

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2016050400401**

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

RE: Michael Allen Kamperman, Respondent  
General Securities Representative  
CRD No. 2002603

Pursuant to FINRA Rule 9216 of FINRA’s Code of Procedure, Michael Allen Kamperman (“Kamperman” or “Respondent”) submits 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 Respondent alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Respondent hereby accepts and consents, 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**

Kamperman entered the securities industry in October 1989, when he associated with a FINRA member firm. Kamperman subsequently associated with several other member firms including Prospera Financial Services, Inc. (“Prospera”) from January 2005 to December 2014, and HD Vest Investment Services (“Vest”) from December 2014 to June 30, 2017. He has not since associated with another FINRA member firm. During Kamperman’s career in the securities industry, he took and passed the Series 3, 7, 63 and 65 qualification examinations. Kamperman has no prior disciplinary history.

On June 30, 2017, Vest filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”), which terminated Kamperman’s association with Vest and his registrations with FINRA. Although Kamperman is not currently associated with a member firm, he remains subject to the jurisdiction of FINRA until June 28, 2019, pursuant to Article V, Section 4(a) of FINRA’s By-Laws, which provides for a two-year period of retained jurisdiction over formerly-

registered persons.

## OVERVIEW

Kamperman made unsuitable investment recommendations in the retirement accounts of eight customers. Specifically, he over concentrated the customers' accounts in high risk, speculative energy sector securities. Kamperman also recommended that one of the eight customers purchase and hold a leveraged inverse exchange-traded note ("ETN"), which was designed to only be held for one trading day, in his 401(k) retirement account for nearly 16 months. Kamperman's conduct violated NASD Rule 2310 (for conduct on or before July 8, 2012) and FINRA Rules 2111(a) (for conduct on or after July 9, 2012), and 2010.

## FACTS AND VIOLATIVE CONDUCT

FINRA Rule 2111(a), and its predecessor NASD Rule 2310, requires members and associated persons to have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile. A customer's investment profile includes, but is not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation.

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."

From May 2010 to June 2016, Kamperman made unsuitable investment recommendations in the 401(k) and IRA retirement accounts of eight customers. Specifically, Kamperman over concentrated the customers' accounts in high risk, speculative oil and gas energy sector securities. He also recommended that one customer purchase and hold a leveraged inverse ETN, which was only meant to be held for one trading day,<sup>1</sup> in his 401(k) retirement account for nearly 16 months. Kamperman's investment recommendations were unsuitable for each customer based on the customer's financial situation and needs, risk tolerance, investment experience, and investment objectives. Additionally, Kamperman had no reasonable basis to believe that his recommendation that the one customer purchase and hold a short-term leveraged inverse ETN in his retirement account for an extended time period was suitable for any customer. The customers

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<sup>1</sup> The prospectus for the ETN states that it is designed to be used as a tactical trading tool, not as a buy-and-hold investment. The prospectus also states that the note promises to provide 3x exposure to its reference index for a one-day holding period.

suffered over \$407,000 in trading losses as a result of implementing Kamperman's investment recommendations.<sup>2</sup>

By virtue of the foregoing, Kamperman violated NASD Rule 2310 (for conduct on or before July 8, 2012) and FINRA Rules 2111(a) (for conduct on or after July 9, 2012), and 2010.

B. Respondent also consents to the imposition of the following sanctions:

An eighteen-month suspension from association with any FINRA member firm in any capacity, and a fine in the amount of \$20,000.

The fine shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, he 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.

## II.

### WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against him;
- 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,

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<sup>2</sup> The eight customers filed an arbitration regarding their trading losses. The matter has been resolved through settlement with Prospera and Vest.

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, Respondent specifically and voluntarily waives 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.

Respondent further specifically and voluntarily waives 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**

Respondent understands 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 Respondent; and
- C. If accepted:
  - 1. this AWC will become part of Respondent’s permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
  - 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. Respondent 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. Respondent 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 Respondent's: (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.

- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he understands and acknowledges that FINRA does not represent or advise him and he cannot rely on FINRA or FINRA staff members for legal advice; that he has 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 him to submit it.

6/14/19

Date



Michael Kamperman, Respondent

Accepted by FINRA:

6/20/2019  
Date

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

Karen E. Whitaker / by jsp  
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