

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021071226601**

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

RE: Coughlin & Company, Inc. (Respondent)
Member Firm
CRD No. 185

Pursuant to FINRA Rule 9216, Respondent Coughlin & Company, Inc., 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

Coughlin has been a FINRA member since 1936. Coughlin is headquartered in Denver, Colorado, and employs seven registered representatives in its single branch office. Coughlin engages in a general securities business, including sales of private placements.¹

OVERVIEW

From January 2018 until at least July 2022, Coughlin's supervisory system, including written supervisory procedures (WSPs), was not reasonably designed to achieve compliance with applicable securities laws and FINRA rules pertaining to contingency offerings, in violation of FINRA Rules 3110 and 2010.

In a June 2018 contingency offering of securities, Coughlin violated Exchange Act §15(c)(2), Rule 15c2-4 thereunder, and FINRA Rule 2010 by failing to use an escrow agent and instead transmitting funds directly to the issuer.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a review by FINRA's Corporate Finance Department.

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

Certain private placements are structured as contingency offerings, *i.e.*, securities offered on an “all-or-none” or “part-or-none” basis, which require all or a certain amount of the securities to be sold by a certain date for the offering to close. As FINRA stated in Regulatory Notice 16-08, securities laws require member firms to take additional measures in contingency offerings to ensure that investor funds are protected and are promptly returned if the contingency is not met. Exchange Act Rule 10b-9 requires that investor funds be promptly returned to the investor if the contingency is not met by a specified date. Exchange Act Rule 15c2-4 requires a broker-dealer participating in a contingency offering to promptly deposit investor funds into a separate bank account as agent or trustee, or with a bank that has agreed in writing to hold the funds in an escrow account, until the contingency is satisfied. A violation of Exchange Act Rule 15c2-4 is also a violation of FINRA Rule 2010, which requires member firms to “observe high standards of commercial honor and just and equitable principles of trade” in the conduct of their business.

FINRA Rule 3110(a) requires a member firm to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. FINRA Rule 3110(b) requires a member firm to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA Rules. A violation of FINRA Rule 3110 is also a violation of FINRA Rule 2010.

Between January 2018 and July 2022, Coughlin participated in contingency offerings for issuers affiliated with Coughlin registered representatives. Nevertheless, Coughlin failed to establish and maintain a supervisory system, including WSPs, reasonably designed to ensure compliance with the rules regarding contingency offerings. Although Coughlin’s WSPs included the escrow requirement for contingency offerings, the firm had no procedures or system to establish escrow accounts or to determine when to release funds to the issuers. Coughlin also had no procedures or system to detect whether the offering minimum had been met, or to address the firm’s obligations if the minimum contingency is not met by the offering’s termination date, the termination date is extended, or the minimum contingency is lowered. Moreover, Coughlin did not designate any principal with responsibility for supervising contingency offerings.

In June 2018, Coughlin acted as the placement agent for a contingency offering. Coughlin did not establish an escrow or separate account for investor funds and transmitted investor funds directly to the issuer before the contingency was met.

Therefore, Coughlin violated Exchange Act §15(c)(2), Exchange Act Rule 15c2-4, and FINRA Rules 3110 and 2010.

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

- a censure;

- a \$40,000 fine; and
- an undertaking that, within 60 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 a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with Exchange Act Rules 15c2-4 and 10b-9 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 Albert A. Starkus III, Senior Counsel, 12801 N. Central Expwy. Suite 1050, Dallas, Texas 75243, and albert.starkus@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:

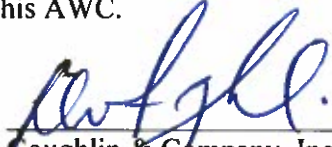
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not 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.

2/27/24
Date


Coughlin & Company, Inc.
Respondent

Print Name: DENNIS F. COUGHLIN
Title: PRESIDENT

Reviewed by:

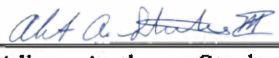
Matthew M Wolf
Matthew M. Wolf
Counsel for Respondent
Allen Vellone Wolf Helfrich & Factor P.C.
1600 Stout Street, Suite 1900
Denver, CO 80202

Accepted by FINRA:

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

March 28, 2024

Date



Albert Anthony Starkus III
Senior Counsel
FINRA
Department of Enforcement
12801 N. Central Expwy. Suite 1050
Dallas, TX 75243

THIS CORRECTIVE ACTION STATEMENT IS SUBMITTED BY THE RESPONDENT. IT DOES NOT CONSTITUTE FACTUAL OR LEGAL FINDINGS BY FINRA, NOR DOES IT REFLECT THE VIEWS OF FINRA, OR ITS STAFF.

Statement of Corrective Action

Coughlin has taken demonstrable steps to correct the violation referenced in the AWC by working to update written supervisory procedures (WSPs) related to contingency offerings, which efforts began prior to receipt of the AWC. Coughlin engaged Chet Hebert, principal of Colorado Financial Service Corporation, a FINRA member firm, with wide ranging experiences in the securities industry with several firms, to assist it with updating its WSPs. Mr. Hebert has served in capacities as registered representative, advisor, Branch Manager, Chief Compliance Officer, Financial and Operations Principal and President of independent firms, and a member and Committee Chairman of the FINRA District 3 Committee. (see [About \(coloradofsc.com\)](http://About.coloradofsc.com)). Coughlin has also held several internal meetings to ensure understanding and compliance related to contingent offerings.

Please note that this Statement of corrective Action is not intended to comply with the written undertaking portion of the AWC. Coughlin will provide the necessary certification within 60 days of the date of notice of acceptance of the AWC.