

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2018060290901**

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

RE: Albert Harkless, III, Respondent
Investment Company and Variable
Contracts Products Representative
CRD No. 2782039

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

Respondent entered the securities industry in July 1996, when he became associated with PFS Investments, Inc., (the "Firm"), a FINRA-regulated broker-dealer. In October 1996, Respondent became registered with FINRA as an Investment Company and Variable Contracts Products Representative through his association with the Firm. In October 2010, Respondent also became registered as an Investment Company Products and Variable Contracts Limited Principal.

In a Uniform Termination Notice for Securities Industry Registration ("Form U5") dated October 26, 2018, the Firm reported that Respondent had been terminated on October 15, 2018 because "it was alleged that a client wrote a personal check to the representative so that the representative would purchase stocks for the client. The representative stated he does not have the stocks to deliver."

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

RELEVANT DISCIPLINARY HISTORY

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

OVERVIEW

In April 2010, while associated with the Firm, Respondent converted approximately \$3,120 from a Firm customer by failing to purchase the securities for which the funds were provided to him and instead using it for personal use without the customer's knowledge or consent, in violation of FINRA Rules 2150 and 2010. In addition, Harkless made three misrepresentations relating to the securities to the customer, in violation of FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Respondent served as the registered representative on Firm Customer AG's two accounts at the Firm. In April 2010, Respondent solicited Customer AG to invest \$6,100 to purchase 406 shares in a company's initial public offering ("Company 1"), the Firm's parent company. Customer AG provided Respondent \$6,100 to make the investment. Instead of doing so, Respondent purchased 150 shares of Company 1 in the aftermarket for \$2,980 and converted the remaining \$3,120 for personal use without the customer's knowledge or consent.

In April 2010, Respondent stated to Customer AG that Company 1's shares were available for purchase only to Company 1-affiliated employees, and that there was a five-year sale restriction on purchases of Company 1's shares. Both of these statements were untrue. In fact, Company 1's shares were available for purchase by the public, and freely tradeable.

As a result, Customer AG provided Respondent with the \$6,100 to purchase the Company 1 shares in his account and hold them for her benefit until the expiration of the purported five-year holding period. In September 2018, Respondent also misrepresented to Customer AG that the shares could not be transferred back to her because she was not a Company 1-affiliated employee. This statement was false, in that no such restriction pertained to Company 1's shares.

Conversion

FINRA Rule 2150 provides that no person associated with a member firm shall make improper use of a customer's securities or funds. Conversion is the intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it. FINRA Rule 2010 requires FINRA members and associated persons to observe high standards of commercial honor and just

and equitable principles of trade. Converting customer funds violates FINRA Rules 2150(a) and 2010. By converting \$3,120 from a Firm customer without her knowledge or authorization, Respondent violated FINRA Rules 2150(a) and 2010.

Misrepresentations

A registered representative making misrepresentations to a customer violates FINRA Rule 2010. By making three misrepresentations to Customer AG, Respondent violated FINRA Rule 2010.

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

A bar from associating with any FINRA member in any capacity.

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 understands

and acknowledges that FINRA does not represent or advise him and Respondent cannot rely on FINRA or FINRA staff members for legal advice. 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.

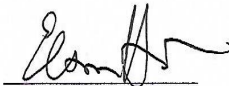
4/16/20
Date


Albert Harkless, III
Respondent

Accepted by FINRA:

04/20/20
Date

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


Elson Ho
Counsel
FINRA
Department of Enforcement
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New York, NY 10281