

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022074626901**

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

RE: John Matthew Underation (Respondent)
Former General Securities Representative
CRD No. 4273996

Pursuant to FINRA Rule 9216, Respondent John Matthew Underation 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

Underation became registered with FINRA as an investment company and variable contracts products representative in August 2001 through his association with a FINRA member firm. In November 2005, Underation became registered as a general securities representative. In October 2017, Underation associated with McDonald Partners LLC and through that association registered with FINRA as a general securities representative. On May 3, 2022, McDonald Partners filed a Uniform Termination Notice for Securities Industry Registration (Form U5), stating that the firm had discharged Underation because he was statutorily disqualified. Although Underation is no longer associated with a FINRA member, FINRA retains jurisdiction over him pursuant to Article V, Section 4, of FINRA's By-Laws.¹

OVERVIEW

Underation willfully failed to timely amend his Uniform Application of Securities Industry Registration or Transfer (Form U4) to disclose that he had been charged with three felonies and pled guilty to one felony. As a result, Underation violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.

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

FACTS AND VIOLATIVE CONDUCT

Article V, Section 2(c) of FINRA's By-Laws requires registered representatives to keep their Forms U4 "current at all times" and to file any necessary amendments "not later than 30 days after learning of the facts or circumstances giving rise to the amendment." Further, "[i]f such amendment involves a statutory disqualification . . . , such amendment shall be filed not later than ten days after such disqualification occurs."

FINRA Rule 1122 provides that: "[n]o member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof."

Violations of Article V, Section 2(c) of the By-Laws and Rule 1122 also violate FINRA Rule 2010, which requires representatives in the conduct of their business to observe high standards of commercial honor and just and equitable principles of trade.

Registered representatives are required to disclose all felony charges and convictions on their Form U4. At all times relevant to this matter, Form U4 Question 14A(1) has asked, "Have you ever . . . been *charged* with any *felony*?" and, "Have you ever . . . been convicted of or pled guilty or nolo contendere ('no contest') in a domestic . . . court to any *felony*?" If a registered representative answers Question 14A affirmatively, then he or she must also provide detailed information about the charge or conviction on the Disclosure Reporting Page.

On August 19, 2020, while associated with McDonald Partners, Underation was indicted by a grand jury for three felonies: aggravated vehicular assault, vehicular assault, and failure to stop after an accident. Underation received notice of the charges on October 1, 2020. Underation willfully failed to amend his Form U4 to disclose the felony charges against him within 30 days as required.

On June 7, 2021, Underation pled guilty to a felony charge for attempted vehicular assault, which rendered him statutorily disqualified from associating with a member firm. Underation willfully failed to amend his Form U4 to disclose his felony guilty plea within ten days as required.

Underation ultimately amended his Form U4 to disclose the three felony charges and one felony guilty plea on April 4, 2022, approximately ten months after the deadline for disclosing the felony guilty plea and well over a year after the deadline for disclosing the felony charges.

Therefore, Underation violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.

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

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

The fine shall be due and payable either immediately upon reassociation with a member firm or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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.

Respondent understands that this settlement includes a finding that he willfully omitted to state a material fact on a Form U4, and that under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 and Article III, Section 4 of FINRA's By-Laws, this omission makes him subject to a statutory disqualification with respect to association with a member.

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.

December 16, 2022

Date

John Matthew Underation

John Matthew Underation
Respondent

Accepted by FINRA:

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

December 27, 2022

Date

Alfred B. Jensen

Alfred B. Jensen
Principal Counsel
FINRA
Department of Enforcement
200 Liberty Street
New York, NY 10281