

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014039707402**

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

RE: Joseph Robert Holzhaus
Former Registered Representative
CRD No. 6058571

Pursuant to FINRA Rule 9216 of FINRA’s Code of Procedure, I 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

Respondent Joseph Robert Holzhaus (“Holzhaus”) first became registered with FINRA on June 6, 2012 as a General Securities Representative (Series 7). He also obtained his Series 66 license in June 2012. On November 26, 2013, Holzhaus registered with FINRA member firm Waddell & Reed, Inc. (“Waddell & Reed” or the “Firm”). Holzhaus’s registration with Waddell & Reed was terminated on December 26, 2013 for the events described below. Holzhaus is not currently registered with any FINRA member firm, but FINRA retains jurisdiction over him pursuant to Article V, Section 4, of the FINRA By-Laws.

OVERVIEW

On November 26, 2013, while registered with Waddell & Reed, Holzhaus violated FINRA Rule 2010 by signing and distributing to a third party a false and materially misleading letter on Firm letterhead. Between November 2013 and December 2013, Holzhaus failed to provide the Firm with written disclosure of his involvement with an outside consulting business in violation of FINRA Rules

3270 and 2010. On December 3, 2013, Holzhouse violated FINRA Rules 4511 and 2010 by using a personal email account to conduct Firm-related business, which caused Waddell & Reed to fail to comply with its recordkeeping obligations. Finally, on October 5, 2015, Holzhouse failed to appear and provide on-the-record testimony in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. Misleading Letter

FINRA Rule 2010 requires members and associated persons to “observe high standards of commercial honor and just and equitable principles of trade.” FINRA Rule 2010 encompasses business-related conduct that is inconsistent with just and equitable principles of trade, even if that activity does not involve a security. Providing a misleading letter purporting to verify the sufficiency of a customer’s funds is a violation of FINRA Rule 2010.

On November 26, 2013, Holzhouse signed and distributed to a third party a letter on Waddell & Reed letterhead purporting to confirm client LV’s financial ability to purchase a multi-million dollar home. The letter was misleading for two reasons. First, LV was not a client of Waddell & Reed. LV never executed any transaction through Waddell & Reed and an account was never opened for LV at the Firm. Second, LV held no funds or securities at Waddell & Reed and Holzhouse had not reviewed any account statements, tax returns, or other financial documents to validate the veracity of LV’s claimed wealth. Holzhouse’s basis for the statement in the verification letter was based solely on LV’s unverified oral representations. Based on the foregoing, Holzhouse violated FINRA Rule 2010.

2. Undisclosed Outside Business Activity

FINRA Rule 3270 provides that no registered person may be an employee, independent contractor, sole proprietor, officer, director, or partner of another person, or be compensated or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the registered representative’s relationship with the member firm, unless prior written notice is provided to the member. Member firms are to receive “prompt notification of all outside business activities of their associated persons so that the member’s objections, if any, to such activities [can] be raised at a meaningful time and so that appropriate supervision [can] be exercised.” The responsibility to give notice arises when the registered person takes steps to engage in the outside business activity.

While registered with Waddell & Reed in November and December 2013, Holzhouse and another registered representative provided consulting services to prospective client LV. Holzhouse’s consulting services included identifying real

estate for LV, attending home viewings with LV, coordinating communications between LV and potential real estate business partners, and drafting real estate transaction paperwork. Holzhaus and the other registered representative decided to formalize their consulting work by incorporating outside business, Robert Kaye Consulting, on December 16, 2013. Holzhaus served as the Chief Executive Officer and President of Robert Kaye Consulting. Robert Kaye Consulting issued an invoice to LV requesting a total of \$40,000 for services performed by Holzhaus and the other registered representative in November and December 2013.

Waddell & Reed's written policies required registered representatives to complete an outside business activity form and obtain written approval from the Firm prior to engaging in the outside activity. Holzhaus failed to provide written disclosure to, or obtain approval from the Firm before engaging in his outside consulting activity. Accordingly, Holzhaus violated FINRA Rules 3270 and 2010.

3. Use of a Personal Email Account for Firm-Related Business

FINRA Rule 4511 requires each member firm to make and preserve books and records in conformity with Rules 17a-3 and 17a-4 of the Securities Exchange Act of 1934. Rule 17a-4(b)(4) requires each member to preserve for a period of three years the originals of all communications received and copies of all communications sent by the member relating to its business. Emails fall within the purview of Rule 17a-4.

On December 3, 2013, Holzhaus used his personal, web-based email account to request that LV provide brokerage account statements to Waddell & Reed as a prerequisite for opening an account at the Firm. By using a personal email account to conduct Firm-related business, thereby causing Waddell & Reed to fail to comply with its recordkeeping obligations, Holzhaus violated FINRA Rules 4511 and 2010.

4. Failure to Provide Testimony

FINRA Rule 8210 requires members, persons associated with a member, and others subject to FINRA's jurisdiction to provide documents, information, and investigative testimony to FINRA in connection with, among other things, an investigation or examination.

Pursuant to Rule 8210, FINRA requested that Holzhaus appear and provide on-the-record testimony on July 21, 2015. Holzhaus appeared and provided partial testimony on July 21, 2015, requesting a temporary break in the testimony session for the purpose of retaining counsel and agreeing to continue testimony at a later date. Pursuant to a separate Rule 8210 request, Holzhaus's testimony was scheduled to continue on October 5, 2015. Holzhaus failed to appear and provide testimony on October 5, 2015, indicating in written correspondence that

he did not intend to provide testimony on October 5, 2015, or on any future date. By refusing to provide testimony, Holzhaus violated FINRA Rules 8210 and 2010.

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

- A bar in all capacities from associating with any FINRA member.

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. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

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; and
- 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.

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.

11/06/2015
Date (mm/dd/yyyy)


Respondent Joseph Robert Holzhaus

Accepted by FINRA:

11/20/2015
Date

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


Emma Jones
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FINRA Department of Enforcement
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