

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010025074101**

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

RE: Lincoln Financial Securities Corp., Respondent
Member Firm
CRD No. 3870

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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 it 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

Lincoln Financial Securities Corp. ("Lincoln Financial") has been a member of FINRA since April 15, 1969. The firm maintains its principal place of business in Concord, New Hampshire and employs approximately 1,258 registered individuals operating from 663 branch locations throughout the country.

RELEVANT DISCIPLINARY HISTORY

In February 2011, Lincoln Financial entered into an AWC (Matter No. 2009018720501) with FINRA in which it agreed, without admitting or denying the findings, to sanctions for certain supervisory deficiencies.

OVERVIEW

From in or about January 2008 through in or about May 2010 (the “relevant time period”), Lincoln Financial failed to establish and maintain a supervisory system and establish, maintain and enforce written supervisory procedures reasonably designed to supervise the activities of its registered representatives. Specifically, the firm lacked an effective system for responding to certain “red flags” of potential misconduct by its representatives. As a result of those supervisory deficiencies, Lincoln Financial failed to detect and prevent a Ponzi scheme operated by one of its registered representatives. This conduct violated NASD Conduct Rules 3010 and 2110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Representative KWM's Ponzi Scheme

From January 9, 2008 to May 4, 2010, KWM was a registered representative of Lincoln Financial. While associated with Lincoln Financial, KWM also operated outside businesses. Commencing approximately 18 years before his association with Lincoln Financial and continuing until approximately April 2010, KWM solicited investors to invest in a purported bond fund that purchased long-term U.S. government securities. KWM told investors that the bond fund provided guaranteed, tax-free returns of eight to ten percent per annum. In fact, the bond fund did not exist. KWM solicited the approximately 156 investors in the bond fund primarily through one of his outside businesses, but the bond fund investors included some Lincoln Financial customers. At the time of KWM's death on June 22, 2010, the bond fund had raised approximately \$34 million from investors. The bond fund investors were defrauded as a result of KWM's misconduct.

Lincoln Financial's Supervisory Deficiencies

Throughout the relevant time period, Lincoln Financial failed to establish and maintain a supervisory system and establish, maintain and enforce written supervisory procedures reasonably designed to supervise its registered representatives and otherwise detect and prevent KWM's fraudulent activities. Specifically:

- Lincoln Financial's written supervisory procedures provided that the firm should “not accept” a registered representative subject to an “open regulatory body investigation.” On January 9, 2008, Lincoln Financial submitted KWM's registration to FINRA. On January 17, 2008, Lincoln Financial's registration and compliance departments learned about an “open inquiry” concerning KWM by the securities regulator in KWM's home state, which thereafter approved KWM's registration. Despite knowing about that open

inquiry, Lincoln Financial chose not to terminate KWM, or even to place him on heightened supervision.

- Lincoln Financial permitted KWM to operate a branch office in Jacksonville, Fla., and, for the first several months of his employment, designated the firm's president as KWM's Office of Supervisory Jurisdiction ("OSJ") manager. Lincoln Financial's registration and compliance departments failed, however, to inform the OSJ manager, who was also KWM's supervisor, about the state securities regulator's inquiry. Similarly, the firm's advertising review department had numerous concerns about the advertising that KWM proposed to use in his approved outside business activities, but did not relay its recommendations to the OSJ manager.
- In May 2009, KWM hired a new employee for one of his outside businesses, and Lincoln Financial permitted KWM to designate that employee as KWM's new OSJ manager. KWM set and paid his new OSJ manager's compensation. Although the firm recognized an inherent conflict-of-interest in permitting KWM to hire and compensate his own supervisor, it did not take any meaningful steps to ensure that KWM was properly supervised by the OSJ manager. Additionally, and in contravention of the firm's procedures, Lincoln Financial failed to contact the OSJ manager when he resigned in December 2009. Lincoln Financial's written supervisory procedures note that the "termination/resignation of a supervisor" is a "red flag item." Had the firm contacted the OSJ manager, he would have told the firm his suspicion that KWM was perpetrating an offering fraud.
- Lincoln Financial's written supervisory procedures required the firm's branch auditors to request access to the e-mail accounts used by the firm's registered representatives in their approved outside business activities and to verify that the representatives did not transmit securities-related correspondence through those e-mail accounts. Lincoln Financial knew about and had approved KWM's outside business activities. Indeed, the firm knew that KWM used an e-mail account to conduct an approved outside business activity that generated referrals for his securities-related businesses, and the firm had corresponded with KWM through that e-mail account. Lincoln Financial conducted examinations of the Jacksonville branch but, in contravention of its written supervisory procedures, chose not to review the e-mail account that KWM used for his outside business activity when it conducted its branch examinations because KWM was not in the branch office at those times. Had the firm reviewed the communications transmitted through that e-mail account, it might have detected that KWM offered investments in the purported bond fund through that e-mail account.

As a result of Lincoln Financial's supervisory deficiencies, the firm failed to detect and prevent KWM's fraudulent solicitation and sale of investments in the purported bond fund.

By failing to establish and maintain a supervisory system and establish, maintain and enforce written procedures reasonably designed to supervise the activities of its registered representatives, Lincoln Financial violated NASD Conduct Rules 2110 (for conduct before December 15, 2008) and 3010 and FINRA Rule 2010 (for conduct after December 14, 2008).

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

- a censure and \$175,000 fine.¹

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 it proposes to pay the fine imposed.

Respondent 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

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 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.

¹ Additionally, Lincoln Financial has already paid \$5.63 million in restitution to investors in KWM's bond fund.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, 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:

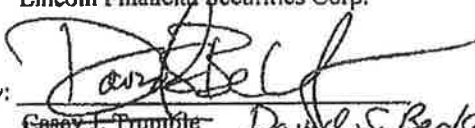
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent;
- 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 it;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's disciplinary record;
 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and

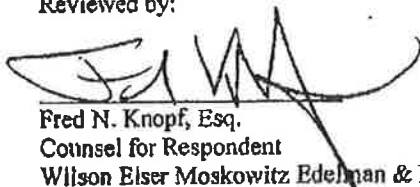
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement 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 Lincoln Financial, 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.

11/6/2002
Date (mm/dd/yyyy)

Lincoln Financial Securities Corp.
By: 
~~Casey J. Trumble~~ David S. Berkowitz
Senior Vice-President

Reviewed by:


Fred N. Knopf, Esq.
Counsel for Respondent
Wilson Elser Moskowitz Edelman & Dicker LLP
3 Gannett Drive
White Plains, NY 10604-3407
914-872-7217

Accepted by FINRA:

November 20, 2012
Date

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



Stuart P. Feldman
Senior Regional Counsel
FINRA Department of Enforcement
99 High Street, Suite 900
Boston, MA 02110
Phone: (617) 532-3426
Fax: (202) 721-8398