

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2014038995701**

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

**RE:** Quest Capital Strategies, Inc., Respondent  
Member Firm  
CRD No. 16783

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Quest Capital Strategies, Inc. ("Quest," "Respondent," 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 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**

Quest is currently, and was during all times relevant hereto, a member of FINRA and registered as a broker-dealer and investment advisor with the U.S. Securities and Exchange Commission. The firm, which registered with FINRA in 1986 and is headquartered in Lake Forest, California, engages in general securities brokerage activity with retail clients and operates on the independent contractor model. Quest is approved to conduct business in corporate equity and debt securities, investment advisory services, mutual funds, municipal securities, put and calls, private placements of securities, and variable annuities. Quest currently has approximately 289 registered representatives who are engaged as independent contractors, approximately 67 investment advisor representatives, and approximately 14 non-registered fingerprint individuals. Two registered representatives work in one branch office, and 10 registered representatives work in Quest's main office. The remaining registered representatives work in non-branch locations, including personal residences.

## **RELEVANT DISCIPLINARY HISTORY**

Quest has no prior relevant disciplinary history.

## **OVERVIEW**

Quest failed to establish adequate supervisory systems and written supervisory procedures (“WSPs”) relating to: (1) the supervision of certain mutual fund sales practices; (2) the supervision of accounts to ensure customers were not charged both investment advisory management fees and broker-dealer transaction-based commissions; and (3) compliance with Regulation S-P regarding the encryption of customer information sent electronically. As a result, Quest violated NASD Conduct Rules 3010(a) and (b) and 3012, and FINRA Rule 2010.

## **FACTS AND VIOLATIVE CONDUCT**

NASD Conduct Rule 3010(a) requires each member firm to establish, maintain, and enforce a supervisory system, including written procedures, to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD/FINRA Rules. NASD Conduct Rule 3010(b)(1) provides, in pertinent part, that “[e]ach member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and . . . that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD.”

During the period from at least April 12, 2012, to March 20, 2014, Quest failed to establish adequate supervisory systems and WSPs to supervise certain mutual fund sales practices. Specifically, the Firm failed to have any WSPs specifically setting forth: (1) who would conduct mutual fund share class comparisons and breakpoint, rights of accumulation, and letter of intent analyses; (2) how the mutual fund share class comparison and breakpoint, rights of accumulation and letter of intent analyses would be conducted, documented, and shared with customers; (3) how the Firm would supervise, and retain documentation evidencing supervision of, the mutual fund share class comparison and breakpoint, rights of accumulation and letter of intent analysis process; (4) who would conduct a review of certain retirement accounts that may be eligible to purchase Class A shares at NAV through a sales charge waiver, and how the review would be conducted, supervised, and documented; and (5) a timeframe for which a mutual fund switch would be reviewed by the designated principal.

During this same time period, Quest failed to establish adequate supervisory systems concerning mutual fund transactions. While the Firm stated that its

compliance officers conducted a “suitability review” concerning share class, letter of intent, and breakpoints, the Firm failed to provide documentation that any such “suitability review” by Quest’s compliance officers occurred. For certain mutual fund transactions, Quest could not perform an adequate suitability review. Specifically, in certain instances, Quest’s registered representatives failed to complete an internal Quest form titled “Mutual Fund Prospectus Receipt Risk and Benefit Disclosure, and Acknowledgment” (“MFPR Form”) for new Quest customers who held mutual funds as investments, even though those customers engaged in further mutual fund transactions at Quest. As a result, Quest never documented any review concerning the suitability of the mutual fund transactions concerning those customers. In addition, Quest could not perform a suitability review with respect to certain customers’ mutual fund transactions because the registered representatives were using an outdated MFPR Form that did not request the customer’s time horizon. Without a stated investment time horizon, the Firm could not conduct a suitability review of those transactions.

From at least April 12, 2012, to March 20, 2014, Quest failed to have WSPs in place as to how the Firm would monitor and review accounts to prevent charging a customer both an investment advisory management fee and a broker-dealer transaction-based commission, and how the Firm would ensure that customer information is kept confidential, safeguarded, and encrypted prior to sending electronically.

Finally, NASD Conduct Rule 3012(a)(1) required Quest to “test and verify that the member’s supervisory procedures are reasonably designed with respect to the activities of the member and its registered representatives and associated persons, to achieve compliance with applicable securities laws and regulations, and with applicable NASD rules and [] create additional or amend supervisory procedures where the need is identified by such testing and verification.” Quest’s annual testing in 2013 and 2014 performed by an independent third-party firm did not identify the deficiencies identified above, and therefore the testing performed was not adequate.

As a result of the foregoing conduct, Quest violated NASD Conduct Rules 3010(a) and (b) and 3012, and FINRA Rule 2010.

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

- A censure; and
- A fine in the amount of \$25,000.

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

Respondent specifically and voluntarily waives any right to claim that the Firm 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**

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 the Firm;
- 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 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 the Firm; and**
- C. If accepted:**
  - 1. this AWC will become part of Respondent’s permanent disciplinary record and may be considered in any future actions 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.**
- 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 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 the Firm, 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 the Firm 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 the Firm to submit it.

12/8/15  
Date

  
Respondent Quest Capital Strategies, Inc.

By: Joseph Nikolas, CEO

Reviewed by:



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Accepted by FINRA:

12/16/2015  
Date

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



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