

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019061216402**

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

RE: John James Hoidas (Respondent)
Former General Securities Representative
CRD No. 1937971

Pursuant to FINRA Rule 9216, Respondent John J. Hoidas 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 in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Hoidas first registered with FINRA as a General Securities Representative (GS) through an association with a FINRA member firm in March 2004. From September 2013 to February 2020, Hoidas was registered as a GS through Uhlmann Price Securities, LLC (UPS) (CRD No. 42854). From April 2020 to May 13, 2021, Hoidas was then registered as a GS through an association with American Trust Investment Services, Inc. (ATIS) (CRD No. 3001).

On August 25, 2021, UPS filed an amended Uniform Termination Notice for Securities Industry Registration (Form U5) for Hoidas disclosing, for the first time, the firm's receipt of a written complaint from a customer concerning Hoidas's sales of private placement investments through the firm. Although Hoidas is no longer registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.¹

Between June 2019 and December 2021, seven of Hoidas's customers filed arbitrations against UPS generally alleging sales practice violations, including Hoidas's unsuitable investment recommendations. UPS settled with all seven customers.

¹ For more information about the respondent, visit BrokerCheck® at www.finra.org/brokercheck.

OVERVIEW

Between January 6, 2017, and February 8, 2018, Hoidas made unsuitable recommendations in speculative alternative investments to three UPS customers that were inconsistent with the customers' investment profiles in violation of FINRA Rules 2111 and 2010.

Additionally, in July 2018, Hoidas borrowed \$10,000 from one of his UPS customers without providing prior written notice or obtaining written approval from UPS in violation of FINRA Rules 3240 and 2010.

Hoidas also caused two member firms with which he was associated to maintain incomplete books and records in violation of FINRA Rules 4511 and 2010. From at least March 2017 to February 2020, while registered through UPS, Hoidas communicated with at least two of his UPS customers through text messages using his personal phone regarding securities-related business. Because UPS had not approved text messaging as a permissible electronic communications channel, UPS did not capture or maintain Hoidas's text message communications as required by Section 17(a) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 17a-4(b)(4) promulgated thereunder. Separately, while registered through ATIS during the period of April 2020 to May 2021, Hoidas entered into a commission-sharing agreement with another ATIS registered representative, which was not disclosed to, or approved by, ATIS. By receiving compensation through the unauthorized and undisclosed commission-sharing agreement, Hoidas caused ATIS to fail to comply with its recordkeeping obligations under Exchange Act Rule 17a-3(a)(19). Therefore, Hoidas violated FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's investigation into sales of offerings related to GPB Capital Holdings, LLC (GPB Capital).

1. Hoidas Made Unsuitable Recommendations to Three Customers.

FINRA Rule 2111 requires a registered representative to have a reasonable basis to believe that a recommended transaction or investment strategy is suitable for the customer to whom it is recommended, based on information obtained through reasonable diligence to ascertain the customer's investment profile. A customer's investment profile includes, among other things, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, and risk tolerance. A recommendation may be unsuitable if it results in a concentration in a particular security or category of securities that creates a risk of loss inconsistent with the customer's investment profile. A violation of FINRA Rule 2111 also constitutes a violation of FINRA Rule 2010, which provides that registered representatives, in the conduct of their business, observe high standards of commercial honor and just and equitable principles of trade.

GPB Capital is a New York-based alternative asset management firm founded in 2013. GPB Capital serves as the general partner for limited partnerships formed to acquire income-producing companies. From 2013 through 2018, GPB Capital launched several limited partnerships, each focused on acquiring controlling interests in certain private sector companies. As relevant here, one of those limited partnerships was GPB Holdings II, LP (Holdings II), which was formed in 2015 primarily to acquire and operate companies in the automotive retail and managed IT sectors.

The securities GPB Capital sold, including those issued by Holdings II, were not registered. Instead, the limited partnership interests were sold pursuant to Regulation D of the Securities Act of 1933. As a condition of the offerings, only accredited investors were permitted to purchase the GPB Capital limited partnership interests.² Moreover, the GPB Capital offering documents stated that the limited partnership interests were all illiquid securities that were intended to be held by only “sophisticated investor[s]” who were “able to bear the economic and other risks of investment in the [limited partnership interests] for an indefinite period of time.” The offering documents further stated that the GPB Capital limited partnership interests were “highly speculative investments which involve a high degree of risk of loss of the entire investment.” Such risks involved, among other things, GPB Capital’s lack of an operating history and significant expenses, including commissions GPB Capital typically paid to brokerage firms equal to 8% of the gross proceeds of each sale.

Between January 6, 2017 and February 7, 2018, Hoidas recommended and sold Holdings II securities to three UPS customers that were unsuitable in light of the customers’ investment profiles. The customers include:

- Customer A who made a \$50,000 investment in Holdings II in September 2017. At the time of the investment, Customer A was 48 years old with an annual income and net worth that did not qualify him as an accredited investor, as required to invest in Holdings II. Moreover, Customer A had limited investment knowledge with no prior alternative investment experience. Pursuant to Hoidas’s recommendation, Customer A made an additional \$150,000 investment in Holdings II in February 2018, at which time Customer A remained unaccredited. Customer A’s second Holdings II investment also violated the firm’s internal concentration guidelines because the sale, when combined with Customer A’s first Holdings II investment, caused Customer A to exceed the 20% concentration threshold for combined holdings of alternative investments. Both of Customer A’s Holdings II investments were unsuitable.³
- Customer B who made a \$300,000 Holdings II investment in April 2017. While Customer B’s income and net worth satisfied the minimum amount to qualify as an accredited investor, at the time of the investment, Customer B was 52 years

² See 17 CFR §230.501(a) (defining accredited investor).

³ Customer A settled an arbitration the customer filed against UPS, alleging, among other things, that the Holdings II investments Hoidas recommended and sold were unsuitable.

old, unemployed, and seeking only stable and liquid investments. Additionally, this investment violated the firm's internal concentration guidelines because the sale, when combined with an earlier alternative investment, caused Customer B to exceed the 20% concentration threshold for combined holdings of alternative investments. Pursuant to Hoidas's recommendations, Customer B invested an additional \$100,000 in Holdings II in June 2017 and \$50,000 in Holdings II in February 2018. At the time of each investment, Customer B's employment status and investment objectives remained the same, and these Holdings II investments also violated the firm's internal concentration guidelines. All three of Customer B's Holdings II investments were unsuitable.⁴

- Customer C who made a \$50,000 Holdings II investment in January 2017. At the time of the investment, Customer C was 44 years old with a low risk tolerance, an investment objective of growth, limited investment experience, and an annual income and net worth that did not qualify her as an accredited investor, as required to invest in Holdings II.⁵

Therefore, by making six unsuitable recommendations of GPB Capital securities to three customers, Hoidas violated FINRA Rules 2111 and 2010.

2. Hoidas Borrowed Money From One Customer.

FINRA Rule 3240 prohibits registered persons from borrowing money from their customers unless: (1) the registered person's employing member firm has written procedures permitting borrowing from customers; and (2) the borrowing arrangement meets at least one of five circumstances specified in the rule. Even if these requirements are satisfied, the registered representative must seek and obtain prior written approval of the loan from the member firm, unless the member firm's procedures provide otherwise where the customer is a lending-related business under certain circumstances or a member of the representative's immediate family. A violation of FINRA Rule 3240 also constitutes a violation of FINRA Rule 2010.

During Hoidas's employment with UPS, the firm's written supervisory procedures prohibited registered persons from borrowing money from customers without exception. However, in July 2018, while registered through UPS, Hoidas borrowed \$10,000 from one of his customers and failed to disclose the loan to UPS. After Hoidas failed to repay the loan, the customer complained to UPS, which ultimately reached a settlement with the customer.

Therefore, Hoidas violated FINRA Rules 3240 and 2010.

⁴ Customer B settled an arbitration the customer filed against UPS, alleging, among other things, that the Holdings II investments Hoidas recommended and sold were unsuitable.

⁵ Customer C settled an arbitration the customer filed against UPS, alleging, among other things, that the Holdings II investments Hoidas recommended and sold were unsuitable.

3. Hoidas Caused Failures to Maintain and Preserve Books and Records.

FINRA Rule 4511 requires members to make and preserve accurate books and records as required by Section 17(a) of the Exchange Act and the applicable Exchange Act rules promulgated thereunder, including Exchange Act Rules 17a-4(b)(4) and 17a-3(a)(19). Exchange Act Rule 17a-4(b)(4) requires member firms to maintain, for a period of not less than three years, the originals of all communications received, and copies of all communications sent, by the member relating to the member's business. Exchange Act Rule 17a-3(a)(19) requires member firms to maintain a record of all compensation, including non-monetary compensation, paid to associated persons in connection with the purchase or sale of securities. Inherent in the obligation to make and preserve books and records is the requirement that they be accurate. The entry of accurate information in firm records is a foundation of FINRA's regulatory oversight, and it is critical that associated persons, as well as firms, comply with this requirement. A registered representative who causes his or her member firm to fail to comply with these recordkeeping obligations violates FINRA Rules 4511, which also constitutes a violation of FINRA Rule 2010.

a. Books and Records Violations at UPS

Since at least August 2016, UPS's written procedures provided that electronic business communications could be transmitted only through channels approved by the firm, to facilitate the firm's supervision and preservation of those communications. The firm's procedures therefore prohibited registered representatives from communicating with customers about the firm's securities-related business via unapproved personal email, instant messaging applications, and text messaging.

Nonetheless, from at least March 2017 to July 2019, while registered through UPS, Hoidas communicated with UPS customers through text messages using his personal phone regarding securities-related business. These communications included the solicitation of investments and discussions of investment strategies. Because text messaging was not an approved electronic communications channel, however, UPS did not capture or maintain Hoidas's text message communications, which it was required to do under Exchange Act Rule 17a-4(b)(4).

Therefore, Hoidas violated FINRA Rules 4511 and 2010.

b. Books and Records Violations at ATIS

While registered through ATIS, during the period of April 2020 to May 2021, Hoidas entered into a commission-sharing agreement with another ATIS registered representative, which was not disclosed or approved by ATIS. Pursuant to the commission-sharing agreement, another representative executed transactions for certain customers on behalf of Hoidas and then paid Hoidas a portion of fees and commissions resulting from those transactions. This agreement related to Hoidas's customers who resided in a state where Hoidas was not permitted to solicit and sell securities. By receiving compensation through the unauthorized and undisclosed commission-sharing

agreement, Hoidas caused ATIS to fail to comply with its recordkeeping obligations under Exchange Act Rule 17a-3(a)(19).

Therefore, Hoidas violated FINRA Rules 4511 and 2010.

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

- an 18-month suspension from associating with any FINRA member in all capacities, and
- a \$40,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, 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 in this AWC shall be effective on a date set by FINRA.

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 its acceptance or rejection.

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

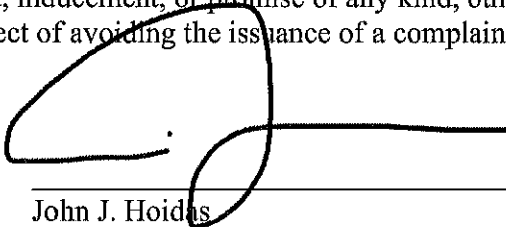
Respondent understands that:

- 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 its subject matter 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.

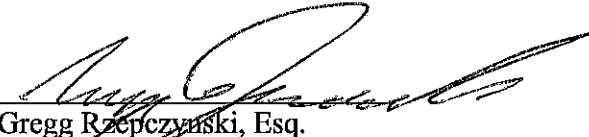
- D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this statement. This statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA.

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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

6/12/2023
Date


John J. Hoidas
Respondent

Reviewed by:


Gregg Rzepczynski, Esq.
Counsel for Respondent
Gregg Rzepczynski & Associates Ltd.
175 West Jackson Blvd. Suite 240
Chicago, Illinois 60604

Accepted by FINRA:

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

July 7, 2023

Date

Tricia Lyons

Tricia Lyons
Counsel
FINRA
Department of Enforcement
200 Liberty Street | 11th Floor
New York, NY 10281