

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018058015701**

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

RE: Charles Ernest Kenahan (Respondent)
Former General Securities Representative
CRD No. 1351974

Pursuant to FINRA Rule 9216, Respondent Charles Ernest Kenahan 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 in this AWC.

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

Kenahan first registered with FINRA in April 1985. From April 1985 to December 2007, he was registered with FINRA through an association with five different member firms. In December 2007, Kenahan registered with FINRA through an association with Merrill Lynch, Pierce, Fenner & Smith Incorporated as a general securities representative. On July 11, 2019, Merrill Lynch filed a Form U5 terminating his registration due to “[l]oss of trust and confidence related to the servicing of client accounts.”

Although Kenahan is no longer associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4(a)(i) of FINRA’s By-Laws.

RELEVANT DISCIPLINARY HISTORY

On December 7, 2020, the New Hampshire Bureau of Securities Regulation permanently barred Kenahan for violations of the New Hampshire Uniform Securities Act.

OVERVIEW

In January 2021, Kenahan refused to respond to requests for the production of information and documents and for testimony pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA began investigating this matter after receiving a statement of claim in 2018 from one set of Kenahan's customers alleging sales practice violations.

Under FINRA Rule 8210(a), FINRA staff may require a person associated with a member "to provide information orally, in writing, or electronically . . . and to testify at a location specified by FINRA staff." FINRA Rule 8210(c) provides that no member or person "shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule." A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010, which requires associated persons to "observe high standards of commercial honor and just and equitable principles of trade."

Although Kenahan initially cooperated in FINRA's investigation, he ceased doing so in January 2021. On December 15, 2020, pursuant to FINRA Rule 8210, FINRA sent two requests to Kenahan, one seeking the production of information and documents and a second seeking the continuation of his testimony. As stated during his counsel's phone call with FINRA on January 8, 2021, and by this agreement, Kenahan acknowledges that he received FINRA's requests and will not produce the information and documents requested or appear for on-the-record testimony at any time. By refusing to produce the information and documents and to appear for on-the-record testimony as requested pursuant to FINRA Rule 8210, Kenahan violated FINRA Rules 8210 and 2010.

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

- a bar from associating with any FINRA member in all capacities

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 in this AWC shall be effective on a date set by FINRA. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

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, 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 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 its acceptance or rejection.

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 action 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 its subject matter 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 testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

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; Respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

1/15/2021
Date



Charles Ernest Kenahan
Respondent

Reviewed by:



Daniel J. Cloherty
Counsel for Respondent
Todd & Weld LLP
One Federal Street
Boston, MA 02110

Accepted by FINRA:

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



January 22, 2021

Date

Jessica Zetwick-Skryzhynskyy
Director
FINRA
Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, Maryland 20850