

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017053741501**

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

RE: Elizabeth Marie Garcia, Respondent
General Securities Representative
CRD No. 6385917

Pursuant to FINRA Rule 9216 of FINRA’s Code of Procedure, I, Elizabeth Marie Garcia (“Garcia”), 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

Garcia entered the securities industry in August 2014, when she became associated with Merrill Lynch, Pierce, Fenner & Smith Inc. (the “Firm”), a FINRA regulated broker-dealer, in a non-registered capacity. While associated with the Firm, Garcia was also employed by a bank affiliated with the Firm (the “Bank”) as a Customer Service Sales Specialist. In that position, Garcia handled customer calls related to Bank accounts and other Bank products, and referred Bank customers to the Firm where appropriate. In her associated capacity with the Firm, Garcia had access to the customers’ Firm profile, account information, and other Firm data.

In November 2016, while associated with the Firm, Garcia became registered as a Series 7 General Securities Representative. On March 30, 2017, the Firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) reporting that Garcia had voluntarily terminated her association with the Firm effective February 28, 2017, and that an internal investigation commenced prior to Garcia’s termination revealed that she had received \$9,015 in reimbursement

for childcare expenses that were not incurred. Garcia also resigned her employment with the Bank on February 28, 2017.

Garcia is not currently associated with a FINRA regulated broker-dealer. However, pursuant to Article V, Section 4 of the FINRA By-Laws, she remains subject to FINRA's jurisdiction.

RELEVANT DISCIPLINARY HISTORY

Garcia has no disciplinary history in the securities industry.

OVERVIEW

From January 1, 2016 through January 31, 2017 (the "Relevant Period"), while associated with the Firm and employed by the Bank, Garcia converted Bank funds in violation of FINRA Rule 2010 by obtaining approximately \$9,015 in reimbursement from the Bank for childcare expenses that she did not incur. In order to obtain reimbursement, Garcia intentionally misrepresented to the Bank that she had paid a daycare facility for childcare services and also fabricated receipts and other documents purporting to be from the daycare facility.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 2010 requires associated persons to observe "high standards of commercial honor and just and equitable principles of trade." Conversion is an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it, and violates FINRA Rule 2010.

The Bank offered eligible employees the benefit of receiving reimbursement for certain out-of-pocket childcare expenses paid directly to the childcare provider. During the Relevant Period, while associated with the Firm and employed by the Bank, Garcia submitted to the Bank reimbursement requests for childcare expenses which she represented as having been paid to a daycare facility. However, the daycare facility did not provide childcare services to Garcia during the Relevant Period.

During the Relevant Period, Garcia submitted approximately ten reimbursement requests to the Bank for childcare expenses she did not incur. In each reimbursement request, Garcia falsely stated that she had paid a daycare facility for childcare services on particular dates. She also falsified signed certifications and fabricated signed receipts purporting to be from the daycare facility. Additionally, in each reimbursement request, Garcia signed a certification in which she falsely represented that the information provided therein was accurate and that she had obtained original signatures from the childcare provider verifying receipt of her payment. When asked about her reimbursement requests during the

Bank's investigation of the matter, Garcia further misled the Bank by falsely stating that her claimed childcare expenses were legitimate.

In total, during the Relevant Period, the Bank reimbursed Garcia approximately \$9,015 for childcare expenses that she did not incur. Thus, Garcia converted the Bank's funds in violation of FINRA Rule 2010.

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

A bar from association with any FINRA member 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.

01/22/2019
Date (mm/dd/yyyy)

Elizabeth Marie Garcia
Elizabeth Marie Garcia, Respondent

Reviewed by:

Richard R. Thomas

Richard R. Thomas, Esq.
Counsel for Respondent
Smith LC
4505 E. Chandler Blvd., Suite 290
Phoenix, AZ 85048
Telephone: (480) 361-5230
Facsimile: (480) 350-7309

Accepted by FINRA:

2/8/2019
Date

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

Richard Chin

Richard Chin, Chief Counsel
Lane Thurgood, Director
Gerald W. Sawczyn, Senior Counsel
FINRA Department of Enforcement
One World Financial Center
200 Liberty Street, 11th Floor
New York, NY 10281-1003
Telephone: (646) 315-7322
Facsimile: (202) 689-3415