

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2024082486101**

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

RE: Howard Kavinsky (Respondent)
General Securities Representative
CRD. No. 5881623

Pursuant to FINRA Rule 9216, Respondent Howard Kavinsky 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

Kavinsky entered the securities industry in 2011. Beginning in July 2019, Kavinsky was registered as a General Securities Representative through an association with National Securities Corporation. Kavinsky's association with NSC ended on July 22, 2022, and he registered the same day as a General Securities Representative through an association with B. Riley Wealth Management, as part of a mass transfer in connection with a transaction involving the firms' parent companies. On June 13, 2024, B. Riley filed a Uniform Termination Notice for Securities Industry Registration (Form U5) disclosing that it had discharged Kavinsky for his "[f]ailure to follow Firm procedures related to the creation and use of consolidated client reports and providing untrue responses on annual compliance questionnaires related to such activity; misrepresenting customers' account values; creating unfounded customer statements purportedly from a clearing firm; and failing to forward potential customer grievances for further review by firm personnel." From September 2024 to December 2024, Kavinsky was registered as a General Securities Representative through another member firm. Although Kavinsky is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4(a) of FINRA's By-Laws.¹

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

OVERVIEW

From at least March 2020 through April 2024, Kavinsky falsified at least 190 consolidated account statements for at least eight customers by overstating the customers' account balances and reflecting fictitious investments in a hedge fund, in violation of FINRA Rule 2010. Additionally, in August 2024 Kavinsky provided false and misleading written information to FINRA in response to requests issued pursuant to FINRA Rule 8210, and in October 2024 Kavinsky testified falsely at his on-the record testimony, in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from the Form U5 filed by B. Riley for Kavinsky.

Kavinsky falsified consolidated account statements.

FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Falsifying documents occurs when a person creates a document or entry in a firm's system that creates a false appearance by including altered or untrue information. Falsifying documents is inconsistent with just and equitable principles of trade and violates FINRA Rule 2010.

While associated with National Securities Corporation and B. Riley, Kavinsky had a practice of preparing a consolidated account statements for his customers. A consolidated account statement is a single document that combines information regarding most or all of the customer's financial holdings, regardless of where those assets are held and including assets held away from the firm. From at least March 2020 through April 2024, Kavinsky falsified more than 190 consolidated account statements for at least eight customers, some of whom were seniors, by overstating the customers' account balances to create the misimpression that their accounts contained more funds than they actually did. Kavinsky also falsified the consolidated account statements for at least six of these customers to reflect that he had invested a portion of their funds in a hedge fund, even though he had not made any such investments.

Therefore, Kavinsky violated FINRA Rule 2010.

Kavinsky provided false and misleading information and testified falsely to FINRA.

FINRA Rule 8210(a) authorizes FINRA to require an associated person to provide information and to testify with respect to any matter involved in FINRA's investigation. Providing false or misleading information to FINRA in response to a FINRA Rule 8210 request for information and testifying falsely are violations of FINRA Rules 8210 and 2010.

In July 2024, in connection with FINRA's investigation of the disclosures in B. Riley's Form U5 filing for Kavinsky, FINRA sent Kavinsky a request pursuant to FINRA Rule 8210 to identify all customers for whom he had ever misrepresented account values on

any document. Kavinsky responded falsely in August 2024, by naming only a married couple who had already complained about Kavinsky to the firm. At the time that Kavinsky made this response, he knew it was false and that he had actually overstated the account values for at least eight customers on their consolidated account statements. Moreover, during on-the-record testimony that FINRA conducted in October 2024 pursuant to FINRA Rule 8210, Kavinsky repeatedly testified falsely that he never told any of his customers that they were invested in any hedge funds.

Therefore, Kavinsky violated FINRA Rules 8210 and 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; 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.

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.

December 18, 2024

Date

Howard Kavinsky

Howard Kavinsky
Respondent

Reviewed by:

Gregory Tendrich

Gregory Tendrich
Counsel for Respondent
Gregory Tendrich, P.A.
3010 N Military Trl Ste 210
Boca Raton, FL 33431

Accepted by FINRA:

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

December 20, 2024

Date

Jennifer Romeo

Jennifer Romeo
Principal Counsel
FINRA
Department of Enforcement
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