

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019064955001**

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

RE: Yan Binder (Respondent)
General Securities Representative
CRD No. 2932226

Pursuant to FINRA Rule 9216, Respondent Yan Binder 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

Binder first registered with FINRA in 1997. In 2015, he associated with FINRA member Wells Fargo Advisors Financial Network, LLC (CRD No. 11025) and became registered with FINRA as a General Securities Representative. In 2016, he also became registered as a General Securities Principal. On December 23, 2019, Wells Fargo filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on Binder's behalf, indicating that he was under internal review for exchanging unauthorized text messages with a customer at the time of his voluntary departure from the firm. Binder currently remains registered with FINRA through his association with another FINRA member firm.¹

OVERVIEW

From at least August 2018 through May 2019, while associated with Wells Fargo, Binder used a non-firm texting service to exchange securities-related business communications with a firm customer. As a result, these communications were not preserved as required by Section 17(a) of the Securities Exchange Act of 1934 (the Exchange Act) and Rule 17a-4(b)(4) thereunder. By causing Wells Fargo to maintain incomplete books and records, Binder violated FINRA Rules 4511 and 2010.

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

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 4511 requires each member to make and preserve books and records in conformity with, among others, Section 17(a) of the Exchange Act and Exchange Act Rule 17a-4(b)(4), which requires member firms to maintain, for a period of not less than three years, the originals of all communications received and copies of all communications sent by the member relating to the member's business. A registered representative who causes his or her member firm to fail to comply with these recordkeeping obligations violates FINRA Rules 4511. FINRA Rule 2010 requires FINRA members and their associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade." A violation of FINRA Rule 4511 is also a violation of FINRA Rule 2010.

At all times during the relevant period, Wells Fargo's written supervisory procedures provided that electronic business communications could only be transmitted through firm sponsored and authorized systems in order to facilitate the firm's preservation and supervision of such communications. In addition, the firm's written supervisory procedures prohibited registered representatives from sending or responding to business communications by text message. Further, during 2017, Respondent received a reminder from the firm about the need to refrain from communicating with customers about securities business via text message. However, from at least August 2018 through May 2019, Respondent used unapproved channels to exchange numerous text messages with a firm customer about securities-related business. Therefore, the firm did not preserve those messages.

Through this conduct, Binder violated FINRA Rules 4511 and 2010.

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

- a 30-calendar day suspension from associating with any FINRA member in all capacities; and
- a \$10,000 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 prejudice 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

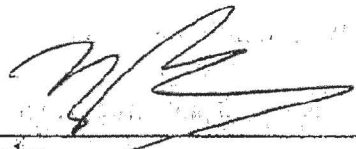
Respondent understands that:

- 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;

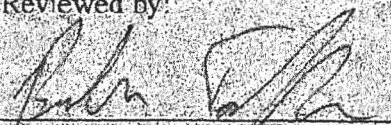
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator 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.

8.10.22
Date


Yan Binder
Respondent


Reviewed by:


Brandon Michael S. Taaffe, Esq.
Counsel for Respondent
Shumaker
240 South Pineapple Avenue
Suite 1000
Sarasota, Florida 34236

Accepted by FINRA:

8/18/2022
Date

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


Corinna Provey
Counsel
FINRA
Department of Enforcement
200 Liberty Street
New York, NY 10281