

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 20150479734 01**

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

RE: Rodger James Burskey  
General Securities Principal  
CRD No. 1193951

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**

In October 1983, Rodger Burskey entered the securities industry as an Investment Company Products/Variable Contracts Representative with a FINRA-registered firm. In February 2000 and June 2001, Burskey became registered as a General Securities Representative (GS) and a General Securities Principal (GP), respectively, with another FINRA-registered firm. In November 2006, Burskey became registered as a GS and a GP with Voya Financial Advisors, Inc. In November 2015, the firm terminated his registration. Although Burskey is not currently registered with a FINRA firm, he remains subject to FINRA’s jurisdiction.

**RELEVANT DISCIPLINARY HISTORY**

Rodger Burskey has no disciplinary history.

## OVERVIEW

FINRA requested that Burskey appear and provide on-the-record testimony pursuant to a FINRA Rule 8210 request that was issued in connection with an ongoing FINRA examination. Burskey has declined to appear for his testimony, in violation of FINRA Rules 8210 and 2010.

## FACTS AND VIOLATIVE CONDUCT

In November 2015, FINRA staff commenced an investigation to determine whether Rodger Burskey had made unsuitable recommendations or engaged in discretionary trading.

On October 25, 2016, FINRA staff sent a request to Burskey for on-the-record testimony pursuant to FINRA Rule 8210. The request required that Burskey appear in Chicago and provide sworn testimony on November 10, 2016. The letter was sent via certified and regular mail, asked Burskey to confirm his availability by November 3, 2016 and advised him that his failure to appear for testimony could subject him to disciplinary action and the imposition of sanctions, including a bar from the securities industry.

On November 10, 2016, shortly before the on-the-record testimony was scheduled to commence, Burskey sent FINRA staff an email stating that he would not be attending the on-the-record interview scheduled for that day.

Between November 23 and December 2, 2016, Burskey and FINRA staff exchanged emails and spoke with each on the telephone on several occasions about FINRA's pending investigation. As communicated to FINRA staff, and by this agreement, Burskey acknowledges that he received FINRA's request and will not appear for on-the-record testimony at any time.

By refusing to appear for on-the-record testimony as requested pursuant to FINRA Rule 8210, Burskey violates FINRA Rules 8210 and 2010.

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

A bar from associating with any FINRA member firm in any capacity.

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:

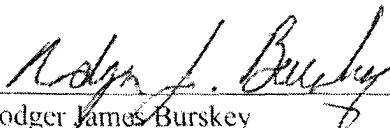
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;

- 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.

12/16/2016

Date


  
\_\_\_\_\_  
Rodger James Burskey

Accepted by FINRA:

12-29-16

Date

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

  
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Richard A. March  
Senior Regional Counsel  
FINRA Department of Enforcement  
55 West Monroe Street, Suite 2700  
Chicago, Illinois 60603-5052  
(312) 899-4351