

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021070498105**

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

RE: Matthew I. Turner (Respondent)
General Securities Representative
CRD No. 4114088

Pursuant to FINRA Rule 9216, Respondent Matthew I. Turner 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

Turner first became registered with FINRA as a General Securities Representative (GS) in 2000 through an association with a FINRA member firm. Since November 2012, Turner has been registered as a GS through WestPark Capital, Inc. (CRD No. 39914), and accordingly he is subject to FINRA's jurisdiction.¹

OVERVIEW

Between September 2018 and December 2020, Turner recommended trading in accounts held by three customers that was excessive, unsuitable, and not in their best interest. By this conduct, Turner willfully violated Rule 15c-1(a)(1) under the Securities Exchange Act of 1934 (Reg BI) (for conduct on and after June 30, 2020), violated FINRA Rule 2111 (for conduct prior to June 30, 2020), and violated FINRA Rule 2010.

During the same period, Turner exercised discretionary authority to effect 148 trades in four customers' accounts without obtaining written authorization from the customers to

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

exercise discretion and without his firm having accepted the accounts as discretionary, in violation of NASD Rule 2510(b) and FINRA Rules 3260(b) and 2010.²

FACTS AND VIOLATIVE CONDUCT

Excessive Trading

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. Rule 15c-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 15c-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.

No single test defines when trading is excessive, but factors such as the turnover rate, the cost-to-equity ratio, and the use of in-and-out trading in a customer's account are relevant to determining whether a member firm or associated person has excessively traded a customer's account in violation of Reg BI. 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 more, or a cost-to-equity ratio above 20 percent, generally indicates that a series of recommended transactions was excessive.

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 is suitable for the customer. 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, is not excessive and unsuitable for the customer in light of 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, and the element of control was removed from the quantitative suitability component.

² FINRA Rule 3260 superseded NASD Rule 2510 on May 8, 2019. Therefore, Turner violated NASD Rule 2510(b) for conduct before May 8, 2019, and FINRA Rule 3260(b) for conduct occurring on or after May 8, 2019.

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 August 2018, Customer A1 (who was then 71 years old) and Customer A2 (who was then 63 years old) opened a joint account with Turner at WestPark. At all relevant times, Customers A1 and A2 relied on Turner’s advice and routinely followed his recommendations and, as a result, Turner exercised *de facto* control over the customers’ account. Between September 2018 and March 2020, Turner placed 72 trades in the joint account. During this period, the trading in the joint account generated \$9,613.76 in commissions and resulted in realized losses of \$115,183, an annualized turnover rate of 13.01, and an annualized cost-to-equity ratio of 50.49%. The high cost-to-equity ratio meant the account would have to grow by more than 50% annually just to break even. This level of trading was excessive and unsuitable.

In August 2018, Customer B opened an account with WestPark. Turner became the broker of record for the account in September 2019. At all relevant times, Customer B relied on Turner’s advice and routinely followed his recommendations and, as a result, Turner exercised *de facto* control over the customer’s account. Between October 2019 and December 2020, Turner placed 110 trades in Customer B’s account. During this period, the trading in the account generated \$24,655.93 in commissions and resulted in realized losses of \$45,639, an annualized turnover rate of 9.04, and an annualized cost-to-equity ratio of 27.58%. The high cost-to-equity ratio meant the customer’s account would have to grow by more than 27% annually just to break even. This level of trading was excessive, unsuitable, and not in the customer’s best interest.

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

Unauthorized Use of Discretion

NASD Rule 2510(b) and FINRA Rule 3260(b) prohibit a registered representative from exercising discretionary power in a customer’s account unless (1) the customer has given prior written authorization and (2) the representative’s member firm has accepted the account as discretionary, as evidenced in writing by the member.

A violation of NASD Rule 2510(b) or FINRA Rule 3260(b) is also a violation of FINRA Rule 2010.

During the relevant period, Turner exercised discretionary authority when placing 148 trades in four customers’ accounts, including the three customers’ accounts he excessively traded. Although the customers understood that Turner was conducting trading in their accounts, the customers had not provided prior written authorization for Turner to exercise discretion. In addition, WestPark did not accept the accounts as discretionary.

Through this conduct, Turner violated NASD Rule 2510(b) and FINRA Rules 3260(b) and 2010.

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

- a five-month suspension from associating with any FINRA member in all capacities and
- restitution of \$27,415.75 plus interest as described below.

Restitution is ordered to be paid to the customers listed on Attachment A to this AWC (Eligible Customers) in the total amount of \$27,415.75, 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 31, 2020, until the date this AWC is accepted by the National Adjudicatory Council (NAC).

Respondent has submitted a statement of financial condition and demonstrated an inability to pay full restitution immediately upon issuance of the AWC. In light of the financial status of Respondent, restitution to the Eligible Customers shall be payable on the schedule and in the amounts listed on Attachment A, commencing with the first payment to be made on the 15th day of the month following the notice of acceptance of the AWC.

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 after each payment due under the installment plan. 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 15 days after each payment is due.

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 15 days after each payment is due, 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 sanction imposed in this matter.

The imposition of a restitution order or any other monetary sanction 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.

As stated, Respondent has submitted a statement of financial condition and demonstrated a limited ability to pay. In light of Respondent's financial status, the sanctions do not include a monetary fine.

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 15c-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 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:

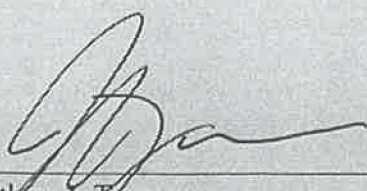
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not 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.

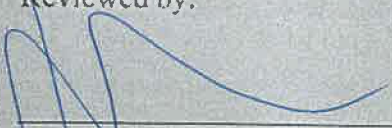
Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

Date

12/12/24


Matthew I. Turner
Respondent

Reviewed by:


Joshua Katz, Esq.
Sallah Astarita & Cox, LLC
Counsel for Respondent
3010 N. Military Trail, Suite 210
Boca Raton, Florida 33431
Accepted by FINRA:

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

Date

1/15/2025


Seth Kean
Senior Counsel
Robert Lawner
Principal Counsel
FINRA
Department of Enforcement
Brookfield Place, 200 Liberty Street
New York, NY 10281

ATTACHMENT A
To Letter of Acceptance, Waiver & Consent
Matthew I. Turner, Matter No. 2021070498105

Customers A1 and A2 – Restitution Installment Plan – \$7,691

Installment Payment No.	Total Payment	Payment Due Date³
1	\$1,538.20 ⁴	15 days after AWC is approved.
2	\$1,538.20	30 days after payment no. 1
3	\$1,538.20	30 days after payment no. 2
4	\$1,538.20	30 days after payment no. 3
5	\$1,538.20	30 days after payment no. 4
6	Interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code. ⁵	30 days after payment no. 5

Customer B – Restitution Installment Plan – \$19,724.75

Installment Payment No.	Total Payment	Payment Due Date
1	\$3,944.95	15 days after AWC is approved.
2	\$3,944.95	30 days after payment no. 1
3	\$3,944.95	30 days after payment no. 2
4	\$3,944.95	30 days after payment no. 3
5	\$3,944.95	30 days after payment no. 4
6	Interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code.	30 days after payment no. 5

³ Any payment due date falling on a Saturday or Sunday can be extended to the proceeding Monday.

⁴ The first five payments will apply to principal only. The final payment will be the accrued interest on the principal as it was reduced over the installment payment period.

⁵ The interest rate in effect at the time the AWC is accepted by the NAC will be used. If restitution is paid in full to the customers before the final installment payment is due, the interest accrued up to the point of the final payment will be included with the final payment.