

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021070774101**

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

RE: David John Wilkie (Respondent)
Former General Securities Representative
CRD No. 467130

Pursuant to FINRA Rule 9216, Respondent David John Wilkie 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

Wilkie first registered with FINRA in 1972 and was registered as a General Securities Representative (GS) through various members until 1994. From 1994 to March 2021, Wilkie was registered as a GS through an association with Voya Financial Advisors, Inc. On March 22, 2021, Voya filed a Form U5 disclosing it had discharged Wilkie for “contribut[ing] to the premium payments on a customer’s Life Insurance policy, and for several years had been a named beneficiary of said policy, against Firm policy.” Wilkie is not currently associated with a FINRA member; however, he remains subject to FINRA’s jurisdiction pursuant to Article V, Section 4 of FINRA’s By-Laws.¹

OVERVIEW

From 2011 through the date of his termination, Wilkie circumvented his firm’s written procedures by taking steps to conceal that he had been named as a beneficiary on a customer’s life insurance policy, including by failing to notify his firm he was named as a beneficiary, eventually causing his son to be named as a beneficiary, and submitting eight false compliance questionnaires denying his beneficiary status in violation of FINRA Rule 2010.

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

FACTS AND VIOLATIVE CONDUCT

This matter originated from the Form U5 filed by Voya on March 22, 2021.

FINRA Rule 2010 requires that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” An associated person’s intentional circumvention of firm policies, particularly policies designed to protect customers, is conduct inconsistent with high standards of commercial honor and just and equitable principles of trade.

At all relevant times, Voya’s written procedures prohibited associated persons from being named as a beneficiary on any customer policy without prior written approval from the firm. Wilkie was aware of the firm’s policy. In addition, the firm required associated persons, including Wilkie, to disclose on an annual compliance questionnaire whether they had been named as a beneficiary during the previous year.

In 2011, Wilkie entered into an agreement with an insurance customer to pay 60% of the premiums on the customer’s life insurance policy in exchange for 60% of the death benefit. The customer subsequently named Wilkie as a 60% beneficiary on the policy, and Wilkie paid the premiums as agreed. Wilkie nonetheless failed to disclose his beneficiary status to the firm and, from 2012 to 2020, denied on the firm’s annual compliance questionnaire that he had been named as a beneficiary on a customer’s insurance policy.

In November 2020, in order to further conceal his activity, Wilkie caused the customer to change the 60% beneficiary from Wilkie to Wilkie’s son. Although Wilkie was removed as a beneficiary on the policy, the customer, Wilkie, and his son, agreed that Wilkie would still receive the death benefit. Upon the customer’s death in 2021, the insurance company paid a \$125,000 death benefit to Wilkie’s son, who then transferred the funds to Wilkie.

By circumventing his firm’s policies requiring disclosure and approval of his beneficiary status, Wilkie violated FINRA Rule 2010.

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

- a six-month suspension from associating with any FINRA member in all capacities; and
- a \$10,000 fine.

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.

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.

July 13, 2022

David Wilkie

Date

David John Wilkie
Respondent

Accepted by FINRA:

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

August 2, 2022

Melinda Prescod

Date

Melinda Prescod
Senior Attorney
FINRA
Department of Enforcement
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