

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013038183301**

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

RE: Lucian D. Hodgman, Respondent
CRD No. 1546902

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Lucian D. Hodgman ("Hodgman"), 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Hodgman first became registered with FINRA as a General Securities Representative ("GSR") in October 1991. From 1991 through February 2001, Hodgman was registered as a GSR through a FINRA member firm. From February 2001 through September 2013, Hodgman was registered as a GSR through Moors & Cabot, Inc. (CRD No. 594) ("the Firm"). From September 2013 through February 6, 2015, Hodgman was registered as a GSR through three other FINRA member firms.

Hodgman is not currently associated with a FINRA member firm, but FINRA retains jurisdiction over him pursuant to Article V, Section 4 of the FINRA By-Laws.

RELEVANT DISCIPLINARY HISTORY

On April 22, 2002, Hodgman agreed to a settlement with NASD through an AWC in which he was fined \$5,000 and suspended in

all capacities for ten days for effecting transactions in a customer account without the customer's prior knowledge, authorization, or consent.

On February 2, 2015, Hodgman entered into a Consent Order with the Maine Office of Securities in which Hodgman admitted that he had omitted material facts and made false statements in connection with his application to the Maine Office of Securities. Hodgman's conduct was related to the facts and violative conduct addressed in this AWC. In connection with that Consent Order, Hodgman was fined \$1,750 and his application for a securities license in Maine was denied.

OVERVIEW

Between May and July 2013, Hodgman caused approximately 40,000 copies of an advertisement (the "Postcards") to be sent out by mail through a third-party marketing company without approval of a registered principal at Moors & Cabot, in violation of FINRA Rules 2210(b)(1) and 2010. The postcards contained information about investing in fixed annuities that failed to provide a sound basis for evaluating an investment in fixed annuities, in violation of FINRA Rules 2210(d)(1)(A) and 2010.

In or about July and August 2013, Hodgman falsely represented to the Firm that the marketing company had mailed the Postcards prematurely, without his knowledge or authorization. To bolster this story, in or about August 2013, Hodgman made a telephone call to a Moors & Cabot compliance officer in which he impersonated a representative of the marketing company and made additional false statements regarding the mailing of the Postcards. Based on this conduct, Hodgman violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

1. The Advertising Violations

FINRA Rule 2210(b)(1) provides that "[a]n appropriately qualified registered principal of the member must approve each retail communication before the earlier of its use or filing with FINRA's Advertising Regulation Department."

FINRA Rule 2210(d)(1)(A) provides that "all member communications must be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service. No member may omit any material fact or qualification if the omission, in the light of the context of the material presented, would cause the

communication to be misleading.”

In or about May 2013, Hodgman submitted a proposal for an advertisement to the Firm’s compliance office. On or about May 22, 2013, the compliance office emailed Hodgman describing changes that it required before the advertisement could be approved. Hodgman did not respond to that email and did not make the required changes. Instead, without the approval of a registered principal at the Firm, in May and in July 2013, Hodgman caused the marketing company to send the Postcards to prospective customers.

The Postcards contained Hodgman’s name and photograph and promoted investments in fixed annuities with “yields over 3%” for “7 years.” The Postcards failed, however, to disclose any information regarding the limitations, restrictions, and conditions associated with the fixed annuities, including liquidity, surrender charges, and time frames, and failed to disclose the conditions associated with the availability of the proposed terms. As a result, the Postcards failed to provide a sound basis for evaluating an investment in the fixed annuities.

Based on the foregoing conduct, Hodgman violated FINRA Rules 2210(b)(1), 2210(d)(1)(A) and 2010.

2. False Statements and Impersonation

In or about July 2013, the Firm confronted Hodgman after learning that he had caused the Postcards to be mailed without the Firm’s approval. In response, Hodgman falsely claimed that he was unaware that the marketing company had sent the Postcards, and that the marketing company must have sent the Postcards prematurely without his approval. In addition, in or about August 2013, Hodgman falsely told the Firm that only 25 Postcards had been mailed.

In or about August 2013, the Firm asked Hodgman to provide the name and contact information for someone at the marketing company and also informed Hodgman that the Firm would need something in writing from the marketing company attesting to its purported mistake.

The following week, Hodgman called the Vice President and Compliance Officer of the Firm and impersonated the general manager of the marketing company. During that telephone call, Hodgman made several false statements regarding the Postcards, including: (1) that the mailing of the Postcards was the marketing company’s mistake; (2) that the Postcards were sent only to approximately 50 individuals; and (3) that the marketing company was unable to provide a list of the addresses to which it sent the Postcards.

Later in August 2013, a representative of the Firm spoke with the general manager of the marketing company, who denied that he had previously spoken with the Firm and contradicted Hodgman's statements to the Firm. The Firm confronted Hodgman, at which point he admitted that he had made false statements regarding the Postcards, that he had impersonated the general manager of the marketing company, and that, in fact, approximately 40,000 Postcards had been mailed at his direction.

Based on the foregoing conduct, Hodgman failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

B. I also consent to the imposition of the following sanction:

- a suspension from association with any FINRA member in any and all capacities for a period of 18 months; and
- a \$5,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the eighteen-month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become 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, I 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 herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA's Code of

Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive any right to claim bias or prejudice 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 acceptance or rejection of this AWC.

I 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

I 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 me;
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record

and may be considered in any future actions brought by FINRA or any other regulator against me;

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 the subject matter thereof in accordance with FINRA Rule 8313; and
4. I 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. I 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 my: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and

- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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 or its staff.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce me to submit it.

5/20/15
Date

Lucian D. Hodgman
Lucian D. Hodgman, Respondent

Reviewed by:

Philip A. Tracy, Jr.
Philip A. Tracy, Jr.
Counsel for Respondent
DiMento & Sullivan
Seven Faneuil Marketplace
Boston, MA 02109
617.523.2345

Accepted by FINRA:

6/18/15
Date

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

Robert C. Kennedy
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Regional Counsel
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