

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020068038501**

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

RE: Jay W. Eng (Respondent)
General Securities Representative
CRD No. 2241817

Pursuant to FINRA Rule 9216, Respondent Jay W. Eng 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

Eng first became registered with FINRA in 1992. Eng was registered through LPL Financial LLC (CRD # 6413) as a General Securities Representative (GS) from May 2004 to September 2020. He was also registered through Kinecta Financial & Insurance Services (formerly, Kinecta Wealth Management) (CRD # 136597) as a GS from June 2006 to September 2020. While associated with LPL and Kinecta, Eng worked inside a branch of the Kinecta Federal Credit Union located in Torrance, California. Pursuant to an agreement between LPL and Kinecta, Eng and other registered individuals offered securities and advisory services through LPL using the name Kinecta Wealth Management.

On September 21, 2020, and September 23, 2020, LPL and Kinecta, respectively, filed Uniform Termination Notices for Securities Industry Registration (Form U5s) disclosing that Eng had voluntarily terminated his association with the firms. Both firms indicated the terminations occurred after allegations were made that Eng had “contacted [a] third-party annuity company on behalf of a prospective client and represented he was the policy holder to obtain information about the annuity.”

Since September 2020, Eng has been registered with FINRA as a GS through another FINRA member firm.¹

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

OVERVIEW

In April 2020, Eng impersonated a prospective customer on a telephone call with an annuity company to obtain information about the annuity's surrender timetable and charges in violation of FINRA Rule 2010. Additionally, following his resignation from LPL and Kinecta in September 2020, Eng improperly retained nonpublic personal customer information from those firms, without the firms' or the customers' knowledge or consent, and subsequently used that information to transfer customer accounts to his new firm. As a result, Eng failed to observe high standards of commercial honor and just and equitable principles of trade in violation of FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from Form U5s LPL and Kinecta filed in September 2020.

FINRA Rule 2010 requires members and associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade."

Eng impersonated a potential customer.

Impersonating a prospective customer is a violation of FINRA Rule 2010.

In April 2020, a prospective customer contacted Eng to start the process to transfer his variable annuity to LPL. After receiving paperwork from the customer for the account transfer, Eng called the annuity company impersonating the prospective customer to obtain information about surrender terms for the annuity. Eng used the prospective customer's social security number, date of birth, and policy number to convince the annuity company that he was the prospective customer. Eng obtained information during the call regarding the annuity's surrender timetable and charges. Although the prospective customer had requested that Eng transfer the annuity, the prospective customer was not aware that Eng contacted the annuity company and did not authorize Eng to impersonate him.

Therefore, Eng violated FINRA Rule 2010.

Eng improperly retained nonpublic personal customer information after he resigned from LPL and Kinecta.

Registered representatives have a duty to maintain the confidentiality of customers' nonpublic personal information. Breaching this duty is a violation of FINRA Rule 2010.

Customers' nonpublic personal information, including date of birth, social security numbers, and account numbers, is protected under Regulation S-P. In addition, at all relevant times, LPL maintained policies that required its registered representatives to

protect customers' nonpublic personal information and use it only for the purposes for which it was provided to them.

After his resignation from LPL and Kinecta, Eng improperly retained customers' nonpublic personal information without LPL, Kinecta, or the customers' knowledge or consent. Specifically, on the evening of August 31, 2020, the night before Eng resigned from LPL and Kinecta, Eng printed customer records including customer names, social security numbers, account numbers, and account values. After becoming associated with his current member firm, Eng pre-filled customer information, including social security numbers and LPL account numbers, on customer account transfer forms which were transmitted electronically to customers for execution. The forms were used to effectuate account transfers to Eng's new firm.

Therefore, Eng violated FINRA Rule 2010.

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

- a 20-business 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 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.

1/12/23
Date

Jay W. Eng
Jay W. Eng
Respondent

Reviewed by:

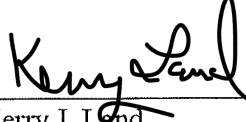
George C. Miller
George C. Miller, Esq.
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401 West A Street, Suite 2200
San Diego, CA 92101

Accepted by FINRA:

January 23, 2023

Date

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



Kerry J. Lind
Senior Counsel
FINRA
Department of Enforcement
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