

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2023077597701**

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

RE: Victor Alan Lessinger (Respondent)
Former General Securities Representative
CRD No. 830821

Pursuant to FINRA Rule 9216, Respondent Victor Alan Lessinger 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 accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Lessinger first became registered with FINRA in 1976 through an association with a member firm. From October 2012 to April 2023, Lessinger was associated with Colorado Financial Service Corporation (BD No. 104343), through which he was registered with FINRA as a General Securities Representative and Investment Banking Representative. On April 26, 2023, Colorado Financial filed a Uniform Termination Notice for Securities Industry Registration (Form U5), disclosing that Lessinger had voluntarily terminated his association with the firm.

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

In November 2000, Lessinger entered into an AWC with the National Association of Securities Dealers (NASD) and agreed to a \$3,000 fine for allowing a representative who had failed to fulfill NASD's continuing education requirements to effect three securities transactions for customers. In September 2005, in an action brought by the Securities and Exchange Commission (SEC), a Final Judgment was entered by consent against Lessinger for failing to supervise brokers who conducted a penny stock manipulation in a firm branch office. Lessinger was ordered to pay a \$20,000 civil penalty, and was permanently barred from participating in any penny stock offerings. The SEC also barred

Lessinger from association in a supervisory capacity with any broker or dealer, with the right to reapply for association after two years.¹

OVERVIEW

Between June 2022 through February 2023, Lessinger recommended that a retail customer invest in three high-risk closed-end management investment companies (closed-end funds). These investments (which were not held at the same time in the customer's portfolio) resulted in a concentration of at least 28%, 23%, and 37% (respectively) of her net worth in these securities. These recommendations were not in the customer's best interest based on her investment profile. Therefore, Lessinger willfully violated Rule 15l-1(a)(1) under the Securities Exchange Act of 1934 (Reg BI) and also violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a 2023 FINRA examination of Lessinger.

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Regulation BI under the Securities Exchange Act of 1934. Rule 15l-1(a)(1) of Reg BI requires a broker, dealer, or a natural person associated with a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, to act in the best interest of that retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or associated person ahead of the interest of the retail customer. Reg BI's Care Obligation, set forth at Exchange Act Rule 15l-1(a)(2)(ii), requires broker-dealers and their associated persons to exercise reasonable diligence, care, and skill to, among other things, have a reasonable basis to believe that the recommendation is in the best interest of a particular retail customer based on that retail customer's investment profile and the potential risks, rewards, and costs associated with the recommendation. Reg BI defines a "retail customer investment profile" to include, but not be 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.

A recommendation may not be in the best interest of a customer if it results in a concentration in a particular security or category of securities that creates a risk of loss inconsistent with the customer's investment profile.

¹ For more information about the respondent, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

A violation of Reg BI also is a violation of FINRA Rule 2010, which requires associated persons to “observe high standards of commercial honor and just and equitable principles of trade” in the conduct of their business.

In November 2017, Customer A, who was then 82, opened an account with Colorado Financial. On her new account form, Customer A reported that she had limited investment experience, annual income of less than \$25,000, and a net worth between \$50,000 and \$99,999. She also reported that her risk tolerance was “moderate” and her investment objective was “income.”

In June 2022, Lessinger recommended that Customer A purchase \$28,692.21 in Fund A, a closed-end fund, representing at least 28% of her net worth. The Fund A prospectus stated that the fund invested primarily in collateralized loan obligation vehicles (CLOs) which were highly leveraged and are made up of below investment grade loans, and that an investment in the fund was subject to significant risks and involved a heightened risk of total loss of investment.

In July and September 2022, Lessinger recommended that Customer A purchase \$23,632.30 in Fund B, another closed-end fund, representing at least 23% of her net worth. The purchase of Fund B was partly funded by the sale of Fund A. The Fund B prospectus stated that the fund invested in securities of below investment grade quality which were regarded as having predominantly speculative characteristics, and as a result, the fund was subject to greater risk of loss due to default or declining credit quality, among other heightened risks.

Then, in October 2022 and February 2023, Lessinger recommended that Customer A purchase \$37,053.21 in Fund C, another closed-end fund, representing at least 37% of her net worth. The purchase of Fund C was partly funded by the sale of Fund A and Fund B. The Fund C prospectus stated that the fund invested primarily in CLOs which were unrated or rated below investment grade and considered speculative, and that investing in the fund involved a high degree of risk, including the risk of a substantial loss of investment.

Lessinger’s recommendation that Customer A invest between at least 28%, 23%, and 37% of her net worth in these high-risk closed-end funds was not in Customer A’s best interest based on her investment profile, including her age, limited finances and moderate risk tolerance. As a result of these investments, Customer A lost \$5,029.85.

Therefore, Lessinger willfully violated Exchange Act Rule 15l-1(a)(1) and violated FINRA Rule 2010.

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

- a three-month suspension from associating with any FINRA member in all capacities
- a \$5,000 fine

- restitution of \$5,029.85, plus interest as described below.

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.

Restitution is ordered to be paid to the customer listed on Attachment A to this AWC (Eligible Customer) in the total amount of \$5,029.85, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from February 21, 2023, until the date the restitution plus interest are due and payable.

Restitution plus interest ordered pursuant to this disciplinary action are due and payable immediately upon reassociation with a member firm or upon submission of any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

Respondent shall submit satisfactory proof of payment of restitution and interest (separately specifying the date and amount of each paid to each Eligible Customer) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org. The email must identify Respondent and the case number and include a copy of the check, money order, or other method of payment. This proof shall be provided by email to EnforcementNotice@FINRA.org no later than 120 days after the date the restitution plus interest are due and payable.

The restitution amount plus interest to be paid to each Eligible Customer shall be treated by the Respondent as the Eligible Customer's property for purposes of state escheatment, unclaimed property, abandoned property, and similar laws. If after reasonable and documented efforts undertaken to effect restitution Respondent is unable to pay all Eligible Customers within 120 days after the restitution and interest are due and payable, Respondent shall submit to FINRA in the manner described above a list of the unpaid Eligible Customers and a description of Respondent's plan, not unacceptable to FINRA, to comply with the applicable escheatment, unclaimed property, abandoned property, or similar laws for each such Eligible Customer.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanctions imposed in this matter.

The imposition of a restitution order or any other monetary sanctions in this AWC, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

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.

Respondent understands that this settlement includes a finding that he willfully violated Rule 15l-1 of the Securities Exchange Act of 1934 and that under Article III, Section 4 of FINRA's By-Laws, this makes him subject to a statutory disqualification with respect to association with a member.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
- 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.

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

October 28, 2024

Date

Victor Alan Lessinger

Victor Alan Lessinger
Respondent

Accepted by FINRA:

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

October 28, 2024

Date

John Sheehan

John Sheehan
Senior Counsel
FINRA
Department of Enforcement
100 Pine Street, Suite 1800
San Francisco, CA 94111

ATTACHMENT A
To Letter of Acceptance, Waiver and Consent
Victor Alan Lessinger, Matter No. 2023077597701

Customer	Restitution
Customer A	\$5,029,85, plus interest ²

² Interest is applied at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from February 21, 2023, until the date the restitution plus interest are due and payable.