

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2020067641401**

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

RE: Grant C. Birkley (Respondent)  
Former General Securities Representative  
CRD No. 2933533

Pursuant to FINRA Rule 9216, Respondent Grant C. Birkley 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**

Birkley first became registered with FINRA in 1998. From November 2017 to August 2020, Birkley was registered as a General Securities Representative through an association with SagePoint Financial, Inc. (CRD No. 133763). On August 19, 2020, SagePoint Financial filed a Uniform Termination Notice for Securities Industry Registration (Form U5) that stated that the firm discharged Birkley after he admitted making referrals to an outside asset manager without the firm's approval.

Birkley is not currently registered or associated with any FINRA member firm. However, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

Respondent does not have any relevant disciplinary history.

**OVERVIEW**

Birkley refused to provide information and documents requested by FINRA pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

This matter originated from FINRA's investigation of the Form U5 filed by SagePoint Financial.

FINRA Rule 8210(a)(1) states, in relevant part, that FINRA may require a person subject to FINRA's jurisdiction "to provide information orally, in writing, or electronically . . . with respect to any matter involved in [a FINRA] investigation[.]" FINRA Rule 8210(c) further states that "[n]o . . . person shall fail to provide information . . . pursuant to this Rule." A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010, which requires member firms and their associated persons to "observe high standards of commercial honor and just and equitable principles of trade."

On April 13, 2021, FINRA sent a request to Respondent for the production of information and documents pursuant to FINRA Rule 8210. As stated during his counsel's phone call with FINRA on May 10, 2021, and by this agreement, Respondent acknowledges that he received FINRA's request and will not produce the information or documents requested. By refusing to produce the information and documents as requested pursuant to FINRA Rule 8210, Respondent violated FINRA Rules 8210 and 2010.

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

- 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 sanction 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.

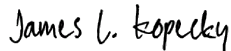
May 24, 2021



\_\_\_\_\_  
Date

\_\_\_\_\_  
Grant C. Birkley  
Respondent

Reviewed by:



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James L. Kopecky  
Counsel for Respondent  
Kopecky Schumacher Rosenberg LLC  
120 N. LaSalle St., Suite 2000  
Chicago, IL 60602

Accepted by FINRA:

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

June 4, 2021



\_\_\_\_\_  
Date

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Matthew M. Ryan  
Principal Counsel  
FINRA  
Department of Enforcement  
1601 Market St., Suite 2700  
Philadelphia, PA 19103-2339