

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019064775801**

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

RE: Timothy Aaron Engelmann (Respondent)
Former General Securities Representative (GSR) and Former Investment Company and
Variable Contracts Products Representative (IR)
CRD No. 4933563

Pursuant to FINRA Rule 9216, Respondent Timothy Aaron Engelmann 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 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

Respondent entered the securities industry in March 2005 and subsequently became registered through associations with several FINRA-member firms. On February 1, 2016, Respondent became registered as a GSR and IR through an association with LPL Financial LLC (CRD No. 6413) (LPL or the firm). On November 29, 2019, the firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5), stating that it had terminated Engelmann on November 1, 2019 because he “[r]eceived loans from clients, in violation of LPL policy.” Respondent is not currently associated with a FINRA-member firm but remains subject to FINRA’s jurisdiction pursuant to Article V, Section 4 of FINRA’s By-Laws.

Respondent does not have any relevant disciplinary history.

OVERVIEW

Between April 2017 and October 2018, Respondent borrowed a total of \$115,000 from two firm customers through an LLC he partly owned, without the firm’s knowledge or approval, in violation of FINRA Rules 3240 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from the firm's filing of a Form U5, stating that it had terminated Respondent for taking loans from customers in violation of the firm's policies.

FINRA Rule 3240(a) states, in relevant part, that "[n]o person associated with a member in any registered capacity may borrow money from or lend money to any customer of such person unless . . . the member has written procedures allowing the borrowing and lending of money between such registered persons and customers of the member . . . [and] the requirements of [Rule 3240(b)] . . . are satisfied." FINRA Rule 3240(b) states, in relevant part, that a "registered person shall notify the member of the borrowing or lending arrangements . . . prior to entering into such arrangements and the member shall pre-approve in writing such arrangements."

Conduct that violates Rule 3240 also violates FINRA Rule 2010, which requires representatives of member firms to "observe high standards of commercial honor and just and equitable principles of trade."

LPL's written procedures in effect during 2017 and 2018 prohibited registered representatives from borrowing money from customers, except in limited circumstances from family members.

However, in April 2017, Respondent borrowed \$40,000 from a firm customer (Customer 1), through an LLC he partly owned, to finance a real estate venture. The terms of the loan were set forth in a promissory note. Customer 1 was not a member of Respondent's family. Respondent did not notify the firm that he had borrowed money from Customer 1 or obtain approval to do so. In addition, on October 31, 2017, Respondent falsely stated in a firm compliance questionnaire that he had not borrowed money from any firm customer. Respondent fully and timely repaid the loan from Customer 1.

In addition, in October 2018, Respondent borrowed \$75,000 from another firm customer (Customer 2), through the same LLC, to finance another real estate venture. The terms of the loan were set forth in a promissory note and required monthly interest payments beginning on November 1, 2018. Customer 2 was not a member of Respondent's family. Respondent did not notify the firm that he had borrowed money from Customer 2 or obtain approval to do so. In addition, on January 28, 2019 and August 15, 2019, Respondent falsely stated in firm compliance questionnaires that he had not borrowed money from any firm customer. Respondent has made all payments due to Customer 2 to date, as required by the promissory note.

By this conduct, Respondent violated FINRA Rules 3240 and 2010.

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

- a four-month suspension from associating with any FINRA member in any capacity and
- a \$5,000 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 testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- 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.

October 18, 2020

Date

Accepted by FINRA:

TIMOTHY AARON ENGELMANN

Timothy Aaron Engelmann
Respondent

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

October 30, 2020

Date

Tim Russo

Tim Russo
Principal Counsel
FINRA
Department of Enforcement
Brookfield Place
200 Liberty Street
New York, NY 10281