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June 16, 2017

Via Electronic Mail

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: In the Matter of the Association of James H. Dean (CRD # 63200) with American Portfolios Financial Services, Inc. (CRD # 18487)

Dear Mr. Fields:

Effective June 16, 2017, and pursuant to Rule 19h-1(a)(3)(ii) of the Securities Exchange Act of 1934 (“SEA” or “Exchange Act”), the Financial Industry Regulatory Authority (“FINRA”) hereby gives notification to the United States Securities and Exchange Commission (“the SEC” or “the Commission”) of the association of James H. Dean (“Dean”) as a General Securities Representative with American Portfolios Financial Services, Inc. (“APFS” or “the Firm”). The Firm filed a Membership Continuance Application (“MC-400” or “Application”) with FINRA on April 1, 2016.¹

Dean’s Disqualifying Event

Dean is subject to a statutory disqualification, as that term is defined in Section 3(a)(39)(A) of the Securities Exchange Act of 1934 (the “Exchange Act” or “SEA”), as a result of a National Association of Securities Dealers, Inc. (“NASD”) n/k/a FINRA Decision, dated February 16, 1978, in which he was barred from association with any NASD member, with the right to reapply after a reasonable time.² The bar came as a

¹ See MC-400 Application and related attachments filed by APFS on March 28, 2017 (attached as Exhibit 1).

² See NASD Decision, Complaint No. NY-1938, dated February 16, 1978 (attached as Exhibit 2).

result of Dean misappropriating the proceeds of a \$1,169 check issued on a customer's life insurance policy.³ Further, NASD found that Dean retained the proceeds of a \$600 money order drawn by another customer and made payable to Dean, although such funds were to be applied as a premium payment on the customer's life insurance policy.⁴

Background Information of James Dean

Prior SEC Rule 19h-1 and 19d-1 Notices

In April 1981, NASD filed a Notification pursuant to SEA Rule 19h-1, permitting Dean to associate with New England Life Equity Services Corporation ("NEL") as a registered representative.⁵ The Commission acknowledged NASD's Notice filing in May 1981.⁶

In October 1985, NASD filed a Notification pursuant to SEA Rule 19h-1, permitting Dean to associate with CNA Investor Services, Inc. as an investment company and variable contracts products representative.⁷ The Commission acknowledged NASD's Notice filing in November 1985.⁸

In March 1988, NASD filed another Notification pursuant to SEA Rule 19h-1, permitting Dean to associate with Carillon Investments, Inc. as an investment company and variable contracts products representative.⁹

³ Id.

⁴ Id.

⁵ Note that although a 19h-1 Notification was filed in this instance, typically a 19h-1 Notice filing would have been required as this was Dean's first approval following his disqualifying event. *See* 19h-1 Notification, In the Matter of the Association of James H. Dean with as a Registered Representative with NEL, April 27, 1981 (attached as Exhibit 3 without attachments).

⁶ FINRA staff was unable to locate the SEC Acknowledgement letter.

⁷ *See* letter dated October 23, 1985 from Craig L. Landauer of the NASD to John Wheeler of the SEC and the SEC's Acknowledgement letter, from Ingrid Nelson of the SEC to Mary S. Head of the NASD, dated November 4, 1985 (all attached as Exhibit 4 without attachments).

⁸ Id.

⁹ *See* letter dated March 23, 1988 from Craig L. Landauer of NASD to Jonathan G. Katz of the SEC (attached as Exhibit 5 without attachments). FINRA staff was unable to locate the SEC Acknowledgement letter.

In May 2002, NASD filed a Notification pursuant to SEA Rule 19h-1, permitting Dean to associate with Lincoln Financial Advisors Corp. as an investment company and variable contracts products representative.¹⁰ The Commission acknowledged NASD's Notice filing in June 2002.¹¹

In April 2005, NASD filed a Notice pursuant to SEA Rule 19h-1, permitting Dean to associate with Lincoln Financial Advisors Corporation as a General Securities Representative.¹² The Commission acknowledged NASD's Notice filing in June 2005.¹³

Proposed Association & Responsibilities

APFS proposes to employ Dean as a General Securities Representative (Series 7). The Firm has represented that Dean will function as a registered representative¹⁴ and will be engaged in "full sales function as permitted by Series 7 and the firm's membership agreement."¹⁵

Dean will work from a branch office of the Firm located at 76 New York Avenue, Huntington, NY 11743.¹⁶ Dean will be compensated based on commission.¹⁷ Based on his level of production, Dean will also be permitted to earn Capital Units in APFS.¹⁸ The Firm has represented that these units will "have value in the event of the sale of the firm."¹⁹

¹⁰ See letter dated May 1, 2002 from Patrick W. Leary ("Leary") of the NASD to Jonathan G. Katz of the SEC and the SEC's Acknowledgement letter, from Robert Cushmac ("Cushmac") of the SEC to Leary of the NASD, dated June 5, 2002 (all attached as Exhibit 6 without attachments).

¹¹ Id.

¹² See 19h-1 Notice, In the Matter of the Association of James H. Dean with as a General Securities Representative with Lincoln Financial Advisors Corp., April 5, 2005 and the SEC's Acknowledgement letter Cushmac to Deborah F. McIlroy of the NASD, dated June 27, 2005 (all attached as Exhibit 7 without attachments).

¹³ Id.

¹⁴ See Exhibit 1 at Bates p. 101, in response to Question 3.

¹⁵ See Exhibit 1 at Bates p. 101, in response to Question 4.

¹⁶ See Exhibit 1 at Bates p. 101, in response to Question 6.

¹⁷ See Exhibit 1 at Bates p. 101, in response to Question 5.

¹⁸ See Exhibit 1 at Bates p. 104, in response to Question 4.

¹⁹ Id.

Employment and Registration History

Employment History

Dean has been associated with the following firms during the following periods:²⁰

<u>Employer</u>	<u>Period of Employment</u>
APFS	February 2017 to present
Lincoln Financial Advisors Corp.	May 2002 – February 2017
MML Investors Services, Inc.	November 1999 – February 2000
Hartford Equity Sales Co. ²¹	May 1993 – October 1993
Carillon Investments, Inc.	October 1987 – December 1991
CNA Investor Services, Inc.	March 1983 – August 1985
The Mutual Life Insurance Co., of New York	February 1983 – November 1983
MONY Securities Corp.	February 1983 – November 1983
NEL Equity Services, Corp.	June 1976 – February 1983
New York Life Variable Contracts Corp.	March 1973 – March 1975

Registration History

Dean was first registered as a Registered Representative (Series 1) in March 1973.²² He then became registered as an Investment Company and Variable Contracts Products Representative (Series 6) in February 2004.²³ In July 1990 he passed the Uniform Securities Agent State Law Examination (Series 63).²⁴ Dean qualified as a General Securities Representative Examination (Series 7) in October 2004.²⁵

²⁰ See CRD Snapshot for James H. Dean at p. 7 (attached as Exhibit 8).

²¹ See Legacy Employment History for James H. Dean (attached as Exhibit 9).

²² The Series 1 is n/k/a the Series 7.

²³ Dean requalified as a Series 6 representative in January 2000 and April 2002. See Exhibit 8 at p. 8.

²⁴ Dean requalified for the Series 63 in April 2002. See Exhibit 8 at p. 8.

²⁵ See Exhibit 8 at p. 8.

Outside Business Activities (“OBA”)

Dean lists his OBAs as an investment advisor with American Portfolio Advisors, Inc. and an insurance agent with Steinberg Anna Wealth Management.²⁶

Additional Regulatory Actions

In May 1976, the New York State Insurance Department reprimanded Dean for improper business conduct due to his conversion of client funds. He was fined \$250.²⁷

In 1992, in a complaint filed by NASD, Dean was found to have commingled customer funds with his own.²⁸ He was censured, fined \$5,000 and required to requalify for the Series 6. This complaint was later dismissed by the National Business Conduct Committee.²⁹

Background Information of APFS

APFS is based in Holbrook, New York and has been a member of FINRA since September 2001. The Firm has 385 branch offices and 76 Offices of Supervisory Jurisdiction (“OSJ”). The Firm employs approximately 100 individuals; 817 registered representatives and 157 registered principals. In addition to Dean, APFS currently employs four other statutorily disqualified persons.³⁰ The Firm is not a member of any other self-regulatory organization.

²⁶ See Exhibit 8 at pp. 7 - 8.

²⁷ See Exhibit 8 at p. 15.

²⁸ See Exhibit 8 at pp. 16 -17.

²⁹ See Exhibit 8 at p. 16.

³⁰ The other statutorily disqualified individuals are David L. Ciano (“Ciano”), Steven L. Kolinsky (“Kolinsky”), David J. Mottes (“Mottes”) and Daniel J. Segal (“Segal”). The Firm was only required to file a MC-400 Application on behalf of Ciano. Ciano is disqualified as a result of a May 17, 2011 Administrative Consent Order issued by the New Jersey Bureau of Securities. FINRA approved Ciano’s association with APFS on December 31, 2014, and the SEC issued its Acknowledgment letter on May 26, 2015. MC-400 Applications on behalf of Kolinsky, Mottes and Segal were not required, because the sanctions from their disqualifying events were either no longer in effect when they associated with APFS, or has not triggered the need for a statutory disqualification review, as outlined in *FINRA Regulatory Notice 09-19* (April 2009).

Proposed Supervisor

Dean's Primary Supervisor – Kenneth C. Anna (CRD# 2204605)

Dean will be supervised onsite by Kenneth C. Anna (“Anna”), who is a supervising principal at the Firm.³¹ Anna has been employed with APFS since March 2007.³²

Anna passed the General Securities Representative Examination (Series 7) and qualified for the Uniform Securities Agent State Law Exam (Series 63) in May 1992.³³ He later qualified as a General Securities Principal Examination (Series 24) in May 1996 and he then passed the Uniform Investment Adviser Law Examination (Series 65) in July 2004.

Anna has been associated with the following firms during the following periods:³⁴

<u>Employer</u>	<u>Period of Employment</u>
APFS	March 2007 to present
First Republic Group, LLC	January 1998 – March 2007
Nichols, Safina, Lerner & Co., Inc.	January 1994 – January 1998
Gruntal & Co., Inc.	December 1991 – November 1993

Anna's OBAs

Anna lists his OBAs as: 1) a 50 % owner of Steinberg Anna Wealth Management Corp, since October 2007, to which he devotes 5 hours per month; 2) a volunteer fireman and emergency medical technician with the Halesite Fire Department since May 2012, to which he devotes 25 hours per month – 5 hours during market hours; 3) since February 2015, he's served on the board of the Hunting Bay Village Zoning Board, to which he devotes 4 hours per month; and 4) since July 2014, he is been associated with Carleigh Mac Foundation, a charitable organization to which he devotes 1 hour per month.³⁵

³¹ See Exhibit 1 at p. 102.

³² CRD Snapshot for Kenneth C. Anna at p. 12 (attached as Exhibit 10).

³³ See Exhibit 10 at p. 13.

³⁴ See Exhibit 17 at pp. 5-6.

³⁵ See Exhibit 10 at p. 13.

Customer Complaints

Anna has been the subject of three customer complaints during his career. The first complaint, from 1994, was denied.³⁶ The second complaint, from 1999, the customer alleged misrepresentation and breach of fiduciary duty. The complaint was settled for \$9,500. Anna did not contribute to the settlement.³⁷ The third customer complaint, from 2009, the customer alleged unsuitability and that Anna's employing firm improperly accepted an IRA transfer form and beneficiary form which led to an improper payout from the IRA account. The complaint was settled for \$75,000, with Anna contributing \$9,999.00.³⁸

Anna has not been the subject of any formal or informal disciplinary proceedings or additional customer complaints.

Alternate Supervisor

In the event that Anna is out of the office, Dean will be supervised by Tom Wirtshafter ("Wirtshafter") (CRD # 1042793).³⁹ Wirtshafter, the Firm's Director of Supervision, works from his home office, which is located at 1930 Broadway, Apt. 3E, New York, New York. Wirtshafter has been employed with APFS since November 2004.⁴⁰

Wirtshafter passed the General Securities Representative Examination (Series 7) in April 1982.⁴¹ He then qualified for the Uniform Securities Agent State Law Exam (Series 63) in February 1986.⁴² He later qualified as a General Securities Principal (Series 24) in April 1985; as a Municipal Securities Principal (Series 53) in November 1986; as a Registered Options Principal (Series 4) in January 1989; and he passed the Uniform Combined State Law Examination (Series 66) in June 2009.

³⁶ See Exhibit 10 at pp. 19 – 22.

³⁷ See Exhibit 10 at pp. 22- 25.

³⁸ See Exhibit 10 at pp. 17 – 19.

³⁹ See Exhibit 8, in response to Question 2.

⁴⁰ See CRD Snapshot for Tom Wirtshafter (attached as Exhibit 11).

⁴¹ See Exhibit 11 at pp. 15 – 16.

⁴² Wirtshafter requalified for the Series 63 in January 1987.

Wirtshafter has been associated with the following firms during the following periods:⁴³

<u>Employer</u>	<u>Period of Employment</u>
APFS	November 2004 to present
AXA Advisors, LLC	March 2003 – June 2004
GRR Financial, Inc.	March 2002 – March 2003
APFS	September 2001 – February 2003
Nathan & Lewis Securities, Inc.	April 1982 – September 2001
MetLife Securities, Inc.	October 1998 – March 2001
ABI Securities, Inc.	September 1991 – July 1992

Wirtshafter's OBAs

Wirtshafter lists his OBAs as: 1) the operator of Barrow Street Theatre and play producer, to which he devotes 50 hours per month, with 10-20 hours devoted during market hours; 2) he is the Treasurer and board member of Town Hall Foundation, a non-profit theater, to which he devotes 25 hours per month; 3) he was an investor in the play, Book of Mormon; 4) he acts as trustee to the Matrix China Fund Mutual Funds, to which he devotes 2 hours per month; and he is the Treasurer and board member of Culture Project, a non-profit theater, to which he devotes 10 hours per month, with 5 hours devoted during market hours.⁴⁴

Wirtshafter has not been the subject of any formal or informal disciplinary proceedings or customer complaints.

Basis for FINRA's Filing of the 19h-1 Notification

SEA Rule 19h-1(a)(3)(ii) reads, in part:

A notice need not be filed with the Commission pursuant to this rule if. . .

- A. The self-regulatory organization finds, after reasonable inquiry, that except for the identity of the employer concerned, the terms and conditions of the proposed admissions or continuance are the same in all material respects as those imposed or not disapproved in connection with a prior admission or

⁴³ See Exhibit 10 at pp. 12-15.

⁴⁴ See Exhibit 10 at p. 15.

continuance of the person subject to the statutory disqualification pursuant to an order of the Commission under paragraph (d) of this section or other substantially equivalent written communication and that there is no intervening conduct or other circumstance that would cause the employment to be inconsistent with the public interest or the protection of investors;

It is appropriate for FINRA to file this notification pursuant to SEA Rule 19h-1(a)(3)(ii), because this Application meets all applicable conditions of this rule because Dean's proposed association with APFS is the same in all material respects as those imposed in his prior approvals. Further, Dean will be subject to the same provisions as those approved in the heightened supervisory plan from the 19h-1 Notice filed by NASD on April 5, 2005.⁴⁵

FINRA knows of no other conduct or other circumstances that would cause Dean's association with APFS as a General Securities Representative to be inconsistent with the public interest or the protection of investors. FINRA therefore believes that this form of notification, to the Commission, is appropriate.

APFS is not a member of any other self-regulatory organization.

Sincerely,

Lorraine Lee-Stepney

Lorraine Lee-Stepney
Manager, Statutory Disqualification Program

Enclosures

cc: Martin Wendel (Via Electronic Mail)
America Portfolios Financial Services, Inc.

Natasha Greiner (Via Electronic Mail)
Office of Chief Counsel
Division of Trading and Markets
U.S. Securities and Exchange Commission

⁴⁵ See Exhibit 7.

Robert C. Cushmac
Office of Chief Counsel
Division of Trading and Markets
U.S. Securities and Exchange Commission

(Via Electronic Mail)

Daniel M. Sibears
Executive Vice President
Regulatory Operations, Shared Services
FINRA

(Via Electronic Mail)

Ann-Marie Mason
Vice President & Counsel
Regulatory Operations, Shared Services
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(Via Electronic Mail)

Andrew Love
Counsel
Office of General Counsel
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(Via Electronic Mail & w/out Exhibits)

Scott Schnatter
Surveillance Director
Long Island District Office
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(Via Electronic Mail & w/out Exhibits)

Paul Carroll
Principal Regulatory Coordinator
Long Island District Office
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(Via Electronic Mail & w/out Exhibits)

Cyriac Edappully
Regulatory Analyst
Registration and Disclosure
FINRA

(Via Electronic Mail & w/out Exhibits)

Exhibits

1. MC-400 Application and related attachments filed by APFS on March 28, 2017.
2. NASD Decision, Complaint No. NY-1938, dated February 16, 1978.
3. 19h-1 Notification, In the Matter of the Association of James H. Dean with as a Registered Representative with NEL, April 27, 1981.
4. Letter dated October 23, 1985 from Craig L. Landauer of the NASD to John Wheeler of the SEC and the SEC's Acknowledgement letter, from Ingrid Nelson of the SEC to Mary S. Head of the NASD, dated November 4, 1985.
5. Letter dated March 23, 1988 from Craig L. Landauer of NASD to Jonathan G. Katz of the SEC.
6. Letter dated May 1, 2002 from Patrick W. Leary ("Leary") of the NASD to Jonathan G. Katz of the SEC and the SEC's Acknowledgement letter, from Robert Cushmac ("Cushmac") of the SEC to Leary of the NASD, dated June 5, 2002.
7. 19h-1 Notice, In the Matter of the Association of James H. Dean with as a General Securities Representative with Lincoln Financial Advisors Corp., April 5, 2005 and the SEC's Acknowledgement letter Cushmac to Deborah F. McIlroy of the NASD, dated June 27, 2005.
8. CRD Snapshot for James H. Dean.
9. Legacy Employment History for James H. Dean.
10. CRD Snapshot for Kenneth C. Anna.
11. CRD Snapshot for Tom Wirtshafter.