

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015045725201**

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

**RE: Brian Michael Berger, Respondent
Former Registered Representative
CRD No. 3208127**

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

Brian Michael Berger ("Berger") first entered the securities industry in March 1999 when he associated with a FINRA member firm. Berger obtained his Series 7 license on November 17, 1999, his Series 63 license on August 24, 2001, and his Series 65 license on May 30, 2003. Between July 2010 and April 2015, Berger was registered with Wells Fargo Advisers LLC and MetLife Securities, Inc. From April 20, 2015 until June 15, 2015, Berger was registered with Newbridge Securities Corporation. Newbridge terminated Berger's registration on June 15, 2015, based on the conduct described herein.

Although Berger is no longer associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4 of the FINRA By-laws.

OVERVIEW

Berger failed to cooperate with a FINRA investigation in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 8210(a)(1) requires "a member, person associated with a member, or any other person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically (if the requested information is, or is required to be, maintained in electronic form) and to testify at a location specified by FINRA staff, under oath or affirmation administered by a court reporter or a notary public if requested, with respect to any matter involved in the investigation, complaint, examination, or proceeding." Moreover, pursuant to FINRA Rule 2010, associated persons are required to "observe high standards of commercial honor and just and equitable principles of trade."

In June 2015, FINRA initiated an investigation into allegations that Berger had misappropriated funds from elderly customers while registered with Wells Fargo Advisors LLC and MetLife Securities, Inc.

On June 9, 2015, FINRA staff issued a request pursuant to FINRA Rule 8210 that Berger produce documents and information by June 19, 2015 relating to the allegations that he misappropriated customer funds. Berger failed to produce any documents by the deadline. On June 19, 2015, FINRA staff issued a second request pursuant to Rule 8210 for the documents and information informing him that the documents were due immediately. On June 23, 2015, FINRA staff also issued a request for Berger to appear for on-the-record testimony on July 2, 2015. On June 29, 2015, Berger, through counsel, requested that the on-the-record testimony be rescheduled for July 13, 2015. FINRA staff agreed to the new date.

On July 9, 2015, Berger's counsel sent an email to FINRA staff in which he wrote, in relevant part, "[M]y client chooses not to cooperate with the Staff nor attend Monday's OTR." As stated in a phone call with FINRA staff on July 10, 2015, and by this agreement, Berger, through his counsel, acknowledges that he received FINRA's requests for information and that he will not provide the requested documents or information and will not appear for on-the-record testimony at any time. By failing to provide the requested documents and information, and by refusing to appear and provide on-the-record testimony, Berger violated FINRA Rules 8210 and 2010.

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

A bar in all capacities from associating with any FINRA member.

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(c), 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.

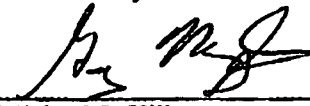
I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce me to submit it.

07/21/2015
Date (mm/dd/yyyy)



Brian M. Berger, Respondent

Reviewed by:

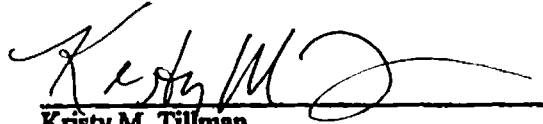
 for Michael Hill

Michael S. Hill
Counsel for Respondent
Menzer & Hill, P.A.
7280 W. Palmetto Park Rd., Suite 301-N
Boca Raton, FL 33433

Accepted by FINRA:

7/29/15
Date

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



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