

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017054478001**

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

RE: U.S. Boston Capital Corporation, Respondent
CRD No. 5251

Pursuant to FINRA Rule 9216 of FINRA’s Code of Procedure, U.S. Boston Capital Corporation (“USB” 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 USB alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. USB 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

USB has been a FINRA member since 1970. The Firm is headquartered in Lincoln, Massachusetts, conducts a general securities business, and has approximately 22 registered representatives.

RELEVANT DISCIPLINARY HISTORY

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

OVERVIEW

From at least January 2015 through December 2017 (the “Relevant Period”), the Firm failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce written supervisory procedures (“WSPs”), reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules regarding registered representatives’ creation and use of consolidated reports. In addition, the Firm sent numerous consolidated reports

with inaccurate investment valuations to customers during the Relevant Period. By reason of the foregoing, USB violated FINRA Rules 3110, 2210, and 2010.

FACTS AND VIOLATIVE CONDUCT

A. USB Failed to Establish and Maintain a Supervisory System, and Failed to Establish, Maintain, and Enforce WSPs, that Were Reasonably Designed to Achieve Compliance with Applicable FINRA Rules Regarding Consolidated Reports

FINRA Rule 3110 requires that each member firm establish and maintain a supervisory system, and establish, maintain, and enforce WSPs, that are reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules.

A “consolidated report” is a document that combines information about most or all of a customer’s assets, regardless of where those assets are held. In April 2010, FINRA issued Regulatory Notice (“RN”) 10-19, which reminded member firms that consolidated reports are communications with the public by the firm and must be clear, accurate, and compliant with federal securities law and FINRA rules. RN 10-19 cautioned that consolidated reports, “[i]f not rigorously supervised ... can raise a number of regulatory concerns, including the potential for communicating inaccurate, confusing or misleading information to customers ... and the use of these reports for fraudulent or unethical purposes.” Thus, RN 10-19 “strongly encouraged” firms to review their procedures concerning consolidated reports and warned that “[a]ny firm that cannot properly supervise the dissemination of consolidated reports by its registered representatives must prohibit the dissemination of those reports and take the necessary steps to ensure that its registered representatives comply with this prohibition.”

During the Relevant Period, USB, acting as placement agent, offered and sold six private placements, known as “Focus Funds,” to investors. Pear Tree Partners, LP (“PTP”), an affiliate of USB, structured and managed the Focus Funds.¹ USB employed four registered representatives who sold Focus Funds to the Firm’s customers. Each year, the Chief Compliance Officer of PTP, who was also a registered representative at USB, would value the Focus Funds. PTP would report those values on Form ADV, which PTP filed with the Securities and Exchange Commission in or around September of each year.

USB advised its customers of the purported value of their investments in Focus Funds on consolidated statements that the Firm referred to as “working balance sheets.” The Firm allowed the same four registered representatives who sold Focus Funds to create and send consolidated reports to approximately 197 of their customers. The consolidated reports aggregated customers’ financial information into a single report that reflected assets held both at and away from the Firm and

¹ PTP is an SEC registered investment advisor.

thus included financial information from USB and PTP (including financial information relating to Focus Funds), as well as from other financial institutions. The values on the consolidated reports relating to assets held at the Firm, such as mutual funds, or those held at PTP, such as the Focus Funds, were provided by the Firm or PTP, while the values relating to assets held away from the Firm were provided by the customers.

The consolidated reports were an important tool for the Firm and its customers. During the Relevant Period, the consolidated reports were often the only documents that USB sent to customers purporting to value the customers' interests in the Focus Funds. The Firm's four registered representatives used the consolidated reports at periodic client meetings to discuss what investments the clients had and how those investments were performing, to get a picture of the clients' financial situation, and to make investing and other financial plans for the future.

Although the Firm permitted its registered representatives to create and disseminate consolidated reports, the Firm did not have a supervisory system that was reasonably designed to achieve compliance with the applicable FINRA Rules regarding consolidated reports. As an initial matter, USB did not have any WSPs specifically governing consolidated reports. The consolidated reports were manually prepared by administrative staff, and only the registered representatives sending the consolidated reports reviewed them before they were sent to customers. Moreover, no one in a supervisory capacity reviewed the consolidated reports before they were sent to clients, and no one verified the accuracy of the asset valuations on the consolidated reports.

By virtue of the foregoing, USB violated FINRA Rules 3110 and 2010.

B. USB Sent Inaccurate Consolidated Reports to Clients

FINRA Rule 2210(d)(1)(B) prohibits a member firm from "distribut[ing] any communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading." Because consolidated reports are communications with the public, firms disseminating such reports must comply with the content standards set forth in FINRA Rule 2210(d).

During the Relevant Period, USB prepared and sent to customers numerous consolidated reports with false and misleading asset valuations that were inconsistent with the Focus Fund valuations contained on PTP's Forms ADV. From 2015 through 2016, USB sent consolidated reports to 145 of its customers. 87 of those customers received 87 consolidated statements with at least 178 incorrect Focus Fund valuations. Therefore, of the Firm's customers who received consolidated reports, 60% were provided with incorrect consolidated reports. The errors contained in these consolidated reports resulted from certain

asset values not being included and other asset values not being updated, as well as from data entry mistakes and manual calculation errors by a former administrative employee of the Firm whose work was unsupervised.

In 2017, USB sent consolidated reports to 145 of its customers. 16 of those customers received 16 consolidated reports with at least 23 incorrect Focus Fund valuations. Therefore, of the Firm's customers who received consolidated reports, 11% were provided with incorrect consolidated reports. The errors contained in these consolidated reports resulted from certain asset values not being included or being included in the wrong section, other asset values not being updated, and manual calculation errors.

In total, USB sent more than 100 consolidated reports to more than 100 customers with more than 200 incorrect Focus Fund valuations during the Relevant Period. Furthermore, many of the consolidated reports contained valuations of customers' investments in Focus Funds that were overvalued or undervalued by tens of thousands of dollars; approximately five of the valuations were off by as much as \$100,000 or more.

After FINRA brought these issues to the Firm's attention, USB initiated an internal review and provided written notice to all affected customers, explaining the prior incorrect valuations and attaching corrected consolidated reports.

By virtue of the foregoing, USB violated FINRA Rules 2210 and 2010.

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

- a censure;
- a fine in the amount of \$125,000; and
- a certification, made by a principal of the Firm, within 90 calendar days of the issuance of the Notice of Acceptance of this AWC, that the Firm has reviewed and revised, as necessary, its systems, policies, and procedures regarding consolidated reports, and that those systems, policies, and procedures are reasonably designed to achieve compliance with the applicable FINRA rules cited herein.

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

USB 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

USB 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, USB 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.

USB 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

USB 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 USB;

C. If accepted:

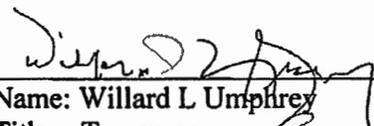
1. this AWC will become part of USB's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against USB;
2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
4. USB 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. USB 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 USB's: (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.

- D. USB may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. USB 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.

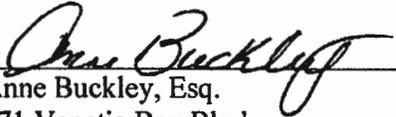
The undersigned, on behalf of USB, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that USB has agreed to its provisions voluntarily; and that no offer, threat, inducement, 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 USB to submit it.

U.S. Boston Capital Corporation

5/16/19
Date

By: 
Name: Willard L Umphrey
Title: Treasurer

Reviewed by:



Anne Buckley, Esq.
871 Venetia Bay Blvd.
Venice, Florida 34285
Tel: (617) 271-6736

Accepted by FINRA:

6.10.2019
Date

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



Jeff Fauci, Director
FINRA Department of Enforcement
99 High Street, Suite 900
Boston, MA 02110
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