

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2020065385101**

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

RE: Andrew M. Arthur, Respondent
General Securities Representative
CRD No. 1864083

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Andrew M. Arthur 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

Arthur entered the securities industry in November 1991 and, since then, has been associated with eleven FINRA member firms.

From August 2014 to July 2017, Arthur was associated with Guggenheim Securities, LLC (Guggenheim or the Firm), a FINRA member firm, and registered as a General Securities Representative (GSR) and General Securities Principal (GP). From September 2017 to September 2018, Arthur was registered as a GSR and GP through an association with FINRA member GMP Securities, LLC (n/k/a INTL FCStone Credit Trading LLC). In May 2019, Arthur registered as a GSR and GP through an association with FINRA member TGP Securities, Inc. (TGP). In a Uniform Termination Notice for Securities Industry Registration (Form U5) dated August 13, 2019, TGP reported the voluntary termination of Arthur's association.

Although Arthur is not currently associated with a FINRA-regulated broker-dealer, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

In an AWC dated September 5, 2018, Arthur consented to sanctions consisting of a four month suspension in all capacities and \$5,000 fine and the entry of findings that Arthur submitted falsified brokerage account statements to third-parties.

In an AWC dated November 20, 2015, Arthur consented to sanctions consisting of a 30 day suspension in all capacities and \$5,000 fine and the entry of findings that Arthur failed to amend his Form U4 to report a federal tax lien.

OVERVIEW

During the period of October 2016 through September 2019, Arthur converted \$275,000 given to him by a relative. Arthur obtained the funds by falsely representing that the \$275,000 would be invested in private placements through an employee investment program offered by Arthur's then-member-firm employer. In fact, the "investment program" was fictitious and Arthur converted the \$275,000 to pay personal expenses and to repay other individuals from whom Arthur had previously received money. By converting the \$275,000 his relative provided him for investment and using the funds for his own purposes, Arthur violated FINRA Rule 2010.

In addition, during the investigation that led to the September 2018 AWC, Arthur provided false written statements and testimony to Enforcement. Specifically, Arthur falsely represented in a written statement and falsely testified during his April 2018 on-the-record interview (OTR) that he did not forward a fictitious Firm e-mail he created to any third-party. Arthur also falsely represented in a written statement that the funds he received from the relative were a personal loan. By providing false and misleading information to FINRA, Arthur violated FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

A. Arthur Converted His Relative's Funds

FINRA Rule 2010 requires registered representatives to "observe high standards of commercial honor and just and equitable principles of trade."

Conversion is an 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. Conversion violates FINRA Rule 2010, even when the conversion occurs outside the scope of a registered representative's employment with a FINRA member, because it calls into question a registered representative's ability to fulfill his or her fiduciary duties in handling other people's money.

In October 2016, Arthur told his relative, who was not a Firm customer, that Guggenheim had an employee investment program through which employees and their family members could invest in private placement offerings sponsored by the Firm. From October 2016 to February 2017, the relative sent Arthur three separate payments totaling \$275,000 to be invested in the employee program Arthur described. However, the Firm program Arthur described did not exist. Instead, Arthur used the relative's funds (without the relative's knowledge or consent) to pay for his own personal expenses and to satisfy pre-existing debts Arthur owed to other individuals. Arthur concealed his conversion until September 2019 by lying to his relative about the status of his "investment", his expected returns, and repayment date.

By converting \$275,000 of his relative's funds, Arthur violated FINRA Rule 2010.

B. Arthur Made False Statements to FINRA

FINRA Rule 8210 requires a registered person to respond fully, completely and truthfully to a request for information from FINRA. Providing false information and testimony to Enforcement violates Rules 8210 and 2010.

Arthur provided written responses and OTR testimony to Enforcement pursuant to FINRA Rule 8210 in connection with the investigation that led to the September 2018 AWC. In his August 2017 written statement to Enforcement and during his April 2018 OTR, Arthur stated that in January 2017 he edited an internal Firm e-mail and sent it to his personal e-mail address to document an investment idea he was working on at the time. Arthur also stated that he did not forward or send the e-mail to anyone. In fact, in January 2017, Arthur sent the e-mail to his relative in order to obtain additional funds for Arthur's personal use. Accordingly, Arthur's written statements and OTR testimony were false.

In a February 2018 written statement to Enforcement, Arthur falsely stated that he "borrowed" \$275,000 from his relative for living expenses when Arthur knew that the relative tendered the \$275,000 for investment in the Firm employee program Arthur described and not for Arthur's personal use.

By providing false written statements and testimony to FINRA, Arthur violated FINRA Rules 8210 and 2010.

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

A bar from association 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 understand 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 actions 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.

August 9, 2020

Date (mm/dd/yyyy)

Andrew M. Arthur

Andrew M. Arthur, Respondent

Reviewed by:

Daniel Nathan

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Accepted by FINRA:

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

August 13, 2020

Date

Joseph Strauss

Joseph E. Strauss
Senior Counsel
FINRA Department of Enforcement
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