

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2019061944201**

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

RE: Joseph Morris Thurnherr, Respondent
Former General Securities Representative
CRD No. 5045624

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Joseph Morris Thurnherr 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

Thurnherr first became registered with FINRA in 2009. He was registered as a General Securities Representative through an association with Wynston Hill Capital, LLC (CRD No. 103811) ("Wynston Hill" or the "Firm") from December 2018 until June 2019, when he voluntarily resigned from the Firm.

Thurnherr is not currently registered or associated with a FINRA member firm. However, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

In May 2019, the New Jersey Bureau of Securities issued a consent order, through which Thurnherr agreed to the entry of findings that he failed to comply with the terms of a heightened supervision agreement. The consent order required Thurnherr to pay a civil monetary penalty of \$7,500. In October 2017, the Florida Office of Financial Regulation issued an order denying Thurnherr's application for registration in that state, after Thurnherr failed to contest the state's preliminary determination that his application for registration included a misrepresentation.

OVERVIEW

Thurnherr refused to provide documents and information requested pursuant to FINRA Rule 8210. As a result, Thurnherr violated FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 8210(a)(1) states, in relevant part, that FINRA may require a person subject to its jurisdiction "to provide information orally, in writing, or electronically . . . with respect to any matter involved in [a FINRA] investigation [or] examination." FINRA Rule 8210(c) further states that "[n]o . . . person shall fail to provide information . . . pursuant to this Rule." A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.

On February 3, 2020, in connection with an investigation into allegations set forth in a customer-initiated arbitration against Thurnherr, FINRA staff sent a request for information and documents to Thurnherr, pursuant to FINRA Rule 8210. As stated by Thurnherr's counsel on a telephone call with FINRA staff on February 5, 2020 which was later memorialized in an email to FINRA staff, and by this agreement, Thurnherr acknowledges that he received FINRA's request, but will not produce the requested information and documents at any time.

By refusing to produce documents and information as requested pursuant to FINRA Rule 8210, Respondent has violated FINRA Rules 8210 and 2010.

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

- 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 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.

2/17/2020
Date


Joseph Morris Thurnherr
Respondent

Reviewed by:


Michael Uilla, Esq.
Counsel for Respondent
26 Court Street, Suite 2601
Brooklyn, NY 11242

Accepted by FINRA:

2/24/2020
Date

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


Gabrielle Hirz
Counsel
FINRA
Department of Enforcement
99 High Street, 9th Floor
Boston, MA 02110