

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2018057940801**

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

RE: Cadaret, Grant & Co., Inc., Respondent
Member Firm
CRD No. 10641

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Cadaret, Grant & Co., Inc. ("Cadaret Grant" or the "Firm") 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

Cadaret Grant became a FINRA member in 1982 and conduct a general securities business. The Firm is headquartered in Syracuse, New York, and has approximately 800 registered representatives located in approximately 423 branch offices.

RELEVANT DISCIPLINARY HISTORY

In April 2012, FINRA issued an AWC (2008015475201) in which Cadaret Grant consented to findings that, among others things, the Firm failed to supervise the use of personal email accounts being used for Firm business and failed to reasonably supervise the activities of a registered representative even after becoming aware of red flags of sales practice violations. The Firm's failure to reasonably supervise allowed the representative to continue to make unsuitable recommendations to Firm customers. Cadaret Grant consented to sanctions including a censure and a \$200,000 a fine.

OVERVIEW

From April 2014 to March 2017 (the “Relevant Period”), Cadaret Grant failed to reasonably supervise registered representative, SP, who conducted multiple undisclosed private securities transactions.¹ The private securities transactions were part of a Ponzi scheme that SP orchestrated, which resulted in millions of dollars in losses to its victims, including several customers of Cadaret Grant.² The Firm failed to take reasonable steps to investigate red flags that SP was involved in private securities transactions.

As a result of the foregoing, Cadaret Grant violated NASD Rule 3010 (for conduct before December 1, 2014), FINRA Rule 3110 (for conduct on or after December 1, 2014), and FINRA 2010.

FACTS AND VIOLATIVE CONDUCT

A. The Relevant Law

FINRA Rule 3110 and its predecessor, NASD Rule 3010, require that a member firm take reasonable steps to ensure that the activities of each registered representative comply with applicable securities laws, regulations, and FINRA rules, investigate red flags of potential misconduct, and take reasonable action when misconduct has occurred. Supervision may be unreasonable if a member firm fails to investigate red flags or if it fails to detect misconduct when the diligent application of its supervisory procedures would have uncovered it.³ A violation of FINRA Rule 3110 or NASD Rule 3010 is also a violation of FINRA Rule 2010, which requires FINRA members to “observe high standards of commercial honor and just and equitable principles of trade.”

B. SP Conducted a Ponzi Scheme While Associated with Cadaret Grant

SP was registered as an Investment Company and Variable Contracts Products Representative through an association with Cadaret Grant from September 2012 to March 2017. Prior to and during that time, SP orchestrated a Ponzi scheme.⁴

SP solicited customers to invest in three entities that he created and controlled (collectively the “Ponzi Entities”) by falsely promising annual returns of 4.5% to 8%. Unbeknownst to his victims, the Ponzi Entities were worthless shell companies with no revenues or business operations.

¹ FINRA barred SP from associating with any FINRA member firm in April 2018.

² The Firm has settled arbitration claims brought by all of the Cadaret Grant customers who invested in SP’s Ponzi scheme while he was associated with Cadaret Grant.

³ See, e.g., *Blinder, Robinson & Co., Inc.*, 47 S.E.C. 812, 814 (1982).

⁴ Criminal authorities prosecuted SP, who is incarcerated.

To perpetrate his scheme, SP gave two of the Ponzi Entities names that closely resembled those of legitimate companies with publicly traded stock (with which SP had no involvement). By creating shell companies with names that were similar to legitimate entities, SP was able to deceive investors into believing they were investing in the legitimate companies. SP deposited investor funds in bank accounts that he maintained for each of the Ponzi Entities, and then used those funds to pay his personal expenses and to make promised interest payments to earlier investors. SP concealed his scheme from his victims for several years by lying to them about the status of their investments, lulling them through periodic payments, and issuing to them statements that he prepared that falsely reflected their purported holdings and returns in the Ponzi Entities.

SP never disclosed to the Firm his association with the Ponzi Entities, or that was he selling investments in those entities to customers through private securities transactions.⁵

C. Cadaret Grant Failed to Investigate Red Flags

As set forth below, Cadaret Grant failed to investigate several red flags during the Relevant Period that SP was engaging in misconduct.

Suspicious Check Deposits

Customer 1 was a Firm customer and middle-aged widow who, in 2011, invested approximately \$725,000 in two of the Ponzi Entities at SP's direction, primarily using funds from her brokerage accounts. SP falsely described one of the investments as a Real Estate Investment Trust ("REIT"), and promised Customer 1 a guaranteed minimum 8% return.

Between October 2013 and March 2014, SP issued three third-party checks that were deposited into one of Customer 1's brokerage accounts at Cadaret Grant, totaling approximately \$927,000, purportedly representing a return of Customer 1's principal investment in the Ponzi Entities plus "interest." Two of the checks were in excess of \$400,000—an unusually high deposit amount for Customer 1—and the memo line on one of the checks stated "proceeds of sale." Each check was issued by a different Ponzi Entity, but the payors all shared the same address, which was a location less than a mile from SP's Cadaret Grant branch office. The signatures on two of the checks resembled SP's signature, but were not clearly decipherable. Further, on April 1, 2014, Customer 1 called the Firm and requested that the Firm provide her with the amount of the deposits into her Cadaret Grant account as a result of, in her words, "the sales of property."

In response to Customer 1's call, the Firm obtained copies of the three checks from the Ponzi Entities to Customer 1 that were deposited into her account at Cadaret Grant. However, the individual who spoke with Customer 1 never alerted SP's supervisor or anyone else at the Firm about the inquiry from Customer 1.

⁵ FINRA Rule 3280(c) and its predecessor, NASD Rule 3040(c), require that before a person associated with a member participates in a private securities transaction, he or she must provide advance written notice to the member.

Consequently, no one at Cadaret Grant questioned SP about the checks or about or the “sales of property” to which Customer 1 referred. Nor did anyone at Cadaret Grant take any other steps to investigate what the Ponzi Entities were or why they issued such large checks to Customer 1.

Public Records Search Showing the Connection between SP and One of the Ponzi Entities

In May 2015, FINRA sent an inquiry to the Firm concerning 11 liens and judgments that SP had failed to disclose on his Uniform Application for Securities Industry Registration (“Form U4”). In response to FINRA’s inquiry about SP’s undisclosed financial events, the Firm obtained a public records report about SP in August 2015. The report listed one of the Ponzi Entities (“Ponzi Entity 1”) as a business with which SP was associated. The report described Ponzi Entity 1 as an “Active” New York corporation and provided its corporation number. However, although the Firm reviewed the report for undisclosed liens, it did not review the report for undisclosed business associations.

As noted, SP never disclosed to the Firm his association with any of the Ponzi Entities, including Ponzi Entity 1. However, the Firm did not question SP about Ponzi Entity 1 or take any other steps to investigate what Ponzi Entity 1 was and what role, if any, SP had with Ponzi Entity 1.

Letter from Customer 1’s Attorney

In October 2015, one month after disclosing 11 judgments and liens on SP’s Form U4, the Firm received a letter from an attorney representing Customer 1. Customer 1’s attorney stated that he was “currently investigating activity” in Customer 1’s accounts, including her “direct investments” with SP, and requested all relevant account documents.

Although the Firm produced the requested account documents to Customer 1’s attorney and treated the letter as a potential claim, it did not question either SP or Customer 1’s attorney about the letter. The Firm also did not investigate Customer 1’s account activity to determine why Customer 1’s attorney was “investigating activity” in the account or to what “direct investments” the letter was referring. Although an individual in the Firm’s compliance department sent SP an email requesting that he call her to discuss Customer 1’s accounts, SP never responded to the email and the Firm failed to follow-up with SP. As a result, no one at the Firm spoke with SP about Customer 1 or otherwise took any steps to determine why Customer 1’s attorney was corresponding with the Firm about “direct investments” that Customer 1 made with SP.

Approximately 17 months later, in March 2017, Customer 1 filed an arbitration against Cadaret Grant, which alleged that her investments in the Ponzi Entities were fraudulent. Cadaret Grant terminated SP shortly thereafter.

However, during the intervening period between the Firm's receipt of the letter from Customer 1's attorney and SP's termination, SP continued to operate his Ponzi scheme, resulting in further customer harm.

SP's Failure to Provide Emails

During the Relevant Period, SP disclosed to the Firm that he used an outside email account for his securities business, which the Firm permitted. However, in 2014 and 2015, SP failed to transmit any emails to or from that outside email account to the Firm for review, as required by the Firm's WSPs. Additionally, during the Firm's December 6, 2015 branch inspection of SP's branch office, Firm examiners asked SP to provide all incoming and outgoing emails for his outside email account so that the Firm could review and retain them, but SP refused to comply with their request.

The Firm did not investigate why SP refused to provide his emails for supervisory review. Branch examiners left blank the portion of the branch inspection report in which they would have described their review of SP's emails, a fact that no one at the Firm ever questioned.⁶ Additionally, for approximately a year, the Firm took no steps to compel SP's compliance with the Firm's procedures. The Firm resumed capturing and reviewing SP's outside emails in 2016, but did not obtain and review emails for the period during which SP had failed to comply with its email procedures.

As a result of the foregoing, Cadaret Grant violated NASD Rule 3010 (for conduct before December 1, 2014), FINRA Rule 3110 (for conduct on and after December 1, 2014), and FINRA Rule 2010.

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

- a censure; and
- a fine of \$200,000.⁷

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 it 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.

⁶ Branch examiners also left blank that portion of the inspection report which called for their description of their review of "check registers and banking statements for the Branch Manager or the business DBA account," and no one at the Firm followed up on the incomplete inspection report.

⁷ Restitution is not ordered because the Firm has settled arbitration claims brought by all of the Cadaret Grant customers who invested in SP's Ponzi scheme while he was associated with Cadaret Grant.

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 it;
- 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 it 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.

The undersigned, on behalf of the Respondent Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's 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 it to submit it.

Cadaret, Grant & Co., Inc.

6-4-20
Date (mm/dd/yyyy)

By: Donald J. Taylor

Print Name: DONALD J. TAYLOR

Title: MANAGING DIRECTOR, CFO

Reviewed by:

/s/ Samuel E. Cohen

Samuel E. Cohen, Esq.
Counsel for Respondent
Marshall Dennehey Warner Coleman & Goggin
2000 Market St., Suite 2300
Philadelphia, PA 19103

Accepted by FINRA:

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

07/01/2020
Date

Michael J. Newman
Michael J. Newman
Senior Counsel
FINRA
Department of Enforcement
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