

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022074289902**

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

RE: Independence Capital Co., Inc. (Respondent)
Member Firm
CRD No. 24723

Dennis C. Twarogowski (Respondent)
General Securities Principal
CRD No. 1033169

Pursuant to FINRA Rule 9216, Respondents Independence Capital Co., Inc. and Dennis C. Twarogowski submit 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 Respondents 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

Independence Capital has been a FINRA member firm since 1989. The firm is headquartered in Parma, Ohio, employs approximately 40 registered representatives and has 13 branch offices. Independence Capital is an introducing broker-dealer that engages in a general securities business.

Twarogowski first became registered with FINRA as an Investment Company and Variable Contracts Products Representative (IR) in 1982 through an association with a member firm. In 2005, Twarogowski became registered with FINRA as a General Securities Representative (GS) and General Securities Principal (GP) through an association with Independence Capital. He also has been registered with FINRA as an Operations Professional (OS) since 2011 and as a Compliance Officer (CR) since 2018 through his association with Independence Capital. Twarogowski, who is the firm's Chief

Compliance Officer, remains registered with FINRA through his association with Independence Capital.¹

OVERVIEW

Between August 2020 and February 2021, Independence Capital and Twarogowski failed to reasonably supervise five representatives' recommendations of GWG L Bonds. Independence Capital also failed to establish and maintain written procedures reasonably designed to achieve compliance with Reg BI. Accordingly, Independence Capital and Twarogowski violated FINRA Rules 3110 and 2010, and Independence Capital willfully violated Exchange Act Rule 15l-1(a)(1) under the Securities Exchange Act of 1934 (Reg BI) and violated FINRA Rule 2010 by failing to comply with the Compliance Obligation of Reg BI.

For these violations, Independence Capital is censured, ordered to pay \$168,680 in partial restitution, plus interest, and agreed to an undertaking. Twarogowski is suspended for three months in all principal capacities, fined \$5,000 and agreed to an undertaking to complete 20 hours of continuing education.

FACTS AND VIOLATIVE CONDUCT

1. Legal Framework

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Reg BI under the Securities Exchange Act of 1934. Rule 15l-1(a)(1) of Reg BI requires a broker, dealer, or a natural person associated with a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, to act in the best interest of that retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or associated person ahead of the interest of the retail customer. Reg BI's Care Obligation, set forth at Exchange Act Rule 15l-1(a)(2)(ii), requires broker-dealers and their associated persons to exercise reasonable diligence, care, and skill to, among other things, have a reasonable basis to believe that the recommendation is in the best interest of a particular retail customer based on that retail customer's investment profile and the potential risks, rewards, and costs associated with the recommendation. Reg BI defines a "retail customer investment profile" to include, but not be limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation.

A recommendation may not be in the best interest of a customer if it creates a risk of loss inconsistent with the customer's investment profile, which would be exacerbated by a high concentration in a particular security or category of securities.

¹ For more information about respondents, including prior regulatory events for Independence Capital, visit BrokerCheck® at www.finra.org/brokercheck.

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 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.

Additionally, Reg BI's Compliance Obligation, set forth at Exchange Act Rule 15c-1(a)(2)(iv), requires broker-dealers to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI, including the Care Obligation. Reg BI's Adopting Release provides that broker-dealers should consider the nature of the firm's operations and how to design such policies and procedures to prevent violations from occurring, to detect violations that have occurred, and to correct promptly any violations that have occurred.²

A violation of Reg BI or FINRA Rule 3110 also is a violation of FINRA Rule 2010, which requires member firms and associated persons, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

2. GWG Holdings, Inc.

GWG is a publicly traded financial services company. Prior to 2018, GWG purchased life insurance policies through its subsidiaries on the secondary market. GWG continued to pay the premiums for each policy that it purchased and collected the policy benefits upon the insured's death. Following a series of transactions in 2018 and 2019 with Beneficient Company Group, L.P., GWG reoriented its business, stopped acquiring life insurance policies, and focused instead on developing a business model of providing liquidity to holders of illiquid investments and alternative assets.

GWG had a history of net losses and had not generated sufficient operating and investing cash flows to fund its operations. To finance its operations, GWG offered corporate bonds (known as L Bonds) to investors with varying maturity periods and interest rates. L Bonds were not directly secured by GWG's life insurance portfolio and were not rated by any bond rating agency.

GWG sold L Bonds to retail investors in four separate offerings and made those sales through a network of broker-dealers, including Independence Capital. The offering documents for the third and fourth L Bond offerings, which commenced in December 2017 and June 2020, respectively, stated the bonds could be considered speculative, involved a high degree of risk, were illiquid, and were only suitable for persons with substantial financial resources and with no need for liquidity.

² *Regulation Best Interest: The Broker-Dealer Standard of Conduct*, Exchange Act Release No. 86031, 84 FR 33318 at 33397 (July 12, 2019).

In January 2022, after Independence Capital's customers made investments in the L Bonds, GWG defaulted on its obligations to L Bond investors and suspended further sales of L Bonds. In April 2022, GWG filed for bankruptcy.

3. Independence Capital and Twarogowski failed to reasonably supervise five representatives' L Bond recommendations, and the firm failed to establish and maintain written policies and procedures reasonably designed to achieve compliance with Reg BI.

Between August 2020 and February 2021, Independence Capital failed to reasonably supervise five registered representatives' recommendations to customers to purchase GWG L Bonds and failed to establish and maintain written policies and procedures reasonably designed to achieve compliance with Reg BI. The firm did not have a reasonable process for assessing whether the representatives were developing and making recommendations to retail customers in compliance with the Care Obligation. For example, the firm did not have a reasonable process to determine whether the representatives exercised reasonable diligence, care, and skill to understand the potential risks, rewards, and costs associated with L Bonds, or had a reasonable basis to believe that investing in L Bonds was in the best interest of a given retail customer, in light of that customer's investment profile, the high degree of risk associated with the L Bonds, and the high concentration levels of these securities. Moreover, the firm did not have a reasonable process to discover and assess recommendations that appeared inconsistent with customers' investment profiles.

Additionally, Independence Capital and Twarogowski failed to reasonably supervise five registered representatives who together recommended that nine retail customers (Customers A through I) make a total of \$443,000 of investments in L Bonds.³ Twarogowski was each representative's direct supervisor during this period, and approved each sale of the L Bonds after reviewing the application documents. Independence Capital and Twarogowski were aware from the application documents that: each of the nine customers had a risk tolerance of low, moderate, or medium; each had an investment objective of income; none had an investment objective of speculation; and four were seniors. Independence Capital and Twarogowski were also aware that each of the customers had a liquid net worth ranging from \$50,000 to \$999,999, and that each customer's concentration in L Bonds was between 11% and 50% of their liquid net worth. In approving each of the sales to the nine customers, Independence Capital and Twarogowski failed to perform a reasonable assessment of whether the recommendations were consistent with the customers' investment profiles, particularly in light of the concentration levels.

Therefore, Respondents Independence Capital and Twarogowski violated FINRA Rules 3110 and 2010, and Independence Capital willfully violated Exchange Act Rule 15c-1(a)(1).

³ After Customer A complained to the firm, Independence Capital returned Customer A's principal amount.

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

For Independence Capital:

- a censure;
- partial restitution of \$168,680 plus interest as described below;⁴ and
- an undertaking that, within 90 days of the date of the Notice of Acceptance of this AWC, a member of Independence Capital'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 Regulation Best Interest regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Independence Capital's remediation and implementation. FINRA staff may request further evidence of Independence Capital's remediation and implementation, and Independence Capital agrees to provide such evidence. Independence Capital shall submit the certification to Marisa Calleja, Principal Counsel, by email to marisa.calleja@finra.org, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

For Twarogowski:

- a three-month suspension from associating with any FINRA member in all principal capacities;
- a \$5,000 fine; and
- an undertaking that within 90 days of the Notice of Acceptance of this AWC, Twarogowski will attend and satisfactorily complete 20 hours of continuing education concerning Regulation Best Interest by a provider not unacceptable to FINRA. Twarogowski will notify Marisa Calleja, Principal Counsel, of the name and contact information of the provider of the continuing education at least 10 days prior to attending the continuing education. Within 30 days following the completion of the continuing education, Twarogowski will submit written proof that the continuing education program was satisfactorily completed to Marisa

⁴ Pursuant to the General Principles Applicable to all Sanction Determinations contained in FINRA's *Sanction Guidelines*, FINRA imposed partial restitution and no fine against Independence Capital in this case after it considered, among other things, the firm's revenues, financial resources, and its agreement to pay restitution. Additionally, Independence Capital has already returned Customer A's principal amount, and thus Customer A will not receive restitution in connection with this matter.

Calleja at marisa.calleja@finra.org. All correspondence must identify the respondent and matter number 2022074289902. Upon written request showing good cause, FINRA staff may extend any of the deadlines related to the continuing education component of the sanction.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondent Twarogowski has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Partial restitution is ordered to be paid by Respondent Independence Capital to the customers listed on Attachment A to this AWC (Eligible Customers) in the total amount of \$168,680, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from February 12, 2021, until the date this AWC is accepted by the National Adjudicatory Council (NAC).

A registered principal on behalf of Respondent Independence Capital shall submit satisfactory proof of payment of restitution and interest (separately specifying the date and amount of each paid to each Eligible Customer) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org from a work-related account of the registered principal of Respondent Independence Capital. The email must identify Independence Capital and the case number and include a copy of the check, money order, or other method of payment. This proof shall be provided by email to EnforcementNotice@FINRA.org no later than 120 days after the date of the notice of acceptance of the AWC.

The restitution amount plus interest to be paid to each Eligible Customer shall be treated by Respondent Independence Capital as the Eligible Customer's property for purposes of state escheatment, unclaimed property, abandoned property, and similar laws. If after reasonable and documented efforts undertaken to effect restitution Independence Capital is unable to pay all Eligible Customers within 120 days after the date of the notice of acceptance of the AWC, Independence Capital shall submit to FINRA in the manner described above a list of the unpaid Eligible Customers and a description of Independence Capital's plan, not unacceptable to FINRA, to comply with the applicable escheatment, unclaimed property, abandoned property, or similar laws for each such Eligible Customer.

Respondents specifically and voluntarily waive any right to claim an inability to pay at any time after the execution of this AWC the monetary sanctions imposed in this matter.

Restitution payments to customers from Respondent Independence Capital shall be preceded or accompanied by a letter, not unacceptable to FINRA, describing the reason for the payment and the fact that the payment is being made pursuant to a settlement with FINRA and as a term of this AWC.

The imposition of a restitution order or any other monetary sanctions in this AWC, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Respondent Independence Capital understands that this settlement includes a finding that it willfully violated Rule 15l-1(a)(1) of the Securities Exchange Act of 1934 and that under Article III, Section 4 of FINRA's By-Laws, this makes Respondent Independence Capital subject to a statutory disqualification with respect to membership.

Respondent Twarogowski understands that if he is barred or suspended from associating with any FINRA member in a principal capacity, 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, Respondent Twarogowski may not be associated with any FINRA member in a principal capacity during the period of the bar or suspension. *See* FINRA Rules 8310 and 8311. Furthermore, because Respondent Twarogowski is subject to a statutory disqualification during the suspension, if he remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a complaint issued specifying the allegations against them;
- 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 NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondents specifically and voluntarily waive 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.

Respondents further specifically and voluntarily waive 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

Respondents 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 Respondents; and
- C. If accepted:
 - 1. this AWC will become part of Respondents' permanent disciplinary records and may be considered in any future action brought by FINRA or any other regulator against Respondents;
 - 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. this AWC may be taken into consideration by employers and other regulatory or licensing entities or authorities in their hiring, retention, licensing, or other decisions. This AWC may also have other adverse collateral consequences outside of FINRA's control; and
 - 5. Respondents 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. Respondents 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 Respondents' 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 Respondents' testimonial obligations in any litigation or other legal proceedings.

- D. Respondents may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand 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 Independence Capital Co., Inc., 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.

01/07/2026
Date

David W Toetz
Independence Capital Co., Inc.
Respondent

Print Name: DAVID W TOETZ

Title: V.P.

Respondent Dennis C. Twarogowski 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; Twarogowski 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.

7 JANUARY 2026
Date

Dennis C. Twarogowski
Dennis C. Twarogowski
Respondent

Reviewed by:

Heidi E. VonderHeide
Heidi E. VonderHeide
Counsel for Respondents
UB Greensfelder
200 West Madison Street
Suite 3300
Chicago, IL 60606-3607

Accepted by FINRA:

January 27, 2026
Date

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

Marisa Calleja
Principal Counsel
FINRA
Department of Enforcement
101 North Wacker Drive
Suite 2200
Chicago, IL 60606

ATTACHMENT A
To Letter of Acceptance, Waiver, and Consent
Independence Capital Co., Inc., Matter No. 2022074289902

Restitution from Respondent Independence Capital Co., Inc.

<u>Customer</u>	<u>Restitution</u>
B	\$24,350
C	\$12,175
D	\$58,155
E	\$12,500
F	\$14,000
G	\$15,000
H	\$20,000
I	\$12,500