

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2022076365001**

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

RE: CIM Securities, LLC (Respondent)  
Member Firm  
CRD No. 120852

Pursuant to FINRA Rule 9216, Respondent CIM Securities, LLC (CIM) 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**

CIM has been a FINRA member since August 2002. The firm is headquartered in Wall Township, New Jersey. It has one branch with six registered representatives. The firm's business primarily consists of the sale of private placement offerings.

In an AWC issued in 2022, FINRA found that the firm failed to establish, maintain, and enforce written supervisory procedures (WSPs) reasonably designed to achieve compliance with the firm's obligations to obtain suitability information and document principal approval for private placement transactions in violation of FINRA Rules 3110 and 2010. FINRA also found that the firm failed to document principal review and approval of private placement investments in violation of FINRA Rules 4512(a)(1)(D) and 2010 and to establish, maintain, and enforce a reasonable supervisory system for email review in violation of FINRA Rules 3110 and 2010. The firm consented to a censure and a \$35,000 fine.

In an AWC issued in 2020, FINRA found that the firm failed to establish and maintain a supervisory system or WSPs reasonably designed to achieve compliance with its disclosure obligations under Rule 10b-9 of the Securities Exchange Act of 1934 in

connection with private placements structured as contingency offerings in violation of FINRA Rules 3110 and 2010. The firm consented to a censure and a \$30,000 fine.<sup>1</sup>

## **OVERVIEW**

Between April and September 2022, CIM sold to one investor a private placement offering for which no exemption from registration was available and, therefore, constituted an unregistered distribution of securities in contravention of Section 5 of the Securities Act of 1933, and, thereby, a violation of FINRA Rule 2010. During the same period, CIM failed to reasonably respond to red flags concerning the issuer of that same offering, in violation of FINRA Rules 3110 and 2010.

From September 2021 to January 2024, the firm failed to establish and maintain WSPs reasonably designed to achieve compliance with its obligations to conduct reasonable due diligence of private placement offerings, in violation of Rule 15c-1(a)(1) under the Securities Exchange Act of 1934 (Regulation Best Interest or Reg BI) and FINRA Rules 3110 and 2010.

From June to September 2022, CIM distributed sales communications for an offering that did not sufficiently disclose risks associated with the offering necessary to make the communications fair and balanced and contained misleading, promissory, and unwarranted statements, in violation of FINRA Rules 2210(d)(1)(A), 2210(d)(1)(B), and 2010.

Finally, from September 2021 to June 2023, the firm failed to meet its filing requirements for five private placement offerings, in violation of FINRA Rules 5123 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

This matter originated from reviews by FINRA's Member Supervision and Advertising Regulation departments and a self-report by CIM.

**CIM sold an offering for which no exemption from registration was available and, therefore, conducted an unregistered distribution of securities.**

Section 5 of the Securities Act of 1933 prohibits the offer or sale of securities unless either a registration statement is in effect as to such securities or the sales are exempt from registration. Rule 506(c) of Regulation D allows issuers to offer unregistered securities to accredited investors using general solicitation. An offering is disqualified from relying on Rule 506(c) if the issuer or any other person covered by Rule 506(d) has a relevant criminal conviction, regulatory or court order, or other disqualifying event that occurred on or after September 23, 2013. For disqualifying events of the covered persons that occurred before September 23, 2013, issuers may still rely on Rule 506 exemptions but, pursuant to Rule 506(e), must furnish to each purchaser a written description of any

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

matter that would have triggered disqualification under Rule 506(d)(1) but for the fact that it occurred before September 23, 2013. If an issuer fails to comply with Rule 506(e)'s disclosure provisions, it may not rely on any of the exemptions from registration found in Rule 506. Section 4(a)(2) of the Securities Act exempts from registration "transactions by an issuer not involving any public offering." Rule 506(b) of Regulation D provides a safe harbor under Section 4(a)(2) for private offerings of unregistered securities if certain conditions are met. One such condition is that the offering must not involve a general solicitation to market the securities. Rule 502(c) of Regulation D, in turn, generally sets forth the forms of prohibited general solicitations.

Acting in contravention of Section 5 of the Securities Act violates FINRA Rule 2010, which provides that member firms "shall observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business.

Between April and September 2022, CIM acted as a placement agent and participated in the sale and marketing of a private placement offering. The issuer engaged in general solicitation by issuing press releases about the offering, and the firm sold the offering to one accredited investor. CIM had no prior relationship with this investor, who was referred to the firm by the issuer. The firm's dealings with the issuer involved several communications and at least one meeting with an intermediary between the firm and the issuer who was a covered person because he acted as a compensated solicitor for the offering. The covered person had been convicted of wire fraud and money laundering in May 2013 for selling investment contracts in a fraudulent real estate investment scheme and was subsequently barred by the SEC. As discussed below, the covered person misled the firm as to his identity. Because these disqualifying events occurred before September 23, 2013, the issuer was required by Rule 506(e) to disclose the events to investors.

Neither CIM nor the issuer provided the investor in the offering with the required disclosures. Therefore, the offering was not covered by any of the Rule 506 exemptions from registration. Additionally, because the issuer conducted general solicitation for the offering under Rule 506(c), no exemptions under Section 4(a)(2) were available.

Accordingly, CIM violated FINRA Rule 2010 by selling unregistered securities in contravention of Section 5 of the Securities Act.

### **CIM failed to reasonably respond to red flags concerning a private placement offering.**

FINRA Rule 3110(a) requires that each member establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. The duty to supervise under FINRA Rule 3110(a) also includes the responsibility to reasonably investigate red flags that suggest that misconduct may be occurring and to act upon the results of such investigation. A violation of FINRA Rule 3110 also constitutes a violation of FINRA Rule 2010.

Between April and September 2022, CIM relied on the covered person's representations about his identity and failed to reasonably respond to red flags that suggested he had lied about his identity, including that he intentionally provided the firm with identity verification documents that did not match his name or age. After the firm discovered this deception, it terminated its involvement with the issuer and the covered person and self-reported the issue to FINRA.

Therefore, CIM violated FINRA Rules 3110 and 2010.

**CIM failed to establish and maintain written procedures reasonably designed to achieve compliance with Regulation Best Interest with respect to its sale of private placements.**

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Reg BI under the Securities Exchange Act of 1934. Rule 15c-1(a)(1) of Reg BI requires a broker, dealer, or a natural person associated with a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, to act in the best interest of that retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or associated person ahead of the interest of the retail customer. Reg BI's Compliance Obligation, set forth at Exchange Act Rule 15c-1(a)(2)(iv), requires a broker-dealer to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI. Reg BI's Adopting Release provides that broker-dealers should consider the nature of that firm's operations and how to design such policies and procedures to prevent violations from occurring, to detect violations that have occurred, and to correct promptly any violations that have occurred.

FINRA Rule 3110 requires member firms to establish, maintain, and enforce a supervisory system, including written procedures, to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules.

Regulatory Notice 10-22 (April 20, 2010) explains members' obligation to conduct a reasonable investigation of the issuer and the securities they recommend in connection with private placements.<sup>2</sup> Firms may not rely solely upon the issuer for information concerning the issuer and while firms are not expected to have the same knowledge as an issuer or its management, they are required to conduct a reasonable investigation that independently verifies an issuer's material representations and claims. To satisfy its obligations, a firm should, at a minimum, conduct a reasonable investigation of the issuer and its management; the business prospects of the issuer; the assets held by or to be acquired by the issuer; the claims being made; and the intended use of proceeds of the offering. Furthermore, to demonstrate that it has performed a reasonable investigation, a firm should retain records documenting both the process and results of its investigation.

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<sup>2</sup> Regulatory Notice 23-08 (May 9, 2023) updates and supplements, without altering, the guidance provided in Regulatory Notice 10-22.

Violations of Reg BI or FINRA Rule 3110 also are violations of FINRA Rule 2010.

From September 2021 to January 2024, the firm's WSPs required it to conduct due diligence prior to the sale of private placement offerings but did not provide reasonable guidance on what constituted adequate due diligence. For example, the WSPs lacked guidance on how to evaluate issuers, how to document the due diligence conducted, and did not address red flags that would require further inquiry. Concerning the firm's due diligence on covered persons and disqualifying events under Rule 506(d)(1) of Regulation D, the WSPs simply defined covered persons and disqualifying events, but did not provide procedures addressing offerings involving disqualifying events. Additionally, the WSPs did not provide guidance on how the firm could demonstrate its compliance with its due diligence obligations (e.g. documentation of its due diligence review, investigation, and approval). Thus, from September 2021 to January 2024, CIM failed to establish and maintain WSPs reasonably designed to achieve compliance with Reg BI.<sup>3</sup>

Therefore, CIM violated Exchange Act Rule 15c-1(a)(1) and FINRA Rules 3110 and 2010.

**CIM distributed investor materials for an offering that violated the content standards in FINRA Rule 2210.**

FINRA Rule 2210(d)(1)(A) requires that all member communications:

must be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security, industry, or service. No member may omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communication to be misleading.

FINRA Rule 2210(d)(1)(B) states that “[n]o member may make any false, exaggerated, unwarranted, promissory or misleading statement or claim in any communication” or “publish, circulate or distribute any communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.” A violation of FINRA Rule 2210 also constitutes a violation of FINRA Rule 2010.

FINRA has advised that “sales literature concerning a private placement that a [broker-dealer] distributes will generally be deemed to constitute a communication by that

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<sup>3</sup> In February 2024, CIM amended its WSPs to provide further guidance about the types of records and information required to be collected and reviewed for due diligence of private placement offerings, including by providing examples of red flags. The amended WSPs also require that the firm receive reports concerning disqualifying events for, as well as take other measures to meet with and confirm the identities of, covered persons in a Regulation D offering.

[broker-dealer] with the public, whether or not the [broker-dealer] assisted in its preparation.”<sup>4</sup>

From June to September 2022, CIM sent emails to prospective investors in an offering by an issuer that contained links to offering documents and sales communications for the private placement. CIM reviewed and provided input into those communications, which, along with the cover email, did not sufficiently disclose the specific risks of investing in the private placement necessary to make the communications fair and balanced. Those risks included the issuer’s expected continuing operating losses, limited operating history, competition, and no public market for the securities offered. The executive summary, investor deck, and cover email also made misleading, unwarranted, and promissory claims about the company’s existing profitability, liquidity of the investment, and competitiveness, as follows:

- The executive summary contained statements inaccurately describing the issuer as having “existing operational profitability” and stated that “increased profitability” would arise from its consolidation of dealerships, experimental marketing, and advanced management practices. These statements were misleading, unwarranted, and promissory because given the issuer’s limited operating history, there were no assurances that the consolidation model would be successful or that the issuer would achieve profitability.
- The investor deck stated that the offering could provide “[n]ear term liquidity of [investors’] investment through a publicly traded company.” This statement was misleading, unwarranted, and promissory because it did not account for the significant restrictions on transferability and liquidity and the absence of a secondary market.
- The cover email referenced the sale of a competitor “for an equivalent of \$10 million per dealerships,” which misleadingly suggested that the issuer would have a similar outcome.

Accordingly, CIM violated FINRA Rules 2210(d)(1)(A), 2210(d)(1)(B), and 2010.

### **CIM failed to meet its filing requirements for five private placement offerings.**

FINRA Rule 5123(a) requires, in relevant part, that member firms selling a security in a private placement (1) submit to FINRA a copy of any private placement memorandum, term sheet, other offering document, or retail communication promoting or recommending the private placement, including any materially amended versions, used in connection with such sale within 15 calendar days of the date of first sale; or (2) notify FINRA that no such offering documents or retail communications were used. A violation of FINRA Rule 5123 also constitutes a violation of FINRA Rule 2010.

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<sup>4</sup> Regulatory Notice 10-22, *Obligation of Broker-Dealers to Conduct Reasonable Investigations in Regulation D Offerings* (April 20, 2010).

From September 2021 to June 2023, CIM failed to meet the filing requirements for five offerings. For four offerings, the firm made the filings between three and 79 days late. For another offering, CIM failed to amend its filing and file an amended version of the private placement memorandum to reflect an increase in the maximum offering amount.

Therefore, CIM violated FINRA Rules 5123 and 2010.

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

- a censure; and
- a \$70,000 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 it 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.

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 it;
- 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 it 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent has agreed to the AWC's provisions voluntarily; and that 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 Respondent to submit this AWC.

December 27, 2024

Date

*Ulderico Conte*

CIM Securities, LLC

Respondent

Print Name: Ulderico Conte

Title: Chief Executive Officer

Reviewed by:

*Steve Csajaghy*

Steve Csajaghy

Counsel for Respondent

Condit Csajaghy LLC

695 South Colorado Blvd. Suite 270

Denver, Colorado 80246

Accepted by FINRA:

January 7, 2025

Date

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



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Sophia Kim  
Counsel  
FINRA  
Department of Enforcement  
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