

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022076855801**

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

RE: IBN Financial Services, Inc. (Respondent)
Member Firm
CRD No. 42360

Timothy E. Evans (Respondent)
General Securities Principal
CRD No. 6259284

Pursuant to FINRA Rule 9216, Respondents IBN Financial Services, Inc. (IBN) and Timothy E. Evans submit 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 Respondents alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

A. Respondents accept and consent to the following findings by FINRA without admitting or denying them:

BACKGROUND

IBN has been a FINRA member firm since July 1997. IBN, which is headquartered in Liverpool, New York, employs approximately 80 registered representatives and has approximately 25 branch offices. IBN is an introducing broker-dealer that engages in a general securities business, including the sale of equity securities, mutual funds, variable annuities, and private placements.¹

Evans first registered with FINRA in December 2013 as a General Securities Representative (GS) and an Operations Professional (OS) through his association with IBN. Evans has also been registered with FINRA as a General Securities Principal (GP) since February 2014 and as a Compliance Officer (CR) since October 2018 through his association with IBN.²

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

² For more information about Evans, visit BrokerCheck® at www.finra.org/brokercheck.

OVERVIEW

From January 2019 through February 2021, IBN and Evans failed to reasonably supervise, and IBN failed to enforce written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest (Reg BI) with respect to, a registered representative's recommendations of alternative investments to two retail customers. Accordingly, IBN and Evans violated FINRA Rules 3110 and 2010, and from June 30, 2020 through February 2021, IBN willfully violated Rule 15l-1(a)(1) of the Securities Exchange Act of 1934 and violated FINRA Rule 2010 by failing to comply with the Compliance Obligation of Reg BI.

FACTS AND VIOLATIVE CONDUCT

1. Legal framework

FINRA Rule 3110(a) requires a member firm to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. FINRA Rule 3110(b) requires a member firm to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. The duty to supervise under FINRA Rule 3110 also includes the responsibility to reasonably investigate red flags that suggest that misconduct may be occurring and to act upon the results of such investigation.

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 15l-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 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 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. Reg 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.

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,

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. FINRA Rule 2111 defines a customer's investment profile to include the same information as under the Care Obligation.

A recommendation may not be suitable or in the best interest of a customer if it results in a concentration in a particular security or category of securities that creates a risk of loss inconsistent with the customer's investment profile.

Additionally, Reg BI's Compliance Obligation, set forth at Exchange Act Rule 15c-1(a)(2)(iv), requires broker-dealers to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI, including the Care Obligation. 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, detect violations that have occurred, and to correctly prompt any violations that have occurred.³

Violations of Reg BI or FINRA Rule 3110 are also violations of FINRA Rule 2010, which requires members and associated persons to "observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business.

2. GWG Holdings, Inc.

GWG 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 IBN. The offering documents for the third and fourth L Bond offerings, which commenced in December 2017 and June 2020, respectively, stated the bonds could be considered speculative, involved a high degree of

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

risk, were illiquid, and were only suitable for persons with substantial financial resources and with no need for liquidity.

In January 2022, after an IBN 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.

3. IBN and Evans failed to reasonably supervise, and IBN failed to enforce written policies and procedures reasonably designed to achieve compliance with Reg BI with respect to, a representative's recommendations of alternative investments, including GWG L Bonds.

IBN offered for sale several alternative investments, including GWG L Bonds and non-traded real estate investment trusts (REITs). IBN's written supervisory procedures (WSPs) stated that alternative investments involve unique and often complicated risk profiles, and emphasized the importance of determining the suitability of these products. The WSPs further specified that where any customer's investment in an individual alternative investment exceeded 7.5% of net worth, not including primary residence, and the customer's total alternative investment purchases exceeded 30% of that customer's net worth, not including primary residence, a transaction could only be permitted if, among other things, good cause was shown for the purchase.

From January 2019 through February 2021, IBN and Evans failed to reasonably supervise a registered representative's recommendations of speculative alternative investments to two retail customers where the sales were not suitable or in the best interests of the customers given the customers' investment profiles. Evans was the representative's direct business line supervisor and was responsible for reviewing for supervisory approval applications to purchase alternative investments submitted by the representative.

In January 2019, the representative recommended five illiquid, non-traded alternative investments totaling \$400,000 to the first customer. IBN and Evans approved the sales notwithstanding the presence of red flags suggesting that the sales were unsuitable. Specifically, IBN and Evans were aware from the application documents that the customer was 71 years old, retired, had a moderate risk tolerance, and had a net worth, not including primary residence, of \$851,889. IBN and Evans nevertheless approved the five sales, which resulted in the customer having a 47% concentration in speculative alternative investments.

Between November 2020 and February 2021, the representative also recommended 11 sales of illiquid, non-traded alternative investments totaling \$457,000 to a second customer. This included \$90,000 of GWG L Bonds.⁴ Again, IBN and Evans approved the sales notwithstanding the presence of red flags suggesting that the sales were not in the customer's best interest. Specifically, IBN and Evans were aware from the application

⁴ This customer brought and settled an arbitration claim against IBN relating to their GWG investment.

documents that the customer had an annual income of no more than \$25,000, had a moderate risk tolerance, and had a net worth, not including primary residence, of \$587,438. IBN and Evans nevertheless approved the 11 sales, which resulted in the customer having a 77% concentration in speculative alternative investments, including 15% in L Bonds.

Despite red flags that the recommendations were unsuitable for, and not in the best interest of, respectively, the two customers, IBN and Evans did not conduct any further review or take any further steps before approving the transactions, such as evaluating whether the representative had good cause for the recommendations given the concentration levels at issue as required by the firm's WSPs. Nor did IBN maintain other written policies and procedures that were reasonably designed to achieve compliance with Reg BI with respect to the registered representative's recommendations.

Therefore, IBN and Evans violated FINRA Rules 3110 and 2010, and IBN willfully violated Exchange Act Rule 15c-1(a)(1).

B. Respondents also consent to the imposition of the following sanctions:

For IBN:

- a censure;
- a \$50,000 fine; and
- an undertaking that, within 90 days of the date of the Notice of Acceptance of this AWC, a member of IBN's senior management who is a registered principal of the firm shall certify in writing that, as of the date of the certification, the firm has remediated the issues identified in this AWC and implemented a supervisory system, including WSPs, reasonably designed to achieve compliance with Regulation Best Interest regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate IBN's remediation and implementation. FINRA staff may request further evidence of IBN's remediation and implementation, and IBN agrees to provide such evidence. IBN shall submit the certification to Carly M. Kostakos, Senior Counsel, by email to carly.kostakos@finra.org, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

For Evans:

- a one-month suspension from associating with any FINRA member in all principal capacities;
- a \$5,000 fine; and

- a requirement that within 90 days of the Notice of Acceptance of this AWC, Evans will attend and satisfactorily complete 20 hours of continuing education concerning Regulation Best Interest. Evans will notify Carly M. Kostakos, Senior Counsel, of the name and contact information of the provider who is providing the continuing education at least 10 days prior to attending the training. Within 30 days following completion of the 20 hours of continuing education, Evans will submit written proof that the continuing education program has been satisfactorily completed to Carly M. Kostakos, Senior Counsel, by email to carly.kostakos@finra.org. All correspondence must identify the respondent and matter number 2022076855801. Upon written request showing good cause, FINRA staff may extend any of the deadlines related to the continuing education portion of the sanction.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. Respondents have submitted Election of Payment forms showing the method by which they propose to pay the fines imposed.

Respondents specifically and voluntarily waive 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 IBN understands that this settlement includes a finding that it willfully violated Rule 15c-1(a)(1) of the Securities Exchange Act of 1934 and that under Article III, Section 4 of FINRA's By-Laws, this makes Respondent IBN subject to a statutory disqualification with respect to membership.

Respondent Evans understands that if he is barred or suspended from associating with any FINRA member in a principal capacity, 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, Respondent Evans may not be associated with any FINRA member in a principal capacity during the period of the bar or suspension. *See* FINRA Rules 8310 and 8311. Furthermore, because Respondent Evans is subject to a statutory disqualification during the suspension, if he remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a complaint issued specifying the allegations against them;

- 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, Respondents specifically and voluntarily waive 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.

Respondents further specifically and voluntarily waive 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

Respondents understand 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 Respondents; and
- C. If accepted:
 - 1. this AWC will become part of Respondents' permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondents;
 - 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. Respondents 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. Respondents 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 Respondents' 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 Respondents' testimonial obligations in any litigation or other legal proceedings.

- D. Respondents may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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 IBN Financial Services, Inc., certifies that a person duly authorized to act on IBN'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 IBN 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 IBN to submit this AWC.

January 13, 2025

Date



IBN Financial Services, Inc.
Respondent

Print Name: Richard J. Carlesco, Jr.

Title: Chief Executive Officer

Respondent Timothy E. Evans 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; Evans 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.

January 13, 2025

Date

Timothy E. Evans

Timothy E. Evans
Respondent

Reviewed by:

Gregg Breitbart

Gregg Breitbart
Counsel for Respondents
Kaufman Dolowich LLP
100 SE Third Avenue
Suite 1500
Fort Lauderdale, FL 33394

Accepted by FINRA:

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

January 29, 2025

Date

Carly M. Kostakos

Carly M. Kostakos
Senior Counsel
FINRA
Department of Enforcement
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Rockville, MD 20850