

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2018057382001**

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

**RE: Patrick Neal Foley, Respondent  
General Securities Representative  
CRD No. 6682164**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Patrick Neal Foley ("Respondent"), 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 entered the securities industry with Merrill Lynch, Pierce, Fenner & Smith Incorporated (the "Firm"), a FINRA-regulated broker-dealer, in July 2016. In September 2016, Respondent became registered with the Firm as a GSR.

On February 7, 2018, the Firm filed a Form U5 stating that Respondent had been discharged on January 31, 2018 for "[c]onduct including accepting loans from a client."

Respondent is not currently associated with a FINRA-regulated broker-dealer, but FINRA retains jurisdiction over him pursuant to Article V, Section 4 of FINRA's By-Laws.

**RELEVANT DISCIPLINARY HISTORY**

Respondent has no relevant disciplinary history.

## **OVERVIEW**

In May 2019, Respondent violated FINRA Rules 8210 and 2010 by failing to appear and provide testimony as requested pursuant to FINRA Rule 8210 in connection with an investigation into allegations that he accepted loans from an elderly Firm customer. In response to a request that he appear and provide testimony made pursuant to FINRA Rule 8210, Respondent stated through counsel that he would not appear as requested. Respondent subsequently failed to appear on the date requested and informed staff that he would not cooperate further in the investigation.

## **FACTS AND VIOLATIVE CONDUCT**

FINRA Rule 8210 authorizes FINRA, for purposes of an investigation, complaint, examination, or proceeding authorized by the FINRA By-Laws or rules, to "require a member, person associated with a member, or person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically ... with respect to any matter involved in the investigation, complaint, examination or proceeding...." Rule 8210 also specifies that "[n]o member or person shall fail to provide information or testimony...pursuant to this rule."

Conduct that violates FINRA Rule 8210 also violates FINRA Rule 2010.

On April 3, 2019, in connection with the investigation, FINRA staff sent a letter pursuant to FINRA Rule 8210 requesting that Respondent appear and provide testimony on May 8, 2019. The letter informed Respondent that failure to respond could lead to the imposition of sanctions, including a bar from the securities industry.

On May 3, 2019, Respondent's counsel telephoned FINRA staff regarding the Rule 8210 request, stating that Respondent would not appear for testimony as requested. On May 6, 2019, counsel confirmed by e-mail that Respondent would not be appearing for testimony as requested, and that he was withdrawing from the representation. On May 8, 2019, Respondent failed to appear for testimony as requested. On May 9, 2019, staff spoke with Respondent by telephone and he again confirmed that he would not appear for testimony in connection with FINRA's investigation.

To date, Respondent has refused to appear and provide testimony as requested pursuant to Rule 8210. By failing to appear and provide testimony as requested, Respondent violated FINRA Rules 8210 and 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

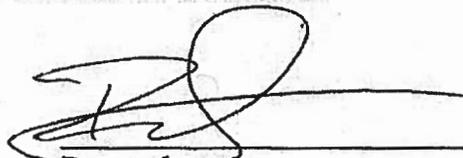
I understand that:

- 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 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.

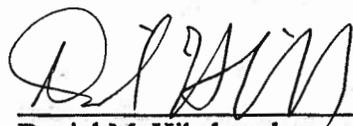
5/29/2009  
Date (mm/dd/yyyy)

  
Respondent

Accepted by FINRA:

6/14/19  
Date

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

  
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