

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2019061857901**

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

RE: Edward Earl Matthes, Respondent  
Registered Representative  
CRD No. 2788055

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 Edward Earl Matthes first associated with a FINRA member firm in 1996. Between 1996 and February 2012, Matthes was registered with two different member firms. On April 11, 2012, Matthes registered as a General Securities Representative and Investment Company and Variable Contracts Products Representative with Mutual of Omaha Investor Services, Inc. (“Mutual of Omaha”). Matthes is currently registered with Mutual of Omaha.

**RELEVANT DISCIPLINARY HISTORY**

On May 5, 2006, Matthes entered into a settlement agreement with the State of Missouri, Securities Division of the Office of the Secretary of State, regarding an alleged unsuitable variable annuity recommendation. Matthes agreed to the disgorgement of commissions and a two-month suspension from selling variable annuities.

## **OVERVIEW**

In 2019, Matthes failed to provide documents and information requested pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

On March 7, 2019, FINRA initiated an investigation based on an external tip.

FINRA Rule 8210(a)(1) provides, in relevant part, that FINRA may “require a member, person associated with a member, or any other person subject to FINRA’s jurisdiction to provide information ... with respect to any matter involved in [a FINRA] investigation.” FINRA Rule 8210(c) provides that “[n]o member or person shall fail to provide information ... pursuant to this Rule.” A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010, which requires members to “observe high standards of commercial honor and just and equitable principles of trade.”

On March 8, 2019, FINRA staff sent a request to Matthes for documents and information pursuant to FINRA Rule 8210. As stated in his counsel’s phone call with FINRA staff on March 18, 2019, and by this agreement, Matthes acknowledges that he received FINRA’s request and will not produce the requested documents and information. By refusing to produce documents and information as requested pursuant to FINRA Rule 8210, Matthes 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 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:

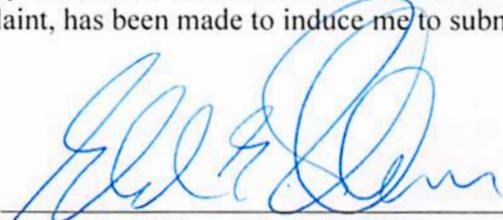
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will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

C. If accepted:

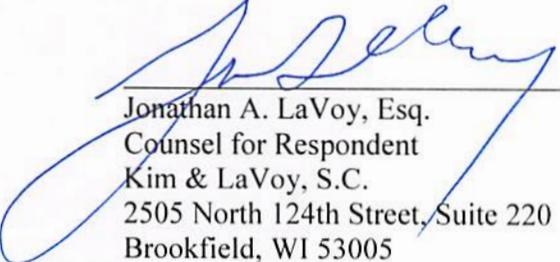
1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
3. FINRA may make a public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

03/19/2019  
Date (mm/dd/yyyy)

  
Respondent Edward Earl Matthes

Reviewed by:

  
Jonathan A. LaVoy, Esq.  
Counsel for Respondent  
Kim & LaVoy, S.C.  
2505 North 124th Street, Suite 220  
Brookfield, WI 53005  
Phone Number: 262-796-1400

Accepted by FINRA:

03/22/2019  
Date

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



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Emma Jones  
Senior Counsel  
FINRA Department of Enforcement  
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Rockville, MD 20850  
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