

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2023079976101**

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

RE: Kevin Zappia (Respondent)
General Securities Representative
CRD No. 1360824

Pursuant to FINRA Rule 9216, Respondent Kevin Zappia 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

Zappia has been registered with FINRA through associations with seven different FINRA member firms since April 1985.

Since September 2016, Zappia has been registered with FINRA as a General Securities Representative through an association with FINRA member The Investment Center (BD No. 17839). Accordingly, Zappia remains subject to FINRA's jurisdiction.¹

OVERVIEW

Between September 2020 and August 2021, Zappia mismarked 73 order tickets as unsolicited when the securities transactions were actually solicited by Zappia. As a result, Zappia violated FINRA Rules 4511 and 2010 by causing his member firm to make and preserve inaccurate books and records in violation of Section 17(a) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 17a-3 thereunder.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's 2021 cycle exam of The Investment Center.

FINRA Rule 4511 requires each member to make and preserve books and records in conformity with Exchange Act 17(a) and Rule 17a-3 thereunder. Exchange Act Rule 17a-3 requires member firms, among other things, to make and keep a record of "each

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

brokerage order” showing “the terms and conditions of the order,” including “whether the order was solicited or unsolicited.” Inherent in the obligation to make and preserve books and records is the requirement that they be accurate. A registered representative who causes his or her firm to fail to comply with these record keeping obligations violates FINRA Rule 4511.

A violation of FINRA Rule 4511 is also a violation of FINRA Rule 2010, which requires associated persons to “observe high standards of commercial honor and just and equitable principles of trade” in the conduct of their business.

The Investment Center’s written supervisory procedures required its registered representatives to accurately record whether a transaction was solicited or unsolicited.

Between September 2020 and August 2021, Zappia mismarked 73 order tickets as unsolicited when he had solicited the trades. Zappia’s mismarking of these order tickets caused The Investment Center to make and preserve inaccurate books and records with respect to these trades in violation of Section 17(a) of the Exchange Act and Rule 17a-3 thereunder.

Therefore, Zappia violated FINRA Rules 4511 and 2010.

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

- A fifteen-business-day suspension from associating with any FINRA member in all capacities and
- a \$2,500 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.

10/17/2023
Date

Kevin Zappia
Kevin Zappia
Respondent

Accepted by FINRA:

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

10/25/2023
Date

Sean Heikkila
Sean Heikkila
Counsel
FINRA
Department of Enforcement
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