

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2018057909501**

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

RE: Courtney James Burn, Respondent  
General Securities Representative  
CRD No. 4263447

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent, Courtney James Burn, 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**

Burn first associated with a FINRA member firm in 2000. That same year he passed his Series 7 exam and registered with FINRA as general securities representative. Thereafter, he associated with multiple FINRA member firms. In 2009, he associated with Avantax Investment Services, Inc. (then known as H.D. Vest Investment Services and herein referred to as "Avantax" or "the Firm") as a general securities representative. He remained there until April 2018, when the Firm filed a Form U5 terminating his registration with FINRA and his association with the Firm. That same month, Burn associated with another FINRA member firm. Burn is subject to FINRA's jurisdiction because he is currently associated with and registered through a FINRA member firm.

**RELEVANT DISCIPLINARY HISTORY**

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

## **OVERVIEW**

For a period of over two and one-half years, Burn provided consolidated reports to over 40 customers without the approval of his Firm and the consolidated account reports failed to provide a balanced presentation or basis for the customers to evaluate the facts in regard to certain securities listed in the consolidated reports. Through this conduct, Burn violated FINRA Rule 2210(b)(1)(A), 2210(d)(1)(A), and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

FINRA Rule 2210(b)(1)(A) requires that an appropriately qualified registered principal of the member firm must approve each retail communication. FINRA Rule 2210(a)(5) defines a “retail communication” as “any written (including electronic) communication that is distributed or made available to more than 25 retail investors within any 30 calendar-day period.”

FINRA Rule 2210(d)(1)(A) states, in relevant part, that all member communications “must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service.”

A violation of any part of FINRA Rule 2210 is also a violation of FINRA Rule 2010.

From around March 2015 through September 2017 and while associated with Avantax, Burn provided standardized monthly-consolidated account reports to over 40 customers. Burn did not submit individual consolidated account reports to his Firm prior to using them with his customers. By providing the standardized consolidated reports without the approval of his Firm prior to use, Burn violated FINRA Rule 2210(b)(1)(A).

In addition, the consolidated reports Burn used failed to provide a balanced presentation by not clearly distinguishing between assets that the Firm held on behalf of the customer and included on the Firm’s books and records, and other external accounts or assets. For example, the consolidated reports included 401K accounts the customers held away from the Firm, but the reports did not clearly distinguish between these external accounts and assets that the Firm held in accounts on behalf of the customers.

The reports also contained account values for multiple accounts holding securities including variable annuities, IRAs, and 401Ks. In numerous reports, the corresponding account statements could not confirm the value attributed to these accounts on the reports. As a result, Burn further violated FINRA Rule 2210(d)(1)(A) because the reports failed to provide a basis for evaluating the facts in regard to these securities.

By virtue of the foregoing, Burn also violated FINRA Rules 2210(d)(1)(A) and 2010.

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

1. A suspension from association with any FINRA member firm in any capacity for 20 business days; and
2. 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 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.

The sanctions imposed herein shall be effective on a date set by FINRA staff. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

## 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.

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.

5/5/2020  
Date

Courtney J. Burn  
Courtney James Burn  
Respondent

Reviewed by:



Thomas A. Roberts  
Counsel for Respondent  
Bressler Amery & Ross, P.C.  
17 State Street  
34<sup>th</sup> Floor  
New York City, NY 10004

Accepted by FINRA:

May 27, 2020  
Date

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



Albert A. Starkus III  
Senior Counsel  
FINRA Department of Enforcement  
12801 N. Central Expwy., Suite 1050  
Dallas, TX 75243  
t 972.716.7663  
albert.starkus@finra.org