

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020066831101**

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

RE: Colorado Financial Service Corporation (Respondent)
Member Firm
CRD No. 104343

Pursuant to FINRA Rule 9216, Respondent Colorado Financial Service Corporation 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

Colorado Financial has been a FINRA member since December 2000. The firm is headquartered in Centennial, Colorado, operates 14 branches, and employs approximately 40 registered representatives. The firm's primary lines of business involve investment banking, private placement of securities, general securities, mutual funds, and the sale of variable life insurance and annuities.¹

OVERVIEW

From January 2019 to the present, Colorado Financial violated FINRA Rules 3310(a), 3310(f), and 2010 by failing to develop and implement an anti-money laundering (AML) compliance program, including written procedures, reasonably designed to detect and cause the reporting of suspicious transactions in low-priced securities.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 3310 provides that "[e]ach member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et*

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

seq.) [BSA], and the implementing regulations promulgated thereunder by the Department of the Treasury.”

FINRA Rule 3310(a) provides that a firm must “[e]stablish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and [its] implementing regulations.” The implementing regulation issued by the U.S. Department of the Treasury, 31 C.F.R. § 1023.320, requires broker-dealers, under specified circumstances, to file with the Financial Crimes Enforcement Network “a report of any suspicious transaction relevant to a possible violation of law or regulation.”

FINRA Rule 3310(f) provides that a firm’s AML program must “[i]nclude appropriate risk-based procedures for conducting ongoing customer due diligence, to include but not be limited to: (i) [u]nderstanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and (ii) [c]onducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.”

In April 2002, NASD issued guidance to broker-dealers regarding their AML compliance obligations. Notice to Members 02-21 discussed the duty to develop and implement an AML compliance program reasonably designed to detect and report suspicious activity. The Notice advised that a reasonable AML program should be tailored to the member’s business model and customer base and should account for factors such as the types of accounts it maintains and the types of transactions in which its customers engage. The Notice explained that broker-dealers have an obligation to look for red flags of suspicious activity and should describe red flags warranting further diligence in its procedures. The Notice also provided a non-exhaustive list of red flags, including customers (or associates of customers) with questionable backgrounds and transactions involving certain types of securities, such as low-priced securities.

In May 2019, FINRA issued Regulatory Notice 19-18, which provided additional guidance to firms regarding AML red flags for firms to consider incorporating into their AML programs, including red flags related to instances when a customer’s activity represents a significant proportion of the daily trading volume in a thinly traded or low-priced security and when a customer engages in prearranged or other non-competitive securities trading with no apparent business purpose. Regulatory Notice 19-18 reminded firms that when red flags of suspicious activity are detected, the firm should consider whether additional investigation, customer due diligence measures, or a SAR filing may be warranted.

A violation of FINRA Rule 3310 also constitutes a violation of FINRA Rule 2010, which requires FINRA members, in the conduct of their business, to observe “high standards of commercial honor and just and equitable principles of trade.”

From January 2019 to the present, Colorado Financial’s AML procedures were not reasonably designed to detect and report suspicious transactions, including potentially

manipulative activity such as prearranged trading. Although the firm's AML procedures stated that the firm would "manually monitor a sufficient amount of account activity to permit identification of patterns of unusual size, volume, pattern or type of transactions," the procedures did not identify the frequency of such monitoring, what constituted a "sufficient amount" of activity to review, or what activity the firm considered to be suspicious or unusual. The AML procedures also stated that the firm would use "exception reports that include[d] transaction size, location, type, number, and nature of the activity." But the procedures did not identify any specific reports or monitoring parameters and, in practice, the firm did not use any exception report designed to monitor for suspicious activity.

Instead, the firm relied exclusively on a daily manual review of its trade blotter to monitor for suspicious trading activity. The blotter, however, did not contain sufficient information to allow a reviewer to identify suspicious transactions, including order entry time, market trading volume, patterns of trading across accounts or multiple days, or potentially prearranged trading between accounts.

During this period, the firm failed to detect or investigate red flags of suspicious trading in low-priced, thinly traded Security Z. For example, the firm failed to detect multiple instances where two customers executed corresponding buy and sell orders in Security Z in equal share amounts at the same price, and one instance where the same two customers placed corresponding buy and sell orders for 10,000 shares of Security Z at an identical price within two minutes of one another. The firm also failed to detect instances where trading activity by the same two customers accounted for up to 85% of the total daily market trading volume in Security Z. Moreover, even when the firm's clearing firm raised concerns about the same two customers' trading activity in Security Z, the firm failed to take any reasonable steps to investigate.

Because the firm's AML program was not reasonably designed to detect and report suspicious transactions involving low-priced securities, Colorado Financial violated FINRA Rules 3310(a), 3310(f), and 2010.

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

- a censure;
- a \$50,000 fine; and
- an undertaking that, within 90 days of the date of the notice of acceptance of this AWC, a member of Respondent's senior management who is a registered principal of the firm shall certify in writing that, as of the date of the certification, the firm has remediated the issues identified in this AWC and implemented an AML program reasonably designed to achieve compliance with Rule 3310 regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Respondent's remediation and implementation. FINRA staff may request further evidence of Respondent's remediation and implementation, and Respondent

agrees to provide such evidence. Respondent shall submit the certification to Matthew Aglialoro, Principal Counsel, matthew.aglialoro@finra.org, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

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.

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 it;
- 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 it 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent has agreed to the AWC's

provisions voluntarily; and that 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 Respondent to submit this AWC.

September 6, 2024

Date

Chester Hebert

Colorado Financial Service Corporation
Respondent

Print Name: Chester Hebert

Title: CEO

Reviewed by:

Edwin A. Barkel

Edwin A. Barkel
Counsel for Respondent
Lewis Roca
201 East Washington Street
Suite 1200
Phoenix, AZ 85004

Accepted by FINRA:

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

September 16, 2024

Date

Matthew Aglialoro

Matthew Aglialoro
Principal Counsel
FINRA
Department of Enforcement
200 Liberty Street
New York, New York 10281