FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020068655901

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

RE: Kyle William Chapman (Respondent)
Former General Securities Representative
CRD No. 6303483

Pursuant to FINRA Rule 9216, Respondent Kyle William Chapman 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

Chapman first became registered with FINRA in 2014 through an association with a member firm. From August 2018 to October 2020, Chapman was associated with WestPark Capital, Inc. (CRD No. 39914), through which he was registered with FINRA as a General Securities Representative and Investment Company and Variable Contracts Products Representative. Chapman again registered with FINRA as a General Securities Representative and Investment Company and Variable Contracts Products Representative from November 2020 to July 2022, through an association with American Trust Investment Services, Inc. (CRD No. 3001).

On July 8, 2022, American Trust filed a Uniform Termination Notice for Securities Industry Registration (Form U5), disclosing that Chapman had voluntarily terminated his association with the firm. On December 12, 2022, American Trust filed an amended Form U5, disclosing that Chapman was the subject of a customer arbitration alleging various causes of action related to GWG L Bonds.

Although Chapman is not currently registered or associated with any FINRA member firm, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.[1]

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

OVERVIEW

In January and December 2020, Chapman recommended that a retail customer invest a total of $50,000 in GWG L Bonds—a speculative, unrated debt security—after the customer reached out to Chapman about investing in the security. Chapman did not have a reasonable basis to recommend these investments, and his recommendations were neither in the customer's best interest nor suitable, in light of the customer's investment profile. Therefore, Chapman willfully violated Rule 15*l*-1(a)(1) under the Securities Exchange Act of 1934 (Regulation BI or Reg BI) (for the period on and after June 30, 2020), and violated FINRA Rule 2111 (for the period before June 30, 2020) and FINRA Rule 2010.

In addition, in January and December 2020, in response to the customer's inquiries, Chapman made negligent misrepresentations and omissions of material fact in connection with his sales to the customer of GWG L Bonds. As a result, Chapman violated FINRA Rule 2010, both independently and in contravention of Section 17(a)(2) of the Securities Act of 1933.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a FINRA cause examination.

A. GWG Holdings, Inc.

GWG Holdings, Inc. is a publicly-traded financial services company. Prior to 2018, GWG purchased life insurance policies through its subsidiaries on the secondary market. GWG continued to pay the premiums for each policy that it purchased and collected the policy benefits upon the insured's death. Following a series of transactions in 2018 and 2019 with Beneficient Company Group, L.P., GWG reoriented its business, stopped acquiring life insurance policies, and focused instead on developing a business model of providing liquidity to holders of illiquid investments and alternative assets.

GWG had a history of net losses and had not generated sufficient operating and investing cash flows to fund its operations. To finance its operations, GWG offered corporate bonds (known as L Bonds) to investors with varying maturity periods and interest rates. L Bonds were not directly secured by GWG's life insurance portfolio and were not rated by any bond rating agency.

GWG sold L Bonds to retail investors in four separate offerings and made those sales through a network of broker-dealers, including WestPark and American Trust, which entered into agreements with GWG to sell L Bonds in July 2016 and January 2019, respectively. The offering documents for the third and fourth L Bond offerings, which commenced in December 2017 and June 2020, stated that the bonds could be considered speculative, involved a high degree of risk, were illiquid, and were only suitable for persons with substantial financial resources and with no need for liquidity.

In January 2022, after Chapman's customer made investments in the L Bonds, GWG defaulted on its obligations to L Bond investors and suspended further sales of L Bonds. In April 2022, GWG filed for bankruptcy.

B. Chapman did not have a reasonable basis to recommend GWG L Bonds.

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Regulation BI under the Securities Exchange Act. Rule 15*l*-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 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, understand the potential risks, rewards, and costs associated with a recommendation. Reg BI's Adopting Release provides that what constitutes "reasonable diligence" depends on, among other things, the complexity of, and risks associated with, the recommended security.[2] The Care Obligation requires broker-dealers and their associated persons to have a reasonable basis to believe that the recommendation could be in the best interest of at least *some* retail investors.

Reg BI's Care Obligation further 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 the recommendation is in the best interest of a particular retail customer based on that retail customer's investment profile and the potential risks, rewards, and costs associated with the recommendation. Regulation BI defines a "retail customer investment profile" to include, but not be limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation. Reg BI's Adopting Release further provides that what is in the best interest of a retail customer depends on the facts and circumstances of the recommendation, including "matching" the recommended security to the retail customer's investment profile. Where the "match" between the retail customer profile and the recommendation appears less reasonable, it is more important for the associated person to establish that he or she had a reasonable belief that the recommendation was in the best interest of the retail customer.[3] Finally, the Adopting Release provides that, in addition to "matching" the recommendation to the customer's suitability profile, an associated person should also exercise reasonable diligence, care, and skill to consider reasonably available alternatives.[4]

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[2] *Regulation Best Interest: The Broker-Dealer Standard of Conduct*, Exchange Act Release No. 86031, 84 FR 33318 at 33376 (July 12, 2019).

[3] Adopting Release at 33382.

[4] Adopting Release at 33381.

Prior to June 30, 2020, FINRA Rule 2111 required members and associated persons to have a reasonable basis to believe that a recommendation of a transaction or investment strategy involving a security or securities to any customer: (1) is suitable for the customer; and (2) is suitable based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile. FINRA Rule 2111 is still in effect, but as of June 30, 2020, it no longer applies to recommendations that are subject to Reg BI. Rule 2111.05(a) defines the reasonable-basis obligation to require members and their associated persons to have an understanding of the potential risks and rewards associated with the recommended security or strategy and to have a reasonable basis to believe, based on reasonable diligence, that the recommendation is suitable for at least some investors. Moreover, FINRA Rule 2111 defines a customer's investment profile to include the same information as under the Care Obligation.

A violation of Reg BI or FINRA Rule 2111 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.

In January and December 2020, after a customer reached out to Chapman about investing in GWG L Bonds, Chapman failed to perform reasonable diligence on the security before recommending it to the customer, and he failed to understand the risks related to L Bonds. Chapman did not conduct a reasonable review of the offering documents, and thus did not understand that L Bonds were high risk and speculative, or that, in the event of a default, bondholders' ability to enforce their rights to payment was restricted. Further, Chapman erroneously concluded that the diversification caused by GWG's change in business model in 2018 and 2019—away from the acquisition of life insurance policies, and toward providing liquidity to holders of illiquid investments and alternative assets—would reduce the risks associated with the investment. In fact, however, this change in business model increased the risks associated with investment in GWG L Bonds, in part because L Bonds were no longer fully backed by life insurance policies.

Chapman recommended that his customer invest a total of $50,000 in GWG L Bonds in January and December 2020. In January 2020, while he was associated with WestPark, and after the customer reached out to Chapman's firm about investing in the security, Chapman recommended that the customer invest $28,000 in GWG L Bonds. The customer directed that the investment be split evenly between two- and three-year L Bonds. And in December 2020, while he was associated with American Trust, and after the customer again contacted Chapman about investing additional amounts in GWG L Bonds, Chapman recommended that the customer invest another $22,000 in two-year L Bonds. As a result of these investments, the customer had at least 14% of his disclosed liquid net worth invested in L Bonds. Chapman earned $1,471 in commissions from these recommendations.

Given the high degree of risk associated with L Bonds, Chapman did not have a reasonable basis to believe that his recommendations that the customer invest $50,000 in

L Bonds were either in the customer's best interest or suitable in light of the customer's investment profile. At all relevant times, the customer disclosed a moderately aggressive risk tolerance and a liquid net worth of $350,000. The customer's investment objectives were income and preservation of capital, and did not include speculation. And, when recommending the second purchase of GWG L Bonds in December 2020, along with other types of investments, Chapman did not exercise reasonable diligence, care, and skill to consider reasonably available alternatives to the L-Bond recommendation that may have achieved the customer's objectives.

Therefore, Chapman willfully violated Exchange Act Rule 15*l*-1(a)(1) and violated FINRA Rule 2111 and FINRA Rule 2010.

C. Chapman made negligent misrepresentations and omissions of material fact when recommending GWG L Bonds to his customer.

Section 17(a)(2) of the Securities Act provides that it shall be unlawful "to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading." It is a violation of FINRA Rule 2010 to act in contravention of Section 17(a)(2) of the Securities Act.

Making a negligent misrepresentation or an omission of a material fact to customers independently violates FINRA Rule 2010, as it is inconsistent with just and equitable principles of trade.

In January 2020, while associated with WestPark, and after the customer reached out to Chapman about investing in GWG L Bonds, Chapman sent third-party risk reports to the customer that rated investments on a scale from 1 to 100, with 1 representing the lowest risk and 100 representing the highest risk. The risk reports assigned a risk score of "1" to the two-, three-, and five-year GWG L Bonds, and the same risk score of "1" to cash. Chapman advised the customer that he was sharing the risk reports to "ease [the customer's] mind even more about the GWG L Bonds." After receiving the reports, the customer told Chapman that he had more confidence in GWG L Bonds. The customer then made an initial investment of $28,000 in L Bonds.

In December 2020, before the customer made his second purchase of GWG L Bonds, the customer emailed Chapman and asked, among other things, if GWG L Bonds were "still very conservative." Chapman did not correct the customer's belief that GWG L Bonds were a conservative investment. Instead, Chapman negligently misrepresented that: (1) GWG was still acquiring life insurance policies, when it in fact had ceased doing so; (2) it was "normal" for a company like GWG to operate at a loss for many years; (3) GWG was "more secure" as a result of its merger with Beneficient (which resulted in GWG's shift in business model toward providing liquidity to holders of illiquid investments and alternative assets); and (4) the customer should only "worry about" the five- or seven-year GWG L Bonds. After receiving Chapman's response, the customer invested another $22,000 in L Bonds.

As a result of Chapman's negligent misrepresentations and omissions of material fact regarding GWG L Bonds, he violated FINRA Rule 2010, both independently and by acting in contravention of Section 17(a)(2) of the Securities Act.

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
- disgorgement of $1,471 plus interest as described below.[5]

The fine shall be due and payable either immediately upon reassociation with a member firm or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

Disgorgement of commissions received is ordered to be paid to FINRA in the amount of $1,471, 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 December 15, 2020, until the date this AWC is accepted by the National Adjudicatory Council (NAC). Disgorgement shall be due and payable either immediately upon reassociation with a member firm or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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.

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.

[5] Chapman's customer brought and settled an arbitration against American Trust relating to the customer's GWG L Bond investments. Chapman was not a party to, and did not participate in, the settlement of that arbitration.

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.

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.

August 16, 2024
Date

Kyle William Chapman
Kyle William Chapman
Respondent

Reviewed by:

Edwin A. Barkel
Edwin A. Barkel
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Accepted by FINRA:

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

September 5, 2024
Date

Jamie P. Keesing
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