

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2018056891001**

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

**RE:** Judith A. Johnston, Respondent  
Investment Company Shares and Variable Contracts Representative  
CRD No. 5532549

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**

Judith A. Johnston ("Johnston" or "Respondent") was first registered with FINRA in October 2009 as an Investment Company and Variable Contracts Products Representative through NYLIFE Securities LLC ("NYLIFE" or the "Firm"). While she was registered with NYLIFE, from October 2009 through October 2016, Johnston worked out of the Firm's office located at 4251 Glenhurst Lane, Frisco, TX.

Johnston is not currently associated with a FINRA member firm, but remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.<sup>1</sup>

**RELEVANT DISCIPLINARY HISTORY**

Johnston has no relevant disciplinary history.

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<sup>1</sup> Jurisdiction over a formerly registered person may be extended if an amendment filed within two years of the original Form U5 discloses that such person "may have engaged in conduct actionable under any applicable statute, rule, or regulation," it shall recommence the running of the two-year period (By Laws, Article V, Section 4(a)(i)).

## **OVERVIEW**

As discussed below, during the Staff's investigation into multiple customer complaints regarding the sale of variable annuities when Johnston was registered with NYLIFE, Johnston failed to cooperate by not providing on-the-record testimony in violation of FINRA Rules 8210 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

FINRA Rule 8210(a)(1) provides, "[f]or the purpose of an investigation, complaint, examination, or proceeding authorized by the FINRA By-Laws or rules ... FINRA staff shall have the right to ... require a person associated with a member ... to provide information orally, in writing, or electronically ... with respect to any matter involved in the investigation, complaint, examination, or proceeding."

On November 6, 2018, Enforcement sent a request to Johnston at her CRD address, pursuant to FINRA Rule 8210, requesting that she appear to provide testimony on December 4, 2018. On November 20, 2018, Johnston hired counsel and testimony was rescheduled for January 24, 2019.

On January 24, 2019, Johnston appeared to start her testimony. At the conclusion of one day of testimony on January 24<sup>th</sup>, FINRA staff determined that it needed additional testimony from Johnston and requested that she appear to continue her OTR.

By email dated February 11, 2019, Counsel for Johnston stated that Johnston would not comply with FINRA's request to provide any additional testimony, and no longer wished to cooperate with the investigation.

As stated in the email to FINRA staff on February 11, 2019, and by this agreement, Johnston acknowledges that she received FINRA's 8210 request to provide testimony, and will not comply with that request.

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

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

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

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:

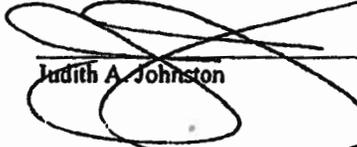
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and

**C. If accepted:**

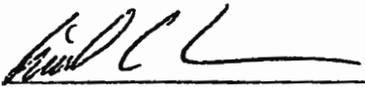
1. **this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;**
2. **this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;**
3. **FINRA may make 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.

2/21/2019  
Date (mm/dd/yyyy)

  
\_\_\_\_\_  
Judith A. Johnston

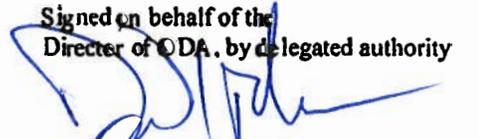
Reviewed by:

  
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Richard A. Lewins  
Counsel for Respondent  
7920 Belt Line Road, Suite 650  
Dallas, TX 75254  
(972) 934 1313

Accepted by FINRA:

3/18/19  
Date

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

  
\_\_\_\_\_  
David L. Friedman  
Senior Counsel  
FINRA Department of Enforcement  
Brookfield Place  
200 Liberty Street  
New York, NY 10281  
(646) 315-7340