FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015043159201

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

RE: Summit Equities, Inc., Respondent
CRD No. 11039

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Summit Equities, Inc. ("Summit Equities" or the "Firm") 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 Summit Equities alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Summit Equities has been a member of FINRA since 1982. The Firm maintains its headquarters in Parsippany, New Jersey and employs approximately 132 registered persons.

RELEVANT DISCIPLINARY HISTORY

Summit Equities has no relevant formal disciplinary history with the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator.

OVERVIEW

Between October 1, 2011 and December 1, 2015, (the "Relevant Period"), Summit Equities failed to reasonably supervise its registered representatives' recommendations of multi-share class variable annuities ("VAs") to customers. Summit Equities also failed to provide training to its registered representatives and principals on the sale and supervision of multi-share class VAs. As a result, Summit Equities violated NASD Rule 3010(a) and (b), and FINRA Rules 2330(d) and (e), 3110(a) and (b) and 2010.

Moreover, from 2001 through 2012, Summit Equities failed to reasonably supervise the private securities transactions of registered representative DG in violation of NASD Rules 3010, 3040 and 2110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Failure to Supervise VA Share Class Recommendations

During the Relevant Period, Summit Equities sold 1,037 individual VA contracts to its customers. Approximately 45% of these VA contracts were L-share contracts. Despite the significant role that VA sales played in Summit Equities' overall business, the Firm failed to implement a supervisory system and procedures designed to reasonably ensure the suitability of its multi-share class VA sales, including its sales of L-share contracts.

Summit Equities sold VA contracts with the option of various different share classes. The B-share contracts are the most common share class sold in the industry and typically have a seven-year surrender period. L-share contracts typically provide a shorter surrender period of three to four years. Insurance companies design L-share contracts so that customers pay a higher fee in exchange for the increased liquidity provided by the shorter surrender period. The fees associated with an L-share contract, which are assessed as long as the contract is held, are typically between 35 and 50 basis points higher annually than most B-share contracts.

L-share contracts are designed for investors who want the option to surrender the L-share contract sooner than a B-share contract. Pursuant to the terms established by the insurance company issuers, if a purchaser chooses not to surrender an L-share contract during the surrender period, the purchaser continues to pay a higher annual fee for the life of the contract, unless the contract provides for a "persistency credit."[1]

During the Relevant Period, Summit Equities failed to establish, maintain, and enforce a reasonable supervisory system and written supervisory procedures ("WSPs") related to the sale of multi-share class VAs.

The Firm's WSPs and training materials failed to provide registered representatives and principals guidance or suitability considerations for sales of different VA share classes.

[1] Some L-Share contracts have a specific provision, commonly called a "persistency credit," which reduces the annual fees so that the contract is comparable to a B-share contract after the product is held for a certain period of time, generally seven to ten years.

More specifically, until April 2015, the Firm did not provide training or guidance to registered representatives on the features of various share classes and the associated fees and surrender charges, and did not provide them with adequate information to compare share classes to make suitability determinations.

In addition, Summit Equites failed to establish, maintain, and enforce WSPs or provide sufficient guidance or training to registered representatives and principals regarding the sale of long-term income riders with multi-share class VAs, particularly the combination of L-share contracts with long-term income riders.

Based on the foregoing, Summit Equities violated NASD Rule 3010(a) and (b) and FINRA Rules 2330(d) and (e), 3110(a) and (b), and 2010.[1]

Failure to Supervise Private Securities Transactions

NASD Rule 3040(c) provides that if an associated person "has received or may receive selling compensation" in connection with a private securities transaction, and the member firm approves the transaction, then the member firm must supervise the transaction and include it on its own books and records "as if the transaction were executed on behalf of the member." The Rule defines a private securities transaction as "any securities transaction outside the regular course or scope of an associated person's employment with a member."

In 2001, Summit Equities allowed registered representative DG to form a separate broker-dealer, GEH, to sell the securities of DC, a hedge fund that DG controlled. The Firm placed two restrictions on DG's association with GEH. First, the Firm instructed DG that he would be permitted to sell only DC securities through GEH. Second, the Firm required "that all sales or placement of any security product must be booked and received through Summit Equities, Inc."

Contrary to these instructions, DG used GEH to sell the securities of several different hedge funds other than DC and never reported these sales to the Firm as required by the Firm and its procedures governing private securities transactions. For example, from June 2011 through September 2011, DG sold approximately $6.2 million in limited partnership interests in IME Fund, a hedge fund that traded options, to 11 investors, all of whom were Summit Equities' customers. DG never disclosed these sales to the Firm. In September 2011, the IME Fund collapsed, and investors lost approximately 95% of their investments.

Summit Equities failed to adequately supervise DG's activities through GEH. After a number of years, the Firm stopped examining GEH's books and records, and the Firm never reviewed DG's GEH emails or conducted an on-site visit of GEH's office.

[1] The Firm violated NASD Rule 3010 for the conduct prior to December 1, 2014 and FINRA Rule 3110 for the conduct on and after December 1, 2014.

Summit Equities failed to take steps to supervise DG's sales activities through GEH or to ensure that DG complied with the Firm's restrictions on DG's sales through GEH.

In addition, Summit Equities failed to detect several "red flags" that should have alerted it to DG's IME Fund activity. For example, in May and July 2011, five customers of DG requested $2.5 million in wire transfers from their accounts to fund their investments in the IME Fund. The Firm approved two of the wire transfers, but never questioned DG about these transactions.

By failing to supervise DG's private securities transactions and ensure that they complied with the requirements of NASD Rule 3040, Summit Equities violated NASD Rules 3010, 3040, and 2110 and FINRA Rule 2010.[1]

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

- Censure; and
- Fine of $325,000.

Summit Equities agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The Firm has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Summit Equities specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

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;

[2] The Firm violated NASD Rule 2110 for the conduct prior to December 15, 2008 and FINRA Rule 2010 for the conduct on and after December 15, 2008.

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 acceptance or rejection of this AWC.

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 actions brought by FINRA or any other regulator against it;

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 the subject matter thereof 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 its: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and

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 or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its 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 the Firm has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

Summit Equities, Inc.

3-30-17
Date (mm/dd/yyyy)

By: _____
Steve Weinman
Chief Executive Officer

Reviewed by:

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Counsel for Respondent

Accepted by FINRA:

5/11/17
Date

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

Michael J. Newman
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FINRA Department of Enforcement
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Summit's Statement of Corrective Action

Summit has significantly expanded and enhanced its management, compliance, supervisory and legal personnel as well as its overall compliance and supervisory structures and training programs. Notwithstanding this AWC's findings that the firm's supervision and training regarding VA share classes was inadequate, which Summit does not dispute, Summit believes that the RRs did make appropriate suitability determinations regarding the share classes they recommended to their VA clients. Further, Summit no longer permits RRs to associate with any brokerage firm other than Summit.