

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019062574901**

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

RE: Michael Thomas Carl (Respondent)
Former General Securities Representative
CRD No. 3023492

Pursuant to FINRA Rule 9216, Respondent Michael Thomas Carl 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 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

From November 1998 until June 2010, Carl was registered with FINRA through consecutive associations with six different member firms as a General Securities Representative (GSR). In August 2010, Carl became registered with FINRA through Charles Schwab & Co., Inc. as a GSR. On May 9, 2019, Schwab filed a Uniform Termination Notice for Securities Industry Registration (Form U5) terminating Carl's registration. The Form U5 stated that the termination was voluntary and that Carl "was under review for potentially not disclosing an outside business activity as required by policy" and that "the firm concluded that Mr. Carl did not disclose his outside business activity." Schwab subsequently filed two Form U5 amendments, the last of which was on July 26, 2019. The July 26, 2019 amendment disclosed for the first time that Schwab had conducted an internal review of Carl and that the "the firm found information in its records to suggest that the terms of an agreement and certain invoices presented to the firm for payment appeared to be altered and that payments were made based on those invoices."

Although Carl is no longer associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4 of FINRA's By-Laws.¹

OVERVIEW

In November 2018 and March 2019, Carl submitted altered invoices to Schwab that caused it to pay expenses in excess of \$19,000 on behalf of two of the firm's advisory clients, which were not entitled to have those expenses paid. As a result, Carl made improper use of firm funds in violation of FINRA Rule 2010. Further, from 2014 through his termination in May 2019, Carl violated FINRA Rules 3270 and 2010 by engaging in an undisclosed outside business activity.

FACTS AND VIOLATIVE CONDUCT

This matter originated from the filing of Carl's May 9, 2019 Form U5.

Improper Use of Firm Funds

FINRA Rule 2010 requires an associated person in the conduct of his or her business to observe high standards of commercial honor and just and equitable principles of trade. When an associated person uses firm funds or causes them to be applied in a manner not intended by the firm, he or she makes improper use of those funds in violation of FINRA Rule 2010.

At all relevant times, Carl served as a business development officer for Schwab. In that role, he marketed Schwab to investment advisors as the custodian for their advisory accounts. Subject to terms and conditions, the firm would pay certain vendor costs on behalf of the advisors with which it had expense agreements.

In November 2018, Carl submitted to Schwab an invoice he altered and an email he fabricated in order to cause Schwab to pay \$15,000 to a vendor, purportedly for consulting services provided to a Schwab advisor client (Client 1) and pursuant to Client 1's expense agreement with the firm. In fact, no such services had been provided to Client 1. Carl wanted Schwab to pay the vendor for services it had provided to another Schwab client (Client 2), which did not have an expense agreement with the firm. Schwab paid the invoice in December 2018.

Similarly, in March 2019, Carl submitted to Schwab two more altered invoices and accompanying fabricated emails to cause Schwab to pay approximately \$4,000 to another vendor—again purportedly for services provided to Client 1. Again, no such services had been provided to Client 1. Carl wanted Schwab to pay the vendor for services provided to a different Schwab client (Client 3), which did not have an expense agreement with the firm. The firm paid the invoice in April 2019.

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

Therefore, Respondent violated FINRA Rule 2010.

Undisclosed Outside Business Activity

FINRA Rule 3270 provides in relevant part:

No registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member.

A violation of FINRA Rule 3270 also constitutes a violation of FINRA Rule 2010.

Beginning in 2014, Carl was one of the principals of a holding company (Holdings), which he used to rent his family's vacation property. By March 2016, Carl began using Holdings to provide consulting services to investment advisors, including clients of Schwab. In March 2016, Carl solicited one of Schwab's advisory clients (Client 4) to enter into a contract with Holdings. Client 4 agreed to pay Holdings a minimum quarterly fee to locate, hire, and pay vendors and professionals that Client 4 needed. Part of the services Holdings agreed to provide was obtaining the best custodian for Client 4—a conflict of interest in that Carl's job at Schwab entailed, in part, attracting advisory clients to Schwab's custodial services.

Similarly, in March 2019, Carl solicited another Schwab client (Client 5) to contract with Holdings. The proposed agreement, which was never executed, contained a confidentiality provision prohibiting it from being disclosed to Schwab and conditioned favorable Schwab pricing if Client 5 were to become a Holdings client.

Carl was compensated for his work for Holdings, including receiving more than \$40,000 from 2016 through 2018. Carl failed to provide written notice to Schwab of Holdings at any time, including beginning in 2016, when Holdings began providing consulting services. In addition, Carl falsely answered "no" when asked on multiple annual firm compliance questionnaires if he had a disclosable outside business activity, including whether he had received compensation or had a reasonable expectation of compensation through a business activity outside of the firm.

Therefore, Respondent violated FINRA Rules 3270 and 2010.

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

- a bar from associating with any FINRA member in all capacities.

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. 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 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:

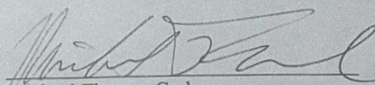
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of

the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;

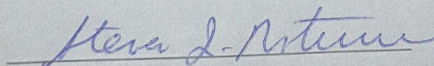
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator 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 testimonial obligations or 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

6/22/21
Date


Michael Thomas Carl
Respondent

Reviewed by:


Steven J. Rotunno
Counsel for Respondent
Miller, Canfield, Paddock and Stone, P.L.C.

225 W. Washington, Suite 2600
Chicago, IL 60606

Accepted by FINRA:

June 30, 2021

Date

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

A handwritten signature in blue ink, appearing to read "Deborah Renner", is written over a horizontal line.

Deborah Renner
Principal Counsel
FINRA
Department of Enforcement
200 Liberty Street, 11th Floor
New York, NY 10281-1003