

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020068668803**

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

RE: Nicholas Lee Ash (Respondent)
Investment Company and Variable Contracts Products Representative (IR)
CRD No. 6244799

Pursuant to FINRA Rule 9216, Respondent Nicholas Lee Ash 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

Respondent first registered with FINRA as an IR in 2014 through an association with FINRA member OFG Financial Services, Inc. (OFG). Respondent remains registered through his association with OFG.¹

OVERVIEW

From November 2017 through August 2018, and during the period between October 2019 and July 2021, while associated with OFG, Respondent engaged in two outside business activities without providing prior written notice of these activities to OFG. As a result, Respondent violated FINRA Rules 3270 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a tip to FINRA.

FINRA Rule 3270 provides:

No registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be

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

compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member.

FINRA Rule 2010 states, “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” Conduct that violates FINRA Rule 3270 also violates FINRA Rule 2010.

At all relevant times, OFG’s written supervisory procedures requires registered representatives to disclose to the firm, in writing, any outside business activities prior to engaging in any such activity.

During November 2017, Ash became a 12.5% owner of a limited liability company (“Company A”) that purchased and operated rental properties. Ash performed repair and maintenance work on the properties. He co-owned Company A with three family members. Two of these co-owners were OFG registered representatives who collectively owned 75% of Company A and who caused Company A to buy certain properties from, and to lease certain properties to, OFG customers. Ash did not disclose his outside business activity with Company A to OFG until August 2018. Prior to his August 2018 disclosure, Ash received approximately \$1,500 in profit and compensation in connection with Company A.

Additionally, during the period between October 2019 and July 2021, Ash worked as an independent contractor for another real estate business that was owned and controlled by one of Company A’s owners (“Company B”). Company B owned a rental property and leased it to another OFG customer. On three occasions, Ash completed repair and maintenance projects for Company B in exchange for compensation totaling approximately \$500. However, he did not disclose this activity to the firm, and OFG only learned about the activity after FINRA commenced an investigation during April 2021.

Therefore, Respondent violated FINRA Rules 3270 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 pre-judgment 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.

May 20, 2022

Date

Nicholas Lee Ash

Nicholas Lee Ash
Respondent

Reviewed by:

Peter Mirakian III

Peter Mirakian III, Esq.
Spencer Fane LLP
1000 Walnut, Suite 1400
Kansas City, MO 64106

Accepted by FINRA:

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

June 8, 2022

Date

Matthew Aglaloro

Matthew Aglaloro
Principal Counsel
FINRA
Department of Enforcement
200 Liberty Street
New York, New York 10281