

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2018058547502**

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

RE: Tony Kassaei, Respondent  
Former General Securities Principal and Former General Securities Representative  
CRD No. 4375259

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Tony Kassaei 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**

Kassaei entered the securities industry in 2001, when he registered as a General Securities Representative (GSR) through association with a FINRA member firm. In August 2009, he registered, through association with J.P. Turner & Company LLC, as a General Securities Principal and GSR. On October 7, 2015, J.P. Turner filed a Uniform Termination Notice for Securities Industry Registration (Form U5), terminating Kassaei's registration. Thereafter, Kassaei remained registered through association with successive member firms, until March 22, 2019, when a member firm filed a Form U5 terminating Kassaei's registration.

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

## **RELEVANT DISCIPLINARY HISTORY**

Respondent does not have any disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

## **OVERVIEW**

Between approximately October 2009 and April 2014, Kassaei participated in undisclosed and unapproved private securities transactions through which 11 individuals invested at least \$2.6 million in real-estate businesses owned by Francisco Esparza. Kassaei's conduct violated NASD Rule 3040 and FINRA Rule 2010.

Kassaei also violated FINRA Rules 8210 and 2010 by failing substantially to comply with requests for his testimony, documents, and information pursuant to FINRA Rule 8210.

## **FACTS AND VIOLATIVE CONDUCT**

### **Kassaei violated NASD Rule 3040 and FINRA Rule 2010 by Participating in Undisclosed and Unapproved Private Securities Transactions.**

NASD Rule 3040 prohibits associated persons from participating "in any manner" in private securities transactions outside the regular course or scope of their employment unless they first provide written notice to the member firm with which they are associated. The written notice must describe in detail the proposed transaction, the person's proposed role in the transaction, and whether the person has received or may receive selling compensation in connection with the transaction. Associated persons who violate NASD Rule 3040 also violate FINRA Rule 2010, which requires associated persons to observe high standards of commercial honor and just and equitable principles of trade.

From approximately October 2009 to April 2014, while associated with J.P. Turner, Kassaei participated in at least 11 investors' securities transactions with Esparza, who had worked with Kassaei at J.P. Turner until January 2010. The securities transactions totaled at least \$2.6 million. The 11 investors, nearly all of whom were J.P. Turner customers, bought securities in the form of promissory notes issued by entities under Esparza's control. J.P. Turner had not approved Kassaei's participation in these security sales, they were not recorded on J.P. Turner's books and records, and Kassaei acted outside the regular course and scope of his employment with J.P. Turner when participating in the securities transactions.

Subsequently, in September 2017, Esparza pled guilty to wire fraud, admitting that, between 2009 and 2016, he had engaged in a real-estate Ponzi scheme that caused approximately \$12 million in investor losses. The 11 individuals in whose investments Kassaei participated lost at least \$1.3 million on investments with Esparza. One of these

investors, MC, was an elderly woman who lost over half of her life savings. In July 2018, the United States District Court for the Central District of California sentenced Esparza to 78 months in prison.

Kassaei participated in the investments in multiple ways. He solicited individuals to make the investments with Esparza. Kassaei further helped facilitate the investments through various actions, such as helping investors establish accounts at self-directed IRA firms to hold the investments; helping transfer investor funds for the promissory notes; directing Esparza and his subordinate to prepare promissory notes to document investments; and obtaining investors' signatures on documents related to the investments.

Esparza compensated Kassaei for soliciting and facilitating these private securities transactions. Esparza paid Kassaei substantial sums, including at least \$125,000 while Kassaei facilitated securities transactions between Esparza and the 11 individuals described above.

Kassaei never provided prior written or oral notice to J.P. Turner describing the proposed transaction, his role in the transaction, and whether he had received or may receive selling compensation in connection with the transaction. To the contrary, in response to a specific inquiry by the firm, Kassaei falsely represented that he had not participated in a customer's private securities transactions totaling \$500,000. Kassaei also did not obtain any approval from J.P. Turner to participate in the transactions.

By virtue of the foregoing, Kassaei violated NASD Rule 3040 and FINRA Rule 2010.

**Kassaei Violated FINRA Rules 8210 and 2010 by Refusing Substantially to Comply with Rule 8210 Requests for Testimony, Documents, and Information.**

FINRA Rule 8210(a)(1) states in relevant part that FINRA has the right to "require a . . . person associated with a member, or any other person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically . . . and to testify at a location specified by FINRA staff, . . . with respect to any matter involved in the investigation[.]" FINRA Rule 8210(c) provides that "[n]o 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 also violates FINRA Rule 2010.

In 2018, FINRA staff opened an investigation of Kassaei's involvement in Esparza's scheme and sent Kassaei multiple requests for documents and information pursuant to FINRA Rule 8210. On July 8, 2020, staff sent a request to Kassaei pursuant to FINRA Rule 8210 for on-the-record testimony. While Kassaei initially appeared for testimony, he ultimately refused to answer the staff's questions, left the testimony, and did not reappear to finish answering the staff's questions.

On July 29, 2020, moreover, FINRA staff requested under FINRA Rule 8210 that Kassaei produce emails from an email account that he had used to facilitate private securities transactions with Esparza. Kassaei initially granted staff access to the account to obtain the requested emails. But Kassaei then terminated staff's access to the account before staff had obtained the requested emails and deleted emails in the account.

On August 3, 2020, FINRA staff sent a further request to Kassaei for documents and information pursuant to FINRA Rule 8210, including the emails staff had requested on July 29, 2020. As stated during counsel's phone call with FINRA staff on August 13, 2020, and by this agreement, Kassaei acknowledges that he received FINRA's request, will not produce all of the information or documents requested, and will not cooperate further with FINRA's investigation.

Kassaei therefore did not substantially comply with staff's FINRA Rule 8210 requests. By refusing to provide on-the-record testimony and refusing to produce the information and documents as requested pursuant to FINRA Rule 8210, Kassaei has violated FINRA Rules 8210 and 2010.

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

- A bar from association with any FINRA member in any capacity.

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. 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 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 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 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.

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 herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit this AWC.

September 9, 2020

Date



\_\_\_\_\_  
Tony Kassaei  
Respondent

Reviewed by:



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Michael Farkas, Esq.  
32 Court Street, Suite 408  
Brooklyn, New York 11201  
Counsel for Respondent

Accepted by FINRA:

9/22/2020  
Date

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



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Josh Hess  
Principal Counsel  
FINRA  
Department of Enforcement  
15200 Omega Drive  
Third Floor  
Rockville, MD 20850