FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018056490307

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

RE: Joao A. Pinto (Respondent)
General Securities Representative and Investment Company and Variable Contracts Products Representative
CRD No. 6298233

Pursuant to FINRA Rule 9216, Respondent Joao A. Pinto 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

Pinto first registered with FINRA as an Investment Company and Variable Contracts Products Representative (IR) in September 2014 and as a General Securities Representative (GS) in August 2017. Since October 2019, Pinto has been registered with FINRA as an IR and as a GS through Spartan Capital Securities, LLC (Spartan) (CRD No. 146251).[1]

OVERVIEW

From January 2020 through June 2021, Respondent recommended a series of trades in one senior customer's account that were excessive, unsuitable, and not in the customer's best interest. By this conduct, Respondent willfully violated the Best Interest Obligation under Rule 15*l*-1 of the Securities Exchange Act of 1934 (Regulation BI) (for the period June 30, 2020, through June 2021) and violated FINRA Rule 2111 (for the period January 2020 through June 29, 2020) and FINRA Rule 2010.

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

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's 2018 cycle exam of Spartan.

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. Regulation 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. Regulation BI's Care Obligation, set forth at Exchange Act Rule 15*l*-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 Regulation 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 November 2019, the customer opened an account at Spartan with Pinto. At that time, the customer was 68 years old and retired.

From January 2020 through June 2021, Pinto engaged in quantitatively unsuitable trading in the customer's account. Pinto recommended high frequency trading in the customer's account, and the customer routinely followed his recommendations. As a result, Pinto exercised *de facto* control over the customer's account.

Pinto's trading resulted in a high turnover rate and cost-to-equity ratio, as well as significant losses. In particular, Pinto effected 130 transactions in the customer's account, resulting in an annualized turnover rate of 14 and an annualized cost-to-equity ratio of 55%. Pinto's trading in the customer's account generated total trading costs of $92,237, including $83,484 in commissions, and caused $141,051 in realized losses. The high cost-to-equity ratio meant the customer's account would have to grow by 55% annually just to break even. This level of trading was excessive, unsuitable, and not in the best interest of the customer.

Therefore, Respondent willfully violated Exchange Act Rule 15*l*-1 (for the period June 30, 2020, through June 2021) and violated FINRA Rule 2111 (for the period January 2020 through June 29, 2020) 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.

Respondent has submitted a statement of financial condition and demonstrated an inability to pay. In light of Respondent's financial status, no monetary sanctions have been imposed.

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 15*l*-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.

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 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.

11/13/23
Date

Joao A. Pinto
Respondent

Reviewed by:

Liam O'Brien Esq.
Counsel for Respondent
McCormick & O'Brien, LLP
125 Park Avenue, 25th Floor
New York, New York 10017

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

11/21/2023
Date

Michael Dorfman-Gonzalez
Senior Counsel
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