.

Date 04/30/2019

A handwritten signature in dark ink, appearing to read 'Christopher Michael Dowden', written over a horizontal line.

Christopher Michael Dowden

CRD No. 4089978