

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2021072263801**

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

RE: David B. Test (Respondent)  
General Securities Representative, Investment Company and Variable Contracts Products  
Representative, and Variable Contracts Products Principal  
CRD No. 2341570

Pursuant to FINRA Rule 9216, Respondent David B. Test 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**

Test entered the securities industry in 1993 when he became registered as an Investment Company and Variable Contracts Products Representative (IR) through his association with a FINRA member. Between 1997 and 2009, Test became registered and associated with two different FINRA members. In January 2009, Test became registered as a General Securities Representative (GSR), General Securities Principal (GP), and Investment Company and Variable Contracts Products Principal (IP) through an association with Northwestern Mutual Investment Services, LLC (Northwestern Mutual). On August 12, 2021, Northwestern Mutual filed a Form U5 disclosing Test “was permitted to resign while under internal review for allegedly placing clients’ initials on Investment Account Transaction Analysis Forms . . . without the clients’ knowledge or authorization.” In October 2021, Test became registered as a GSR, IR, and IP with a different FINRA member, where he is currently associated.<sup>1</sup> Given his current association with a FINRA member, Test remains subject to FINRA’s jurisdiction.

**OVERVIEW**

Between February and March 2021, while associated with Northwestern Mutual, Test forged the initials of seven firm customers, on a total of seven customer account

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<sup>1</sup> For more information about the respondent, visit BrokerCheck® at [www.finra.org/brokercheck](http://www.finra.org/brokercheck).

documents, next to boxes he had checked on the documents after they had been signed by the customers. By forging the initials of the customers, Test violated FINRA Rule 2010. In addition, Test falsified the seven documents by checking boxes on the documents after they had been signed by the customers, in violation of FINRA Rule 2010. Because he falsified and forged these documents and submitted them to the firm, Test also violated FINRA Rules 4511 and 2010 by causing Northwestern Mutual to maintain inaccurate books and records, in violation of Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-3, thereunder.

### **FACTS AND VIOLATIVE CONDUCT**

This matter originated from the Form U5 filed by Northwestern Mutual in August 2021.

#### **A. Test forged customer initials and falsified customer documents.**

FINRA Rule 2010 requires an associated person, in the conduct of his or her business, to “observe high standards of commercial honor and just and equitable principles of trade.” Forgery occurs when one person signs another person’s name or initials on a document without the other person’s prior permission. Forgery is a violation of FINRA Rule 2010.

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. Falsifying documents is inconsistent with just and equitable principles of trade and violates FINRA Rule 2010.

During the relevant period, Northwestern Mutual’s written supervisory procedures instructed that “[o]nce a client has signed a document, no changes may be made to anything that appears above the client’s signature” and “[a]ny permissible change to a document... must be initialed by the person who signed the document.”

In February 2021, Test met with certain customers to transfer their assets to a mutual fund sold through Northwestern Mutual and provided the customers with new account documents to complete and sign. After the customers had signed the new account documents, Test realized that seven customers had not checked certain boxes on their new account documents related to the rationale for the transactions. Without the customers’ prior permission, Test checked the applicable boxes on a total of seven new documents that had previously been signed by the customers and signed the seven customers’ initials next to the boxes he had checked. Test then submitted all the documents to the firm.

Subsequently, Test admitted to the firm that he had signed the customers’ initials on the documents without the customers’ prior permission.<sup>2</sup>

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<sup>2</sup> After Northwestern Mutual identified Test’s forgeries, the firm requested that the seven customers re-execute the new account documents, and all of the customers re-executed the documents with the same information Test had previously submitted.

By forging seven customers' initials, without their prior permission, on a total of seven customer account documents, Test violated FINRA Rule 2010. In addition, by altering the documents after they had been signed by the customer, Test falsified the seven documents and violated FINRA Rule 2010.

**B. Test caused his member firm to maintain inaccurate books and records.**

FINRA Rule 4511 requires member firms to "make and preserve books and records as required under the FINRA rules, the Exchange Act, and the applicable Exchange Act rules." Under Exchange Act § 17(a) and Rule 17a-3(a)(17), broker-dealers are required to make and keep an account record for the account of each natural person who is a customer or owner. An associated person violates FINRA Rule 4511 by causing his member firm to maintain inaccurate books and records.

An associated person who violates FINRA Rule 4511 also violates FINRA Rule 2010.

During the relevant period, Northwestern Mutual's written supervisory procedures instructed that "[t]he integrity of documents provided by Northwestern Mutual... must be maintained" and associated individuals "are prohibited from altering any document."

By forging and falsifying the documents described above, Test caused Northwestern Mutual to maintain inaccurate books and records, in violation of Exchange Act § 17(a) and Rule 17a-3(a)(17) thereunder, and therefore violated FINRA Rules 4511 and 2010.

**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 \$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 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**

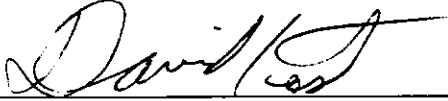
Respondent understands that:

- 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 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.

1/19/2023  
Date

  
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David B. Test  
Respondent

Accepted by FINRA:

1/19/2023

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Date

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



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Alex Marinello  
Counsel  
FINRA  
Department of Enforcement  
Two Jericho Plaza, Suite 307  
Jericho, NY 1753