

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021069380201**

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

RE: DMK Advisor Group, Inc. (Respondent)
Member Firm
CRD No. 41067

Pursuant to FINRA Rule 9216, Respondent DMK Advisor Group, Inc. 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

DMK became a FINRA member firm in 1996. The firm has seven branches and 39 registered representatives. DMK conducts a general securities business with retail customers.¹

OVERVIEW

From June 30, 2020, to June 15, 2022, DMK failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with Exchange Act Rule 17a-14, which required the firm to timely prepare, file, and deliver its Form CRS to retail customers by July 30, 2020. DMK also failed to deliver its Form CRS to certain of its customers until October 2022. DMK therefore willfully violated Section 17(a)(1) of the Exchange Act and Rule 17a-14 thereunder and violated FINRA Rules 3110 and 2010.

DMK also failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with Exchange Act Rule 15l-1 (Regulation Best Interest or Reg BI). As a result, DMK violated Exchange Act Rule 15l-1 and FINRA Rules 3110 and 2010.

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

FACTS AND VIOLATIVE CONDUCT

This matter originated from the 2021 cycle examination of DMK.

DMK Failed to Have a Supervisory System, Including WSPs, Reasonably Designed to Achieve Compliance with its Form CRS Obligations, and the Firm Failed to Timely Deliver Form CRS to Certain Customers.

On June 5, 2019, the Securities and Exchange Commission (SEC) adopted Form CRS and rules creating new requirements—which include requirements to deliver the Form CRS—for SEC-registered broker-dealers offering services to retail investors. The compliance date for Form CRS was June 30, 2020.

Form CRS provides customers with information about the types of services the firm offers; the fees, costs, conflicts of interest, and required standard of conduct associated with those services; whether the firm and its investment professionals have reportable legal or disciplinary history; and how to get more information about the firm.

Form CRS also includes required “conversation starters” to help begin a discussion with a broker-dealer about the relationship, including their services, fees, costs, conflicts, and disciplinary information.

Section 17(a)(1) of the Securities Exchange Act of 1934 requires registered broker-dealers to make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission deems “necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of” the Exchange Act. Exchange Act Rule 17a-14—titled “Form CRS, for preparation, filing and delivery of Form CRS”—requires broker-dealers offering services to a retail investor to prepare a Form CRS in accordance with the instructions in Form CRS, and to comply with requirements related to filing, amending, delivering, and posting the Form CRS to the firm’s public website. Rule 17a-14 also requires broker-dealers to deliver their current Form CRS to each retail customer of the firm. As relevant, under Rule 17a-14(f)(3), within 30 days after the date by which DMK was first required to file its initial Form CRS with the SEC (*i.e.*, no later than July 30, 2020), DMK was required to deliver its Form CRS to each existing retail customer of the firm.

FINRA Rule 3110 requires member firms to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules. A violation of Exchange Act § 17(a)(1), Exchange Act Rule 17a-14, and FINRA Rule 3110 also is a violation of FINRA Rule 2010, which requires member firms to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

From June 30, 2020 to June 15, 2022, DMK failed to establish and maintain a supervisory system, including WSPs, reasonably designed to achieve compliance with Form CRS requirements. During this time period, DMK's WSPs acknowledged that it was required to deliver Form CRS to all retail customers, but did not prescribe any procedures for supervising how the firm should file, deliver, and update the Form CRS.² In June 2022, the firm updated its WSPs to provide additional guidance regarding Form CRS.

DMK failed to timely deliver Form CRS to approximately 25% of the firm's retail customers. DMK arranged for its clearing firm to deliver the Form CRS to all customers who had accounts with the clearing firm. However, DMK failed to deliver by July 30, 2020, the Form CRS to 241 customers of DMK who did direct business with the firm and therefore did not have accounts with the clearing firm. After this issue was identified by FINRA, DMK subsequently delivered its Form CRS to these customers in October 2022.

DMK therefore willfully violated Exchange Act § 17(a)(1) and Exchange Act Rule 17a-14 and violated FINRA Rules 3110 and 2010.

DMK Failed to Have a Supervisory System, Including WSPs, Reasonably Designed to Achieve Compliance with Regulation Best Interest.

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.

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.³

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

² See 17a-14(b)(2) (filing requirement); 17a-14(b)(3) (updating requirement); 17a-14(c) (delivery requirement).

³ *Regulation Best Interest: The Broker-Dealer Standard of Conduct*, Exchange Act Release No. 86031, 84 FR 33318 at 33397 (July 12, 2019).

A violation of Exchange Act Rule 15l-1 and FINRA Rule 3110 also is a violation of FINRA Rule 2010.

From June 30, 2020, to June 15, 2022, DMK failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with Reg BI. During that time, the firm's WSPs concerning Reg BI provided only general background information regarding the purpose of Reg BI. The WSPs did not address the Care or Conflict of Interest Obligations of Reg BI,⁴ nor did they describe how to prevent, detect, or promptly correct violations of Reg BI or to otherwise achieve compliance with Reg BI. In June 2022, the firm updated its WSPs to provide additional guidance regarding Reg BI.

Therefore, DMK violated Exchange Act Rule 15l-1 and FINRA Rules 3110 and 2010.

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

- a censure; and
- a \$35,000 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.

Respondent understands that this settlement includes a finding that it willfully violated Exchange Act Rule 17a-14 and that under Article III, Section 4 of FINRA's By-Laws, this makes Respondent subject to a statutory disqualification with respect to membership.

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

⁴ 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 each recommended transaction or series of transactions made is in the best interest of the retail customer. Reg BI's Conflict of Interest Obligation, set forth at Exchange Act Rule 15l-1(a)(2)(iii), requires broker-dealers to establish, maintain, and enforce written policies and procedures addressing conflicts of interest, defined as interests that might incline a broker-dealer or an associated person—consciously or unconsciously—to make a recommendation that is not disinterested.

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.

May 17, 2023

Date

Hal Schwartz

DMK Advisor Group, Inc.

Respondent

Hal Schwartz

Print Name: _____

Title: Chief Executive Officer

Accepted by FINRA:

May 18, 2023

Date

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

Karen Daly

Karen C. Daly
Principal Counsel
FINRA
Department of Enforcement
1601 Market Street, Suite 2700
Philadelphia, PA 19103



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This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA, or its staff.

DMK Advisor Group, Inc (the "firm") is providing this response in regards to the AWC noted herein.

On January 1, 2020, the ownership team of the small independent firm, DMG Advisor Group, LLC, acquired the broker/dealer-RIA of Stephen A. Kohn & Associates, LLC (SAKL), and rebranded itself as DMK Advisor Group, Inc.

Starting in July 2021 the firm had its regular four-year audit, and when it was completed, our management team was deeply shocked at the findings and immediately started working overtime to correct our deficiencies as quickly as possible.

We immediately dismissed the CCO and hired a new CCO to assist the firm in remediation. The firm examined every regulatory aspect of DMK and made changes as expeditiously as possible, starting with the items in the original audit and those cited in this AWC. We believe that we have corrected all of our deficiencies as cited and are currently in total compliance with all FINRA regulations.

A handwritten signature in black ink, appearing to read "Harold A. Schwartz", is written over the printed name and title.

Harold A. Schwartz
Chief Executive Officer