

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020066911501**

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

RE: Palmery Robert Desir (Respondent)
General Securities Representative
CRD No. 5559016

Pursuant to FINRA Rule 9216, Respondent Palmery Robert Desir 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

Desir first became registered with FINRA in July 2008. Since May 31, 2018, Desir has been registered as a General Securities Representative through an association with Richfield Orion International, Inc. (CRD No. 24433).¹

OVERVIEW

Between June 2018 and April 2019, Desir excessively and unsuitably traded one customer's account, in violation of FINRA Rules 2111 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 2111(a) provides in pertinent part that “[a] member or an associated person must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer’s investment profile.” Recommended securities transactions may be unsuitable if, when taken together, they are excessive, the level of trading is inconsistent with the customer’s investment profile, and the registered representative exercises control over the customer’s account. No single test defines when

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

trading is excessive, but factors such as the turnover rate and the cost-to-equity ratio are considered in determining whether a member firm or associated person has violated FINRA's suitability rule.

Turnover rate represents the number of times that a portfolio of securities is exchanged for another portfolio of securities. The cost-to-equity ratio measures the amount an account must appreciate just to cover commissions and other expenses. In other words, it is the break-even point where a customer may begin to see a return. A turnover rate of six or a cost-to-equity ratio above 20 percent generally indicates that an account has been excessively traded.

Between June 2018 and April 2019, while he was registered through Richfield Orion, Desir engaged in excessive and unsuitable trading in the account of one customer. During the relevant period, the customer's account had an average equity of approximately \$700,000; Desir recommended that the customer place 330 trades in his account with a total principal value of more than \$3,860,000. The customer relied on Desir's advice and accepted his recommendations. Collectively, Desir's recommended trades caused the customer to pay over \$134,900 in commissions and other trading costs, which resulted in an annualized cost-to-equity ratio of 20 percent—meaning that the customer's account would have had to grow by 20 percent annually just to break even.

Desir's recommended securities transactions in the customer's account were excessive and unsuitable. Therefore, Desir violated FINRA Rules 2111 and 2010.

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

- a four-month suspension from associating with any FINRA member in all capacities; and
- a \$5,000 fine.²

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

² Restitution is not ordered against Desir because the customer has initiated an arbitration pertaining to Desir's excessive trading of his account.

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 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.

5/13/2022
Date



Palmery Robert Desir
Respondent

Accepted by FINRA:

May 27, 2022
Date

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


Joshua J. Bone
Principal Counsel
FINRA
Department of Enforcement
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