

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2021070461801**

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

RE: Clinton F. Byrd (Respondent)  
Former General Securities Representative  
CRD No. 4673625

Pursuant to FINRA Rule 9216, Respondent Clinton F. Byrd 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**

Byrd first became registered with FINRA in 2003. From August 2007 until June 2021, he was registered as a General Securities Representative through his association with Cantella & Co., Inc. (CRD No. 13905). On June 9, 2021, Cantella filed a Uniform Termination Notice for Securities Industry Registration (Form U5), disclosing that it had terminated Byrd in part for failing to report a “customer complaint related to an Outside Business Activity.”

In January 2021, the legal representative of the customer whose complaint was referenced in the Form U5 filed a statement of claim, initiating an arbitration against Byrd and Cantella. In that arbitration, the claimant alleged that Byrd executed a promissory note issued by an LLC he owned, and thereafter failed to repay the principal amount of the note. Byrd and Cantella settled the arbitration in May 2021.

Byrd is no longer registered with FINRA or associated with a FINRA member. However, he remains subject to FINRA’s jurisdiction pursuant to Article V, Section 4 of FINRA’s By-Laws.<sup>1</sup>

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<sup>1</sup> For more information about the respondent, visit BrokerCheck® at [www.finra.org/brokercheck](http://www.finra.org/brokercheck).

## **OVERVIEW**

In December 2012, Byrd participated in a private securities transaction without providing prior written notice to his firm. Specifically, Byrd caused a musical production company, which he owned, to issue a promissory note to the daughter of a Cantella customer (Customer A), who signed the note on behalf of the “Customer A Family.” As a result, he violated NASD Rule 3040 and FINRA Rule 2010.

## **FACTS AND VIOLATIVE CONDUCT**

This matter originated from FINRA’s review of the January 2021 arbitration statement of claim.

NASD Rule 3040 requires that, before participating in any private securities transaction, an associated person shall provide written notice to his or her firm “describing in detail the proposed transaction and the person’s proposed role therein.” NASD Rule 3040 defines a private securities transaction as any securities transaction outside the regular course or scope of an associated person’s employment with a FINRA member. A violation of NASD Rule 3040 is also a violation of FINRA Rule 2010, which requires associated persons, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

In December 2012, Byrd, acting on behalf of a musical production company he owned, signed a promissory note through which his company borrowed \$550,000 from the Customer A Family. Funding for the principal amount of the note came from Customer A’s Cantella brokerage account. Pursuant to the terms of the promissory note, Byrd’s company used the note to finance its acquisition of a collection of historical memorabilia. Acting outside the scope of his employment with Cantella, Byrd drafted the promissory note, which was a security; transmitted it to Customer A’s daughter; and both Byrd and Customer A’s daughter signed the note. Although the note required Byrd’s company to make quarterly interest payments and repay the principal within one year, Byrd’s company made no such payments.

Cantella prohibited its registered representatives from participating in private securities transactions without providing prior written notice to the firm. However, Byrd did not provide written notice to Cantella before causing his company to issue the promissory note, nor did he obtain written approval from the firm. When subsequently asked on six annual firm attestation forms whether he had referred anyone to any investment opportunities outside of Cantella, Byrd falsely responded that he had not.

Therefore, Byrd violated NASD Rule 3040 and FINRA Rule 2010.

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

- a nine-month suspension from associating with any FINRA member in all capacities and
- a \$5,000 fine.<sup>2</sup>

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.

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 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.

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 National Adjudicatory Council (NAC) and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

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<sup>2</sup> Restitution is not ordered because Byrd has compensated the beneficiaries of the customer's estate through the May 2021 settlement of the arbitration claim brought by the customer's legal representative.

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 understands and acknowledges that FINRA does not represent or advise him and Respondent cannot rely on FINRA for legal advice. 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.

January 5, 2023

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Date

*Clinton F. Byrd*

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Clinton F. Byrd  
Respondent

Accepted by FINRA:

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

January 9, 2023

\_\_\_\_\_  
Date



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Dan Cristol  
Counsel  
FINRA  
Department of Enforcement  
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