

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015047225601**

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

RE: Thomas F. Niles, Respondent
General Securities Representative
CRD No. 2264883

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

Niles entered the securities industry in 1992. From June 2009 to September 2015, Niles was registered with FINRA as a General Securities Representative through Morgan Stanley (BD No. 149777). Niles is currently registered through another member firm.

RELEVANT DISCIPLINARY HISTORY

Niles has no prior disciplinary history.

OVERVIEW

Between July 2012 and December 2014 (the “Relevant Period”), Niles engaged in an unsuitable pattern of short-term trading of Unit Investment Trusts (“UITs”) in customer accounts. Based on the foregoing, Niles violated NASD Rule 2310 and FINRA Rules 2111 and 2010.

FACTS AND VIOLATIVE CONDUCT

During the Relevant Period, Niles engaged in an unsuitable pattern of short-term trading of UITs in 148 customer accounts.

UITs are investment companies that offer shares of a fixed portfolio of securities in a one-time public offering, and terminate on a specified maturity date. As such, they are not designed to be used as trading vehicles. In addition, UITs typically carry significant upfront charges, and as with mutual funds that carry front-end sales charges, short-term trading of UITs is generally improper.

During the Relevant Period, in connection with these 148 customer accounts, Niles repeatedly recommended that the customers purchase UITs and then sell these products before their maturity dates. The majority of the UITs that Niles recommended had maturity dates of at least 24 months and carried sales charges ranging from 1.95% to 3.95%. Nevertheless, Niles repeatedly recommended that his customers sell their UIT positions less than a year after purchase. Indeed, the average holding period for the UITs purchased in these customers' accounts was 285 days. In addition, on hundreds of occasions, Niles recommended that his customers use the proceeds from the short-term sale of a UIT to purchase another UIT with similar or identical investment objectives.

Niles recommendations caused the customers to incur unnecessary sales charges,¹ and were unsuitable in view of the frequency and cost of the transactions.

Based on the foregoing, Niles violated NASD Rule 2310 and FINRA Rules 2111 and 2010.²

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

- A suspension from association with any FINRA member in all capacities for three months; and
- A fine of \$5,000.

I agree to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

¹ Niles's customers received reimbursement of these excess sales charges from Morgan Stanley in connection with FINRA's separate settlement with the firm. *See Morgan Stanley Smith Barney LLC*, AWC No. 2016048805501 (Sept. 2017).

² NASD Rule 2310 was superseded by FINRA Rule 2111 on July 9, 2012.

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.

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.
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

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.

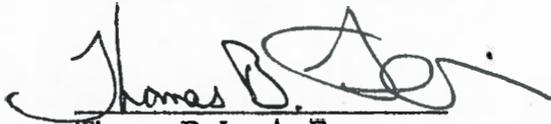
1-19-2018

Date (mm/dd/yyyy)



Thomas F. Niles

Reviewed by:



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Counsel for Respondent
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Accepted by FINRA:

2/18/18

Date

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



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FINRA Department of Enforcement
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