

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 20130385119 01**

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

RE: Kenneth Hornyak  
Registered Representative  
CRD No. 2990144

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**

Kenneth Hornyak ("Hornyak") became registered as a General Securities Representative with a FINRA-registered firm in 1998. Between March 2006 and January 2014, Hornyak was registered as a General Securities Representative with Stifel, Nicolas & Company, Inc. Hornyak's employment with Stifel Nicolas was terminated on January 16, 2014. Hornyak is not currently registered with a FINRA-registered firm.

**RELEVANT DISCIPLINARY HISTORY**

Hornyak has no disciplinary history.

**OVERVIEW**

Hornyak refused to appear for an on-the-record interview, in violation of FINRA Rules 8210 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

On April 30, 2015, FINRA staff sent a letter to Hornyak, pursuant to FINRA Rule 8210, requesting that he appear for an on-the-record interview (“OTR”) to be held at 9:30 a.m. on May 15, 2015, at FINRA’s District Office in Chicago, Illinois, in connection with FINRA’s investigation into potential discretionary trading, unauthorized trading and unsuitable short-term trading in Unit Investment Trusts (“UITs”) by Hornyak.

On May 11, 2015, Hornyak, through his counsel, responded to FINRA staff’s request described above and stated in writing that he would not appear for the OTR as requested by FINRA pursuant to Rule 8210, and that he did not intend to participate in FINRA’s investigation.

The acts, practices and conduct described above constitute violations of FINRA Rules 8210 and 2010.

- B. I also consent to the imposition of the following sanction: a bar from association with any FINRA-registered firm 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. Pursuant to FINRA Rule 8313(e), 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 General Counsel, 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 response to public inquiries about my disciplinary record;
  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

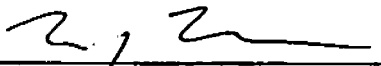
is without factual basis. I may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects my: (i) testimonial obligations; or (ii) right to take legal or factual positions in 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.

6/16/2015  
Date (mm/dd/yyyy)

  
Kenneth Hornyak, Respondent

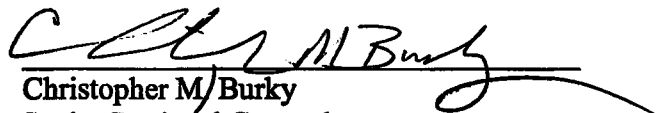
Reviewed by:

  
Brian J. Masternak  
Warner, Norcross & Judd LLP  
900 Fifth Third Center  
111 Lyon Street, NW  
Grand Rapids, MI 49503

Accepted by FINRA:

7/17/15  
Date

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

  
Christopher M. Burky  
Senior Regional Counsel  
FINRA Department of Enforcement  
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Chicago, IL 60603  
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