

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2018059909701**

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

RE: Antonio Gutierrez Puente, Respondent  
Investment Company and Variable Contracts Products Representative  
CRD No. 2695224

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent, Antonio Gutierrez Puente, 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 herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Respondent 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**

Puente first associated with a FINRA member firm in 1995. In 1996, he passed his Series 6 exam and registered with FINRA as an investment company and variable contracts products representative. In February 1999, Puente associated with Valic Financial Advisors, Inc. ("Valic" or "the Firm") as an investment company and variable contracts products representative. He remained there until September 2018, when the Firm filed a Form U5 terminating his registration with FINRA and his association with the Firm.

Puente is not currently associated with a FINRA member firm. Although Puente is not currently associated with a FINRA member or registered with FINRA, he remains subject to the jurisdiction of FINRA, pursuant to Article V, Section 4(a) of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly-registered persons.

## **RELEVANT DISCIPLINARY HISTORY**

Puente does not have any disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

## **OVERVIEW**

Puente refused to provide on-the-record testimony requested by FINRA staff pursuant to FINRA Rule 8210. Through this conduct, Puente violated FINRA Rules 8210 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

FINRA Rule 8210 authorizes FINRA, in the course of its investigations, to require persons over whom FINRA possesses jurisdiction to "...provide information orally, in writing, or electronically...and to testify at a location specified by FINRA staff...with respect to any matter involved in the investigation." FINRA Rule 2010 provides that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

In 2018, FINRA commenced an investigation into whether Puente potentially violated FINRA rules by engaging in undisclosed outside business activities and/or private securities transactions while associated with Valic.

On December 23, 2019, FINRA staff sent a request to Respondent for on-the-record testimony pursuant to FINRA Rule 8210. As stated during his phone call with FINRA staff on January 8, 2020, and by this agreement, Respondent acknowledges that he received FINRA's request and will not appear for on-the-record testimony at any time. By refusing to appear for on-the-record testimony as requested pursuant to FINRA Rule 8210, Respondent has violated FINRA Rules 8210 and 2010.

By virtue of the foregoing, Respondent violated FINRA Rules 8210 and 2010.

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

A bar from association with any FINRA member in any capacity.

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 herein shall be effective on a date set by FINRA staff. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

## 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.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudice 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.

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 the subject matter thereof 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: (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.

Respondent certifies that he has read and understand 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 or FINRA staff members 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 herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit this AWC.

JAN 10, 2020  
Date

  
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Antonio Gutierrez Puente  
Respondent

Accepted by FINRA:

1/29/20  
Date

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



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