

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019061974501**

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

RE: Paul Charles DeMark (Respondent)
General Securities Representative
CRD No. 1400019

Pursuant to FINRA Rule 9216, Respondent Paul Charles DeMark 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

DeMark first became registered with FINRA in October 1985 and was registered through his association with two different member firms between October 1985 and June 2009. From June 2009 to March 15, 2019, DeMark was registered as a General Securities Representative through an association with Morgan Stanley. On March 15, 2019, Morgan Stanley filed a Form U5 terminating DeMark's registration because of, among other things, "[c]oncerns regarding compliance with proper procedures related to a deceased client's account" Since March 2019, DeMark has been registered with FINRA through his association with another FINRA member firm.¹

OVERVIEW

Between January 2013 and July 2017, DeMark submitted, or caused to be submitted, 48 disbursement forms to the firm on behalf of one of his customers, which was a trust. The forms falsely identified the person who had authorized the disbursement. By submitting falsified documents which caused the firm's books and records to be inaccurate, DeMark violated FINRA Rules 2010 and 4511.

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

FACTS AND VIOLATIVE CONDUCT

This matter originated from the Form U5 referenced above.

FINRA Rule 2010 requires that members and their associated persons “observe high standards of commercial honor and just and equitable principles of trade.” Falsifying documents occurs when a person creates a document or entry in a firm’s system that creates a false appearance by including altered or untrue information. Falsification is a violation of FINRA Rule 2010.

FINRA Rule 4511 requires members to “make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules.” Exchange Act Rule 17a-3(a)(1) requires firms to maintain “records of original entry” of “all receipts and disbursements of cash and all other debits and credits.” Inherent in the obligation to make and preserve books and records is the requirement that they be accurate. A registered representative who submits a falsified disbursement form causes the firm to maintain inaccurate records, and therefore violates FINRA Rule 4511. A violation of FINRA Rule 4511 is also a violation of FINRA Rule 2010.

To authorize a check to be written from customer accounts, representatives were required to submit a “Verbal Client Instructions Form,” which contained a space to identify the name of the person spoken to who had authorized the disbursement. One of DeMark’s customers was a trust, with a designated trustee authorized to act on its behalf. After the trustee died, between January 2013 and July 2017, DeMark submitted, or caused to be submitted, 48 disbursement forms that inaccurately identified the deceased trustee (or his son with a similar name) as having been the person who had authorized the disbursement. In fact, the disbursement had been authorized by a separate individual, the successor trustee.

Therefore, DeMark violated FINRA Rules 2010 and 4511.

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

- a two-month suspension from associating with any FINRA member in all capacities and
- a \$7,500 fine.

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

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 sanction imposed in this matter.

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.

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 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.

June 27, 2022

Paul Charles DeMark

Date

Paul Charles DeMark
Respondent

Reviewed by:

John A. Hubbard

John A. Hubbard
Counsel for Respondent
Hubbard Snitchler & Parzianello PLC
Mayflower Centre
801 W. Ann Arbor Trail, Ste. 240
Plymouth, MI 48170

Accepted by FINRA:

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

June 28, 2022

Julie Lenaghan

Date

Julie A. Lenaghan
Principal Counsel
FINRA
Department of Enforcement
15200 Omega Drive, 3rd Fl.
Rockville, MD 20850