

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2018059559101**

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

**RE:** Daniel N. Winger, Respondent  
Former Registered Representative  
CRD No. 1542674

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**

Daniel Winger ("Winger") first entered the securities industry in 1986 when he became registered with PFS Investments Inc. ("PFS") as an Investment Company and Variable Contracts Products Representative (Series 6). In 1988, Winger obtained his Investment Company and Variable Contracts Products Principal license (Series 26). Winger remained registered with PFS until he was terminated by Form U5 filed on August 16, 2018 for the conduct described herein. Winger is not currently associated with a FINRA member firm.

Although Winger is no longer associated with a FINRA member firm, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4, of FINRA's By-Laws.

## OVERVIEW

Between April 2015 and April 2018 (the "Relevant Period"), while associated with PFS, Winger converted customer funds in violation of FINRA Rules 2150(a) and 2010.

## FACTS AND VIOLATIVE CONDUCT

FINRA began an investigation into this matter after receiving the above-referenced Form U5 filed by PFS.

During the Relevant Period, an elderly customer gave checks to Winger totaling approximately \$100,000 made payable to Dan Winger and Associates. The customer understood that the checks were to be used for her benefit, including to pay commissions associated with her brokerage account and for taxes. Winger, however, endorsed the checks, deposited them into a separate bank account, and used the funds for his own personal use.

FINRA Rule 2150(a) provides that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds." FINRA Rule 2010 provides that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." Converting customer funds violates FINRA Rules 2150(a) and 2010.

By virtue of the foregoing, Winger violated FINRA Rules 2150(a) 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 prejudice 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.

8/27/18  
Date (mm/dd/yyyy)

  
Daniel N. Winger, Respondent

Accepted by FINRA:

09/28/2018  
Date

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



---

Julie A. Lenaghan  
Principal Counsel  
FINRA Department of Enforcement  
15200 Omega Drive, Third Floor  
Rockville, MD 20850  
Phone: (301) 258-8553  
Fax: (202) 721-8331