

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013039548401**

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

RE: Donald K. Gross, Respondent
CRD No. 1913749

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Donald K. Gross ("Gross"), 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

In November 1989, Gross first became registered with FINRA as a General Securities Representative through Summit Equities, Inc. (BD No. 11039) ("Summit" or the "Firm"). In February 2001, Gross also became registered through the Firm as a General Securities Principal and, in April 2010, Gross became registered through the Firm as a Limited Representative – Investment Banking. Gross remains associated with Summit in those capacities.

RELEVANT DISCIPLINARY HISTORY

Gross has no relevant formal disciplinary history with the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator.

OVERVIEW

From June 2011 through September 2011, Gross participated in a private securities transaction involving the sale of approximately \$6.2 million in limited partnership interests in a hedge fund without providing the required notice to or obtaining permission from Summit in violation of NASD Rule 3040 and FINRA Rule 2010. Additionally, Gross submitted a false compliance certification to the Firm in which he failed to disclose his participation in this private securities transaction in violation of FINRA Rule 2010. Gross also willfully failed to disclose on his Uniform Application for Securities Industry Registration ("Form U4") a federal tax lien of \$438,991 that was filed against him in violation of Article V, Section 2(c) of FINRA By-Laws and FINRA Rules 1122 and 2010.

FACTS AND VIOLATIVE CONDUCT

Private Securities Transaction

NASD Rule 3040 provides that "[p]rior to participating in any private securities transaction, an associated person shall provide written notice to the member with which he is associated describing in detail the proposed transaction and the person's proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction...." Where, as here, the associated person will receive selling compensation, the Firm must approve the proposed activity in writing.

In 2011, Summit's policies and procedures prohibited registered representatives from participating in private securities transactions without the Firm's prior written approval. Further, Summit required that registered representatives disclose all private securities transactions on their annual compliance certifications.

From June 2011 through September 2011, Gross participated in a private securities transaction for compensation by selling approximately \$6.2 million in limited partnership interests in the IME Fund, a hedge fund that traded options, to 11 investors, all of whom were Summit customers. In consideration for Gross's sales efforts, the IME Fund agreed to pay him a percentage of the advisory fee associated with managing the fund.

In September 2011, the IME Fund collapsed, and investors lost approximately 95% of their investments.

Gross participated in this private securities transaction without providing the required notice to or obtaining permission from Summit.

Based on the foregoing, Gross violated NASD Rule 3040 and FINRA Rule 2010.

False Certification

In June 2011 Gross submitted an annual compliance certification to Summit containing false information. Specifically, in listing his private securities transactions, Gross failed to disclose his participation in the IME Fund offering, which was ongoing at the time.

Based on the foregoing, Gross violated FINRA Rule 2010.

Undisclosed Tax Lien

Article V, Section 2(c) of the FINRA By-Laws requires that registrations filed with FINRA be kept current at all times and that amendments must be filed with FINRA “not later than 30 days after learning of the facts or circumstances giving rise to the amendment.”

FINRA Rule 1122 provides, “[n]o member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.”

At all times relevant herein, Question 14M of the Form U4 asked: “Do you have any unsatisfied judgments or liens against you?” If the answer is yes, the registered person is required to provide details about the judgment or lien.

On May 14, 2013, the IRS filed a tax lien of \$438,991 against Gross. Gross had knowledge of the tax lien on or about the time that it was filed against him, but willfully failed to disclose the lien on his Form U4.

By willfully failing to timely disclose the above-referenced tax lien on his Form U4, Gross violated Article V, Section 2(c) of the FINRA By-Laws and FINRA Rules 1122 and 2010.

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

- a two-year suspension from association with any FINRA member firm in any capacity; and
- a \$10,000 fine.

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

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).

I understand that this settlement includes a finding that I willfully omitted to state a material fact on a Form U4, and that under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 and Article III, Section 4 of FINRA's By-Laws, this omission makes me subject to a statutory disqualification with respect to association with a member.

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 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 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

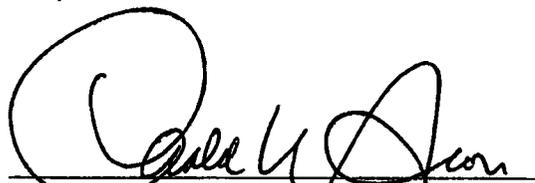
I understand that:

- 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

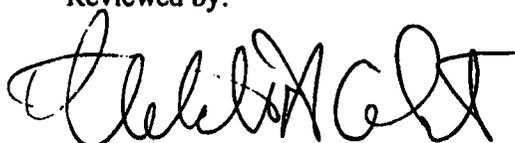
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute 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.

9/14/16
Date (mm/dd/yyyy)


Donald K. Gross (CRD No. 1913749)

Reviewed by:



Mitchell H. Cobert, Esq.
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Accepted by FINRA:

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

10/27/16
Date


Michael J. Newman
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FINRA Department of Enforcement
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