

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2020065683301**

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

RE: Todd Anthony Cirella (Respondent)  
General Securities Representative  
CRD No. 2396336

Pursuant to FINRA Rule 9216, Respondent Todd Anthony Cirella 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 entered the securities industry in 1993. Since July 2004, Respondent has been registered as a General Securities Representative through an association with Laidlaw & Company (UK) Ltd., a FINRA member, and, accordingly, is subject to FINRA's jurisdiction.<sup>1</sup>

**OVERVIEW**

Between June 2020 and January 2021, Respondent recommended a series of trading in an account held by a senior customer that was excessive, unsuitable, and not in the customer's best interest. By this conduct, Respondent willfully violated the Best Interest Obligation under Rule 15c-1 of the Securities Exchange Act of 1934 (Regulation BI) (for the period June 30, 2020 through January 31, 2021), and violated FINRA Rule 2111 (for the period June 1, 2020 through June 29, 2020), and FINRA Rule 2010.

**FACTS AND VIOLATIVE CONDUCT**

This matter originated from a cycle examination of the firm.

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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).

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Regulation BI under the Securities Exchange Act of 1934. Reg BI's Best Interest Obligation 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 Care Obligation, set forth at Exchange Act Rule 15l-1(a)(2)(ii), requires broker-dealers and their associated persons to exercise reasonable diligence, care, and skill to, among other things, have a reasonable basis to believe that a series of recommended transactions, even if in the retail customer's best interest when viewed in isolation, is not excessive and is in the retail customer's best interest in light of the retail customer's investment profile. A violation of Reg BI also is 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.

Prior to June 30, 2020, FINRA Rule 2111 required members and associated persons to have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer. FINRA's suitability rule included an obligation to adhere to standards of "quantitative suitability"—i.e., whether the quantity of activity within a given timeframe is suitable in light of the customer's financial circumstances and investment objectives. Under Rule 2111.05(c), members and associated persons with actual or *de facto* control over an account were required to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer in light of the customer's investment profile. A violation of FINRA Rule 2111 also is a violation of FINRA Rule 2010.

No single test defines when trading is excessive, but factors such as the turnover rate and the cost-to-equity ratio are relevant to determining whether a member firm or associated person has excessively traded a customer's account. The turnover rate represents the number of times that a portfolio of securities is exchanged for another portfolio of securities. The cost-to-equity ratio measures the amount an account must appreciate just to cover commissions and other expenses. In other words, it is the break-even point where a customer may begin to see a return. A turnover rate of six or a cost-to-equity ratio above 20 percent generally indicates that a series of recommended transactions was excessive.

In July 2010, Respondent's retail customer opened an account with Laidlaw when he was aged 60. Between June 2020 and January 2021, the customer relied on Respondent's advice and routinely followed his recommendations and, as a result, Respondent exercised *de facto* control over the customer's account.

Between June 2020 and January 2021, Respondent recommended 46 transactions in the customer's account. During this period, the trading in the customer's account generated

\$27,566 in commissions and resulted in approximately \$12,000 in trading losses, an annualized cost-to-equity ratio of 37.65%, and an annualized turnover rate of 20.39. The high cost-to-equity ratio meant the customer's account would have to grow by more than 37 percent annually just to break even, making it very difficult for the customer to realize a profit. This level of trading was excessive, unsuitable, and not in the customer's best interest.

Therefore, Respondent willfully violated Exchange Act Rule 15c-1 and violated FINRA Rule 2111 and FINRA Rule 2010.

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

- a three-month suspension from associating with any FINRA member in all capacities;
- a \$5,000 fine; and
- restitution of \$27,566 plus interest as described below.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

Respondent agrees to pay the monetary sanctions 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.

Restitution is ordered to be paid to the customer listed on Attachment A to this AWC (Eligible Customer) in the total amount of \$27,566, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from January 31, 2021 until the date this AWC is accepted by the National Adjudicatory Council (NAC).

Respondent shall submit satisfactory proof of payment of restitution and interest (separately specifying the date and amount of each paid to each Eligible Customer) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org. The email must identify Respondent and the case number and include a copy of the check, money order, or other method of payment. This proof shall be provided by email to EnforcementNotice@FINRA.org no later than 120 days after the date of the notice of acceptance of the AWC.

The restitution amount plus interest to be paid to each Eligible Customer shall be treated by the Respondent as the Eligible Customer's property for purposes of state escheatment, unclaimed property, abandoned property, and similar laws. If after reasonable and documented efforts undertaken to effect restitution Respondent is unable to pay all Eligible Customers within 120 days after the date of the notice of acceptance of the AWC, Respondent shall submit to FINRA in the manner described above a list of the

unpaid Eligible Customers and a description of Respondent's plan, not unacceptable to FINRA, to comply with the applicable escheatment, unclaimed property, abandoned property, or similar laws for each such Eligible Customer.

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 sanctions imposed in this matter.

The imposition of a restitution order or any other monetary sanctions in this AWC, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

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 violated Rule 15l-1 of the Securities Exchange Act of 1934 and that under Article III, Section 4 of FINRA's By-Laws, this makes him subject to a statutory disqualification with respect to association with a member.

## 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 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.

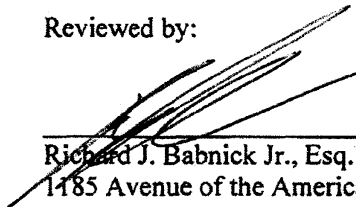
1-5-23

Date



Todd Anthony Cirella  
Respondent

Reviewed by:



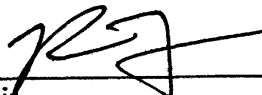
Richard J. Babnick Jr., Esq.  
1485 Avenue of the Americas Counsel for Respondent  
Sichenzia Ross Ference LLP  
1185 Avenue of the Americas, 31st Floor  
New York, NY 10036

Accepted by FINRA:

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

1/31/23

Date



Robert Fair  
Senior Counsel  
FINRA  
Department of Enforcement  
200 Liberty Street, 11th floor  
New York, NY 10281-1003

**PUBLIC VERSION**

**Attachment A**

<b>Customer</b>	<b>Restitution Amount</b>	<b>Interest Date</b>
Customer	\$27,566	January 31, 2021