

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2018059400801**

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

RE: Gary A. Forrest, Respondent
Former Registered Representative
CRD No. 1313782

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Gary A. Forrest submits 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

Forrest first registered with FINRA through his association with a member firm in August 1985. In February 2007, Forrest registered with FINRA as a General Securities Representative through American Portfolio Financial Services, Inc. (CRD No. 18487) ("American Portfolio" or the "Firm") where he remained until his registration was terminated on November 16, 2016.

Although Forrest is not currently registered or associated with any member firm, he remains subject to FINRA's jurisdiction. On August 23, 2018, American Portfolio filed an amended Form U5 disclosing for the first time a customer arbitration alleging misrepresentation and an unsuitable recommendation in connection with the sale of promissory notes. Pursuant to Article V, Section 4(a)(i) of FINRA's By-Laws, the Form U5 amendment operates to recommence the running of the two-year jurisdiction period.

RELEVANT DISCIPLINARY HISTORY

In November 2018, Forrest entered into an Administrative Consent Agreement and Order (the "Order") with the State of Michigan's Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau whereby Forrest agreed to comply with the Michigan Uniform Securities Act in connection with all future conduct and activities and was fined \$3,000. The Order, which was based on Forrest's conduct after leaving American Portfolio, concerned the sale of unregistered securities and acting as an unregistered agent for Woodbridge Mortgage Investment Fund 3, LLC, Woodbridge Mortgage Investment Fund 3A, LLC and Woodbridge Mortgage Investment Fund 4, LLC.

OVERVIEW

Between September 2016 and November 2016 (the "Relevant Period"), Forrest engaged in unapproved private securities transactions involving the sale of promissory notes totaling \$826,986. Forrest's conduct violated FINRA Rules 3280 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 3280(b) states 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." FINRA Rule 3280(e) defines generally a private securities transaction as any securities transaction outside the regular course or scope of an associated person's employment with a member. FINRA Rule 2010 requires associated persons, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

During the Relevant Period, Forrest solicited investors to purchase promissory notes relating to the Woodbridge Group of Companies LLC ("Woodbridge"), a purported real-estate investment fund. Forrest sold \$826,986 in Woodbridge promissory notes to 15 investors, 13 of whom were American Portfolio customers. Forrest received \$25,905 in commissions in connection with these transactions. The Firm's written supervisory procedures specifically required registered representatives to request and obtain approval prior to engaging in private securities transactions including the offer of promissory notes. Although Forrest sought approval to sell Woodbridge promissory notes, American Portfolio denied his request. Despite this denial, Forrest sold Woodbridge promissory notes while associated with the Firm.

In December 2017, Woodbridge filed a voluntary Chapter 11 bankruptcy petition.

On December 27, 2018, the United States District Court for the Southern District of Florida issued final judgments against, among others, Woodbridge and its former owner, Robert H. Shapiro. *SEC v. Shapiro*, Case No. 17-24624 (S.D. Fla.). Those judgments required Woodbridge and Shapiro to, among other things, disgorge their ill-gotten gains and also required Shapiro to pay a civil penalty.

By virtue of the foregoing, Forrest violated FINRA Rules 3280 and 2010.

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

- A suspension from association with any FINRA member firm, in all capacities, for 10 months;
- A \$5,000 fine; and
- Disgorgement of commissions received, as described below.

The fine shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

Disgorgement of commissions received, which is ordered to be paid to FINRA in the amount of \$25,905.60, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621, from October 19, 2016 until the date this AWC is accepted by the NAC. Disgorgement shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanctions 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).

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 prejudice 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.**

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 understand and acknowledge that FINRA does not represent or advise me and I cannot rely on FINRA or FINRA staff members for legal advice; 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.

04/08/2019
Date (mm/dd/yyyy)

Gary A. Forrest
Gary A. Forrest, Respondent

Accepted by FINRA:

4/11/2019
Date

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

Ellen Sheridan-Cona

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