

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020065435401**

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

RE: Christine A. Warner (Respondent), General Securities Principal
CRD No. 4001584

Pursuant to FINRA Rule 9216, Respondent Christine A. Warner 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

Christine A. Warner entered the securities industry in November 1999 as an Investment Company and Variable Contracts Products Representative through an association with a FINRA member firm. From May 2017 through April 2021, Warner registered as a General Securities Representative, Investment Company and Variable Products Representative, Municipal Securities Representative, Options Professional, General Securities Principal, Investment Company and Variable Products Principal, Municipal Securities Principal, and Registered Options Principal through an association with Fortune Financial Services, Inc. Warner was Fortune's Chief Compliance Officer from May 2017 through April 2021. Warner is currently registered with FINRA through an association with another member firm.

OVERVIEW

While associated with Fortune, from May 2017 through July 2021, Warner failed to reasonably supervise the sales practices of two registered representatives. First, she failed to reasonably supervise variable annuity exchanges and surrenders recommended by Representative A and failed to detect that many of Representative A's exchange applications contained material misrepresentations and omissions despite red flags that the forms were inaccurate. Second, Warner failed to reasonably investigate red flags that Representative B was using an external email address to transmit securities-related documents to Fortune's customers. As a result of the foregoing conduct, Warner violated FINRA Rules 3110, 2330 and 2010.

FACTS AND VIOLATIVE CONDUCT

This AWC resolves two separate investigations: one originating from a call to FINRA's Senior Helpline, and the other from a cause examination.

FINRA Rule 3110(a) requires members to establish and maintain a system to supervise the activities of associated persons that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA Rules. FINRA Rule 3110(b) requires members to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable FINRA Rules. The duty to supervise under Rule 3110 also includes the responsibility to ensure recommended transactions are suitable, and to reasonably investigate red flags that suggest misconduct may be occurring and to act upon the results of such investigation.

FINRA Rule 2330 contains additional suitability and supervision requirements that apply to recommendations to purchase and exchange variable annuities. FINRA Rule 2330(b)(1)(A) requires that an associated person have a reasonable basis to believe that the transaction is suitable for the customer and that the customer has been informed, in general terms, of the various features of variable annuities. With respect to variable annuity exchanges, FINRA Rule 2330(b)(1)(B) provides that the suitability determination must take into consideration whether, among other things, "the customer would incur a surrender charge."

FINRA Rule 2330(c) requires that a registered principal review variable annuity purchases and exchanges within seven days of receiving a "complete and correct" application package, and to approve the recommended transaction "only if he or she has determined that there is a reasonable basis to believe that the transaction would be suitable" based on the factors identified in FINRA Rule 2330(b).

Violation of FINRA Rules 3110 and 2330 also constitute a violation of FINRA Rule 2010, which requires member firms and associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

Warner failed to reasonably supervise Representative A's variable annuity exchange recommendations.

Variable annuities are complex investments that are commonly marketed and sold to retirees and individuals saving for retirement. Between July 2016 and July 2021, Representative A engaged in a pattern of recommending that customers exchange variable annuities without considering whether such transactions were suitable in light of the substantial surrender charges that resulted from his recommendations.

As part of a strategy purportedly designed to help his customers avoid the higher costs associated with "bonus" share class variable annuities, Representative A frequently

recommended that his customers partially liquidate their bonus-share class variable annuities and exchange the proceeds into a lower-cost B-share class variable annuity. These recommended partial exchanges often exceeded the allowable withdrawal amounts, and thereby caused the customers to incur surrender charges. The customers' savings on the fee differential was insignificant relative to the size of the surrender charges.

Warner was the firm's designated principal responsible for the review of variable annuity transactions from May 2017 through July 2021. Although she delegated the review of some transactions to other principals, she retained the responsibility of reviewing and approving variable annuity exchange applications that disclosed a surrender charge. As a result, Warner reviewed 41 of Representative A's exchange applications with disclosed surrender charges. Contrary to Fortune's written supervisory procedures, Warner failed to compare the information on the exchange applications with other sources of information such as the original applications, the surrender fee schedules, or the customers' most recent account statements, and thereby failed to detect that Representative A had understated the customers' actual surrender charges on 39 of the 41 exchange applications that she reviewed and approved. In total, these 39 transactions caused 33 customers to incur surrender charges totaling \$227,584.13. Moreover, Warner failed to conduct an analysis to determine whether the cost savings of the new share class exceeded the amount of the surrender charges and thereby failed to reasonably determine whether the recommend exchanges were suitable.

Warner also failed to reasonably investigate red flags of excessive variable annuity switching by Representative A. In September 2018, Warner was notified that a variable annuity issuer terminated their agency relationship with Representative A because he had recommended the early liquidation of 23 variable annuity contracts, which resulted in the imposition of substantial surrender fees. Nonetheless, over the course of one year after receiving this notification, Warner approved new variable exchanges that Representative A recommended to 11 of the same customers. These new exchanges also caused the customers to incur additional surrender fees.

By failing to reasonably supervise the suitability of Representative A's recommendations of variable annuity exchanges, Warner violated FINRA Rules 3110, 2330, and 2010.

Warner failed to reasonably investigate red flags that Representative B was conducting securities business through an unapproved email account.

From September 2017 through November 2020, Representative B and his support staff, acting at Representative B's direction, used outside email accounts to communicate with firm customers. Using these accounts, Representative B and staff forwarded Fortune new account applications, and forms for variable annuity exchanges and withdrawals and requested that customers sign and return these documents. In many cases, these forms were blank or incomplete, and Representative B would complete the forms after they had already been signed and returned by the customers. Fortune's written supervisory

procedures prohibited the use of unapproved email accounts and the transmittal of blank or incomplete documents to customers.

From September 2017 through November 2020, Warner was the firm's designated supervisor for Fortune's email review system. Representative B and his staff disclosed their use of an outside email address to Fortune in annual compliance attestations beginning in October 2017. In July 2019, Warner was also assigned supervisory responsibilities for Representative B when he was placed on heightened supervision. Notwithstanding Warner's knowledge of Representative B's use of an outside email account, Warner did not take reasonable steps to review and ensure the retention of these business-related emails. Even after being advised by FINRA staff that Representative B and office staff were continuing to use an outside email account to conduct securities business with Fortune customers, Warner made no reasonable effort to review or ensure the retention of these emails.

By failing to reasonably supervise Representative B's use of an outside email account to conduct securities-related business, Warner violated FINRA Rules 3110 and 2010.

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

- a 40 business-day suspension from associating with any FINRA member in all principal capacities; and
- \$5,000 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 she 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 she is barred or suspended from associating with any FINRA member in a principal capacity, she 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, Respondent may not be associated with any FINRA member in a principal capacity, during the period of the bar or suspension. *See* FINRA Rules 8310 and 8311. Furthermore, because Respondent is subject to a statutory disqualification during the suspension, if she remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

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 her;
- 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.

Respondent certifies that she has 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 her, 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 her to submit this AWC.

12/2/2022

Date



Christine A. Warner
Respondent

Accepted by FINRA:

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

12/08/2022

Date



Kathryn S. Gostinger
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