

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2014043719001**

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

**RE:** Robert Neil Tricarico, Respondent  
CRD No. 1500863

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**

Robert Neil Tricarico ("Tricarico" or "Respondent") entered the securities industry when he became associated with a legacy NASD-member firm in March 1986. Tricarico remained associated with this legacy NASD-member firm until February 1987. In August 1992, Tricarico re-entered the securities industry when he became associated with a FINRA-member firm. In October 1992, Tricarico became registered with this same FINRA-member firm as a General Securities Representative (Series 7 license). Between August 1992 and May 2011, Tricarico was registered with a total of three different FINRA-member firms. In May 2011, Tricarico became associated with LPL Financial LLC (the "Firm").

On January 5, 2015, the Firm filed a Form U5 Uniform Termination Notice for Securities Industry Registration with FINRA disclosing that Tricarico was terminated from his employment on December 16, 2014. Tricarico's registration with FINRA ended on January 5, 2015. Tricarico is not currently associated with a FINRA member firm, but remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

## RELEVANT DISCIPLINARY HISTORY

Tricarico has no prior relevant disciplinary history.

## OVERVIEW

Tricarico failed to provide documents and information requested pursuant to staff's FINRA Rule 8210 request letters in violation of FINRA Rules 8210 and 2010.

## FACTS AND VIOLATIVE CONDUCT

### a. January 22, 2015 FINRA Rule 8210 Request – Tricarico's Bank Records

On January 22, 2015, during the course of an investigation into whether Tricarico converted customer funds, FINRA Enforcement ("Enforcement") sent a letter (the "January 22<sup>nd</sup> Letter") to Tricarico, pursuant to FINRA Rule 8210, requesting that he provide documents and information, including Tricarico's personal bank account records, by February 5, 2015. Tricarico did not provide any of the requested documents and information by the deadline of February 5, 2015.

Accordingly, Enforcement sent a second request letter on February 6, 2015, pursuant to FINRA Rule 8210, requesting that Tricarico provide the previously requested documents and information by February 13, 2015. Tricarico did not provide any of the requested documents and information by the deadline of February 13, 2015.

On February 13, 2015, Tricarico retained counsel to represent him during the course of Enforcement's investigation. On February 26, 2015, Tricarico, through his attorney, provided staff with a partial response to staff's January 22<sup>nd</sup> Letter. Tricarico's response failed to produce all of the requested personal bank account records. To date, Tricarico has not provided all of the requested personal bank account records.

### b. March 12, 2015 FINRA Rule 8210 Request – A list detailing all monetary gifts received by Tricarico for January 2009 through December 2012.

On March 12, 2015, Enforcement sent another request letter (the "March 12<sup>th</sup> Letter") to Tricarico's attorney, pursuant to FINRA Rule 8210, requesting that Tricarico provide additional documents and information, including a list detailing all monetary gifts received by Tricarico during the period of January 2009 through December 2012 (the "Relevant Period"), by March 19, 2015.

Tricarico provided a partial response to the March 12<sup>th</sup> Letter which did not include a list detailing all monetary gifts received by Tricarico during the Relevant Period.

Accordingly, Enforcement sent a second request letter on March 27, 2015, pursuant to FINRA Rule 8210, requesting that Tricarico provide the previously requested information by April 3, 2015. To date, Tricarico has not provided a list of the purported gifts requested in staff's March 12<sup>th</sup> Letter.

By failing to provide the documents and information requested, pursuant to FINRA Rule 8210, Tricarico 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. 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 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.

4/9/15  
Date

Robert Neil Tricarico  
Robert Neil Tricarico, Respondent

Reviewed by:

Steven N. Fuller  
Steven N. Fuller  
Markus Zasman Friere Compton LLP  
40 Grove Street, Suite 278  
Wellesley, MA 02482  
(603) 666-9966

Accepted by FINRA:

4/30/15  
Date

Signed on behalf of the  
Director of ODA, by delegated authority by:  
Susan Schroeder / R.C.  
Susan Schroeder  
Senior Vice President and Counsel  
FINRA Department of Enforcement  
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