

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020065993801**

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

RE: William F. Winchester III (Respondent)
Former General Securities Representative
CRD No. 4404327

Pursuant to FINRA Rule 9216, Respondent William F. Winchester III 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

Winchester entered the securities industry in 2001 when he associated with a member firm. From September 2007 through July 2012, Winchester was registered as a General Securities Representative (GSR) and a General Securities Principal (GSP) through an association with LPL Financial LLC. From June 2012 through March 2020, Winchester was registered as a GSR and GSP through an association with Raymond James Financial Services, Inc. Winchester was associated with another member firm from May 2020 through May 5, 2021. Winchester is not currently associated with a member firm but remains subject to FINRA jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.¹

OVERVIEW

Between March 2009 and September 2016, while associated with LPL and, later, with RJFS, Winchester borrowed more than \$850,000 from three of his customers without notifying the member firm with which he was associated or obtaining the firm's prior written approval. As a result, Winchester violated NASD Rule 2370² and FINRA Rules 3240 and 2010.

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

² FINRA Rule 3240 superseded NASD Rule 2370 on June 14, 2010.

From October 2009 through August 2016, while associated with LPL and, later, with RJFS, Winchester engaged in an outside business activity without providing prior written notice to either firm. Specifically, Winchester served as co-executor to the estate of his former customer and received compensation for his services. As a result, Winchester violated NASD Rule 3030³ and FINRA Rules 3270 and 2010.

Between September 2016 and November 2017, Winchester settled two customer complaints without notifying RJFS. As a result, Winchester violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated with RJFS's Form U5 filing on March 13, 2020, terminating Winchester's registration.

Borrowing From Three Customers

FINRA Rule 3240 and its predecessor, NASD Rule 2370, prohibit 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 both of these requirements are satisfied, the registered representative must seek and obtain prior written approval of the loan from the member firm.⁴ A violation of NASD Rule 2370 or FINRA Rule 3240 also violates FINRA Rule 2010, which provides that a member, in the conduct of the member's business, shall observe high standards of commercial honor and just and equitable principles of trade.

In March 2009, while associated with LPL and registered with FINRA, Winchester borrowed \$380,000 from Customer 1, one of his customers. Later in 2009, Winchester borrowed an additional \$350,000 from Customer 2, another of his customers. Winchester repaid Customer 1 and Customer 2 the amounts that were borrowed.

At the time Winchester borrowed these funds, LPL's written supervisory procedures prohibited borrowing money from customers. Exceptions to this policy were granted only in limited circumstances not applicable here, such as when the customer was a family member.

Winchester never disclosed to LPL that he had borrowed money from his customers. In July 2009, June 2010, April 2011, and February 2012, Winchester completed an LPL Financial Branch Manager & Financial Advisor Questionnaire. Item 52 of the questionnaire asked, among other things, whether Winchester had borrowed money from any customer.

Winchester falsely responded "No" to this question on each of these Questionnaires.

³ FINRA Rule 3270 superseded NASD Rule 3030 on December 15, 2010.

⁴ The firm's procedures may provide an exception to this notification requirement where the customer is a lending-related business or a member of the representative's immediate family.

In late 2009, another Winchester customer, Customer 3, passed away. Winchester thereafter agreed to serve as a co-executor of Customer 3's estate. Between 2010 and 2016, while registered with FINRA through associations with LPL and RJFS, Winchester borrowed money from the estate. In September 2016, Winchester signed a promissory note to the beneficiary of the estate, Customer 4, who was also his customer at RJFS, to establish repayment terms for the funds he had borrowed from the estate. At the time Winchester entered into this promissory note, RJFS prohibited its registered representatives from borrowing from customers. At the time Winchester was terminated from RJFS, he was in the process of repaying Customer 4 the amounts borrowed pursuant to the terms of an agreement.

Therefore, Winchester violated NASD Rule 2370 and FINRA Rules 3240 and 2010.

Undisclosed Outside Business Activity

FINRA Rule 3270, like its predecessor NASD Rule 3030, prohibits registered representatives from engaging in any business activity outside the scope of their employment without providing written notice to their member employer. A violation of NASD Rule 3030 or FINRA Rule 3270 is also a violation of FINRA Rule 2010.

In October 2009, Winchester became co-executor to Customer 3's estate. Winchester received \$45,000 in compensation for his services as co-executor. At the time Winchester accepted the appointment as co-executor, LPL's written supervisory procedures prohibited its registered representatives from engaging in an outside business activity that involved taking custody of, or authority over, the funds or property of others. Winchester did not disclose to LPL his appointment as co-executor of Customer 3's estate.

Winchester also failed to disclose that he was serving as co-executor of Customer 3's estate when he associated with RJFS. RJFS's written supervisory procedures required its registered representatives to disclose their services as an executor as an outside business activity if they receive compensation for those services and prohibited its registered representatives from serving as an executor if the position involved signatory authority over funds or property of others. Winchester twice falsely represented on RJFS compliance questionnaires that he was not, among other things, acting as an executor of any individual's estate.

Therefore, Winchester violated NASD Rule 3030 and FINRA Rules 3270 and 2010.

Settling Away

Settling or attempting to settle a customer complaint without the knowledge or consent of a registered representative's employer firm violates FINRA Rule 2010.

In September 2016, Winchester signed a promissory note to Customer 4 to update repayment terms for the funds he had borrowed from Customer 3's estate, of which Customer 4 was the beneficiary. Winchester did not disclose the promissory note to RJFS.

In September 2017, Winchester entered into a settlement agreement with Customer 1, his former LPL and RJFS customer, relating to the \$380,000 Winchester had borrowed from Customer 1. Winchester did not disclose this settlement to LPL or RJFS.

During this period, RJFS prohibited its registered representatives from making a private settlement of any claim with a customer without RJFS's consent.

By entering into settlement agreements with two customers without notifying RJFS, Winchester violated FINRA Rule 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;
 - 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.

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.

March 16, 2023

Date

William F. Winchester III

William F. Winchester III
Respondent

Reviewed by:

N. Nancy Ghabai

N. Nancy Ghabai
Counsel for Respondent
Ghabai Law Group LLC
265 Franklin Street, Suite 1702
Boston, MA 02110

Accepted by FINRA:

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

April 6, 2023

Date

Suzanne H. Bertolett

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