

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2017055800301**

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

RE: Jerry Lou Guttman, Respondent  
Former Registered Representative  
CRD No. 1078383

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**

Respondent Jerry Lou Guttman (“Guttman”) first associated with a FINRA member firm in November 1982 and first registered with a member firm in January 1983. Between January 1983 and October 2001, Guttman was registered with a number of FINRA member firms. In November 2001, Respondent became registered as an Investment Company Products/Variable Contracts Representative (Series 6) with member firm United Planners’ Financial Services of America (“United Planners” or the “Firm”). On January 8, 2009, Guttman also became registered as an Investment Company Products/Variable Contracts Principal (Series 26) with the Firm. On October 3, 2017, Respondent’s registration with the Firm was terminated.

Guttman is not currently associated with any FINRA member firm, but FINRA retains jurisdiction over him pursuant to Article V, Section 4, of the FINRA By-Laws.

## **OVERVIEW**

From approximately September 2008 through May 2017, while registered with the Firm, Guttman participated in private securities transactions without first providing notice to the Firm. Guttman's conduct violated NASD Rule 3040 (during the period September 2008 through September 20, 2015) and FINRA Rule 3280 (during the period September 21, 2015 through May 2017),<sup>1</sup> as well as NASD Rule 2110 (during the period September 2008 through December 14, 2008) and FINRA Rule 2010 (during the period December 15, 2008 through May 2017).<sup>2</sup>

## **FACTS AND VIOLATIVE CONDUCT**

NASD Rule 3040 and its successor FINRA Rule 3280 prohibit associated persons from participating "in any manner in a private securities transaction," without first providing written notice to the registered representative's firm. NASD Rule 3040 and FINRA Rule 3280 define a private securities transaction as "any securities transaction outside the regular course or scope of an associated person's employment with a member [firm]." A violation of NASD Rule 3040 and/or FINRA Rule 3280 is also a violation of NASD Rule 2110 and its successor FINRA Rule 2010, which require members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

During the period September 2008 through May 2017, Guttman sold more than \$7,000,000 worth of membership interests in at least six different limited liability companies to 31 Firm customers and seven non-customers without first disclosing the sales to United Planners. Guttman participated in the sales of these membership interests to Firm customers and non-customers by: (1) soliciting the membership interests to investors; (2) communicating with investors about their investments; (3) drafting, distributing, and collecting the investment agreements from each investor; (4) collecting and depositing investors' checks into the companies' bank accounts; and (5) managing the companies as one of only two managing members.

By virtue of the foregoing, Guttman violated NASD Rule 3040 (during the period September 2008 through September 20, 2015) and successor FINRA Rule 3280 (during the period September 21, 2015 through May 2017), as well as NASD Rule 2110 (during the period September 2008 through December 14, 2008) and successor FINRA Rule 2010 (during the period December 15, 2008 through May 2017).

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<sup>1</sup> NASD Rule 3040 was replaced by FINRA Rule 3280 on September 21, 2015.

<sup>2</sup> NASD Rule 2110 was replaced by FINRA Rule 2010 on December 15, 2008.

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

Bar in 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 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.

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.

11/13/17  
Date (mm/dd/yyyy)

  
Respondent Jerry Lou Guttman

Reviewed by:



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Kevin J. Walsh, Esq.  
Counsel for Respondent  
Quarles & Brady, LLP  
Renaissance One  
Two North Central Avenue  
Phoenix, AZ 85004-2391  
602-229-5690

Accepted by FINRA:

11-15-2017

Date

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



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