

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2008015475201**

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

RE: Cadaret, Grant & Co., Inc., Respondent
Member Firm
BD No. 10641

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 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

Cadaret, Grant & Co., Inc. ("Cadaret" or the "Firm"), headquartered in Syracuse, New York, provides brokerage and other services to customers through approximately 1,000 registered representatives located in approximately 525 branches. It has no relevant disciplinary history.

OVERVIEW

Cadaret, acting through one of its then registered representatives, CB, recommended 19 unsuitable variable annuity (VA) transactions to 13 elderly customers between May 2006 and September 2008, thereby violating NASD Rules 2310, 2821(b), and 2110. The Firm failed to adequately supervise CB by not responding to red flags that CB was engaging in unsuitable recommendations involving variable annuity riders. The Firm also had inadequate systems and procedures in place to supervise its VA business, thereby violating NASD Rules 3010, 2821(c) and (d), and 2110. The Firm further failed, as it relates to CB and some of her colleagues, to enforce its rules surrounding the use of personal email accounts to conduct Firm business,

thereby violating NASD Rules 3010, 3110 and 2110, FINRA Rule 2010, and Securities Exchange Act Rule 17a-4.

FACTS AND VIOLATIVE CONDUCT

The Firm, Through CB, Recommended Unsuitable VA Transactions

A VA is an insurance contract that offers investment features similar in many respects to mutual funds. A customer allocates his or her investment to underlying portfolios, known as subaccounts, whose values fluctuate in response to market changes and other factors. Customers are assessed fees that generally make the investment more costly than an investment in a mutual fund. These fees typically relate to insurance features that are part of the contract, including for example a death benefit, *i.e.*, the amount of money beneficiaries receive upon the customer's death; fees known as surrender charges which are assessed for withdrawing assets during the surrender period -- often a seven-year period after purchase; and, fees related to optional features, known as riders. For example, as is relevant to the facts herein, an investor may select a rider to offer a potential increase in the value of the death benefit or reduce the length of the surrender period. Riders may have restrictions, including age restrictions, and riders charge annual fees for the life of the contract whether the benefit is used or not. The variety of features offered by variable annuity products can be confusing. For this reason, it can be difficult for investors, especially elderly ones, to understand what's being recommended for them to buy.

Between May 2006 and September 2008, while she was associated with Cadaret, CB recommended 19 transactions to 13 customers - all age 77 or older – that were unsuitable due to a recommended rider. In 17 of the recommended transactions, she recommended that her customers purchase an enhanced death benefit rider without a reasonable basis to believe that the customers needed or would benefit from such a rider. The enhanced death benefit rider was only available to customers under the age of 80. The rider offered a potential increase to the death benefit, permitting the death benefit to increase to the higher of the original contract value or the contract value on any contract anniversary prior to the 81st birthday. After age 81, the step up provision of the rider stopped operating. The rider cost an additional 25 basis points annually, which the customer paid for during the life of the contract. CB did not understand or appreciate the significance of the age restriction or the reduced benefit of the rider when it is sold to a person close in age to the cutoff. Thus, in four of the recommended transactions, CB recommended the rider to customers who were ineligible to receive the rider because they were age 80 or over. These recommendations were *per se* unsuitable and demonstrated that CB did not understand the terms of the rider. In the remaining 13 recommended transactions, CB recommended the rider to customers over the age of 77 at a time when she failed to understand that the rider would provide only limited value, since the customers would have only 1-3 years to benefit from the rider, while paying for the rider over the course of the VA. Accordingly she again failed to have a reasonable basis for her recommendation to these customers.

In four of the prior transactions and in two additional transactions, CB also recommended the

five-year withdrawal schedule rider to customers who did not have liquidity needs, thereby causing the customers to incur an additional fee of 30 basis points per year. In some of these transactions, CB also demonstrated a lack of understanding of the surrender charges associated with the VAs by incorrectly stating on the relevant paperwork either the surrender period or the surrender charges that would be incurred. By reason of the foregoing, Cadaret, through CB, violated NASD Rules 2310, 2821(b) and 2110.

The Firm Failed to Adequately Supervise CB

The Firm failed to adequately respond to red flags concerning CB's VA sales. CB's primary business was selling VAs to customers, representing not less than 94% of her business at the Firm in the approximate four years that she was associated, and generating in excess of \$600,000 in gross commissions. Prior to being associated with Cadaret, CB had five customer complaints on her Form U4 between 1999 and 2003, four of which related to annuity sales. After she became associated with Cadaret, two additional customers complained, as reflected in amended Form U4s filed by the Firm, in connection with VA sales. Despite these complaints, CB was never placed on heightened supervision and her VA transactions were never subject to greater supervisory review or scrutiny. In addition, in or about June 2008, the Firm received actual notice that CB had been the subject of a Wells Notice by FINRA for unsuitable VA sales transacted at her prior firm. However, it failed to heighten her supervision in any way. Three of the unsuitable recommendations identified herein took place after the Firm received notice of the Wells. Accordingly, the Firm violated NASD Rules 3010, 2821(c), and 2110.

The Firm Failed to Have An Adequate System To Supervise VA Sales

CB's VA transactions were reviewed and approved by her supervisor and subject to a second-level of review by the Firm's VA Department. The VA Department was created and headed by a single Firm employee. The Firm's VA supervisory system was inadequate for several reasons. First, the Firm failed to ensure that its supervisors, including as is relevant here, CB's supervisor, were properly trained and knowledgeable about the VAs they were reviewing and approving. Second, the second-level review process was inadequate because it relied on a single reviewer to review a large number of VA transactions each day, in addition to performing other duties. In particular, the second-level reviewer reviewed between 20 and 60 VA transactions each day, as well as reviewing at least 25 VA transactions as a principal. In addition, the second-level reviewer did not have any VA-specific surveillance or exception reports to assist her in her review.

Moreover, the reports that the Firm did have that included information concerning VA transactions, in particular a VA log and a trading report, failed to provide all the information necessary to assist supervisors in conducting a VA review. For example, the VA log, failed to have all the information necessary to conduct a suitability review and was not accessible to registered representatives or all of their principals. The trading report did not contain the information necessary for a principal to review a transaction for suitability and also failed to

contain certain information necessary to comply with the Firm's own standards for reviewing the transactions in the Report. For example, the Firm's instructions to principals reviewing the report include the direction to: "[s]can report for client purchases with multiple fund families and back-end surrender penalties as well as sales with additional asset management fees." Yet there was no column on the report which contained information about surrender fees, multiple fund families or asset management fees, and the Firm did not record any of this information electronically in any other format. By failing to have adequate systems and procedures to review VA sales, the Firm violated NASD Rules 3010, 2821(d), and 2110.

The Firm Failed to Enforce Its Procedures Relating to Emails and Failed to Retain Business-Related Emails for Some of its Representatives

Certain of the Firm's representatives used personal email systems for business-related communications. These emails were not captured or retained by the Firm's systems. Although the Firm had a policy prohibiting the use of personal email accounts for business-related communications, the Firm knew or should have known that certain of its representatives, including CB, her supervisor, and a third colleague in her branch, were using personal e-mail addresses for business-related correspondence. CB's use of personal emails was known to CB's supervisor, who mistakenly believed that the Firm's systems captured such emails, but was also known to others at the Firm, because, among other things, CB communicated with the Firm's compliance department via personal email. By failing to enforce its own policies and failing to retain business-related emails, the Firm violated NASD Rules 3010, 3110 and 2110, FINRA Rule 2010, and Securities Exchange Act Rule 17a-4.

- B. Respondent also consents to the imposition of the following sanctions:
1. Censure;
 2. A fine of \$200,000;
 3. In addition, Cadaret shall comply with the following undertakings within the time periods specified (unless otherwise extended by FINRA staff):
 - a. Cadaret shall undertake to allow each of the living customers identified in Attachment A to rescind the purchase of each of the VAs identified in Attachment A by offering to rebate to each of the affected living customers the purchase price of his or her original investment, interest from the date of purchase until the effective date of this AWC, and any applicable surrender charges charged to the customer (except to the extent such surrender charges already have been paid by Cadaret), less the amount of any income received on or withdrawals from the VAs. In order to accept the offer of rescission, the customer will be required to surrender the annuity pursuant to a surrender form (as described in Section B(3)(a)(iii) below), which will direct the

carrier to send the proceeds to Cadaret to the attention of a person to be designated by Cadaret on the form. In the event that any living customer identified on Attachment A has already surrendered an annuity identified on Attachment A, Cadaret shall offer that customer reimbursement of the surrender charges conditioned on Cadaret being provided satisfactory proof that the annuity was surrendered and surrender charges were incurred. In order to effectuate this undertaking, Cadaret shall:

- i. Within 90 days of the acceptance of the AWC, provide written notice, in plain English, to each living customer of the VAs identified in Attachment A of this AWC, explaining his or her right to rescind his or her VA purchase pursuant to this AWC and how to exercise that right. The written notice must make clear that the right to rescind is offered pursuant to a settlement with FINRA and as a term of this AWC. The written notice shall not be unacceptable to FINRA staff;
- ii. Provide the customers with a toll-free number to call in order to receive assistance with the surrender process. Cadaret shall ensure that calls to the toll-free number will be answered by appropriately licensed customer service personnel trained to assist the customers identified in Attachment A with the process of rescinding their VA purchases. Cadaret shall monitor the process to ensure that the applicable customers are permitted to surrender their VAs at no charge;
- iii. At the same time it sends the customer the letter described in Section B(3)(a)(i) above, provide a surrender form to the customers with instructions for completing it and a cover letter explaining that no surrender charges will be charged to the customer on the contract. Both the surrender form and the cover letter must be not unacceptable to FINRA staff. Customers shall have 45 days from the receipt of the letters (mailing date plus three business days) to accept the offer and advise Cadaret of their decision to accept. In addition, at the same time it provides the surrender form and cover letter, Cadaret will provide customers with an authorization form which they must execute in order to authorize the carrier that issued the VA(s) to provide documents and information pertaining to the affected customer's VA to Cadaret. This authorization form must not be unacceptable to FINRA staff. In the event this authorization form is not effective or further cooperation is needed from customers in order for Cadaret to have access to the information it needs, Cadaret will have the right to condition its offer of rescission on such further

cooperation, provided it acts reasonably under the circumstances;

- iv. Notify the carrier of the customer's intent to surrender the product, once the customer has elected such an option in order to allow the carrier to notify Cadaret as soon as the surrender has been effected. Cadaret will reimburse the customer promptly, but in no case more than 45 days after it received notification that the surrender has been effected, for the cost of any surrender charge imposed by the issuer; and
- v. Cadaret will offer each living customer identified on Attachment A the ability to rescind his or her relevant VA purchase or, in the event that a living customer has already surrendered his or her relevant VA, reimbursement of surrender fees. Should a customer elect to rescind, Cadaret will repurchase his or her VA, or otherwise work with the carrier to effectuate rescission, for cash equal to the consideration paid, interest from the date of purchase until the date this AWC is accepted by FINRA, and any surrender charges imposed by the carrier (except to the extent such surrender charges already have been paid by Cadaret), less the amount of any income received on or withdrawals from the VA. Interest shall be paid at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the date of the purchase of the subject VAs to the date Cadaret rescinds the VA purchase. The offer of rescission is conditioned on a customer's execution of the surrender and authorization forms described in Section B(3)(a)(iii) and such other cooperation as may be reasonably necessary under the circumstances;
- vi. If any customer identified on Attachment A elects not to rescind, then Cadaret shall have no obligation to compensate that customer pursuant to this AWC. If any living customer identified on Attachment A has already surrendered the annuity(ies) identified on Attachment A, Cadaret shall only be responsible for offering to reimburse the customer for any surrender charges incurred. The offer to reimburse the customer for any surrender charges incurred is conditioned upon the customer's execution of the authorization form described in Section B(3)(a)(iii).
- vii. In the event that any customer identified on Attachment A is not living at the time of the Notice of Acceptance of this AWC, then Cadaret shall have no obligation to offer rescission or

reimbursement of surrender charges incurred as set forth herein.

- viii. On behalf of Respondent, a registered principal of the Firm or its counsel shall submit satisfactory proof of payment of rescission, or of reasonable and documented efforts undertaken to effect rescission, as provided for pursuant to the terms set forth above. Such proof shall be submitted to Paul M. Schindler, Esq., FINRA Department of Enforcement, 1801 K Street, NW, Washington, DC 20006 by letter that identifies the Respondent and the case number. This proof shall be provided to the FINRA staff member listed above no later than 180 days after acceptance of the AWC.
 - ix. The undertakings or monetary sanctions herein shall not preclude customers from pursuing their own actions to obtain restitution or other remedies.
- b. Cadaret further consents to undertake a comprehensive review of its policies and procedures concerning suitability of VAs and, within 90 days of Notice of Acceptance of this AWC, the Director of Compliance of Cadaret shall certify in writing to the staff that (1) the Firm has engaged in a comprehensive review of its policies and procedures concerning suitability of VAs; (2) as of the date of the certification, the Firm has in place sufficient written policies and procedures designed to ensure compliance with its suitability obligation pertaining to VAs, including but not limited to the matters identified in this AWC.
 - c. Upon written request showing good cause, the FINRA staff may extend any of the procedural dates set forth above.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

Respondent agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Respondent has submitted an Election of Payment form showing the method by which Respondent 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(s) imposed in this matter.

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.

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

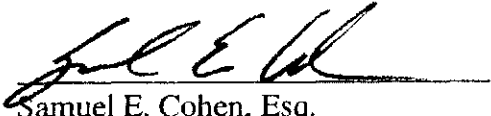
The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent has agreed to its provisions voluntarily; and that no offer, 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.

12/8/2011
Date (mm/dd/yyyy)


Cadaret, Grant & Co., Inc., Respondent

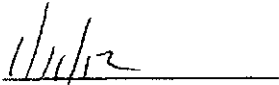
By: Bl. Johnson, Senior Vice President
Name:
Title:

Reviewed by:



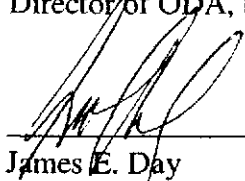
Samuel E. Cohen, Esq.
Counsel for Respondent
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103
215-575-2587

Accepted by FINRA:



Date

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



James E. Day
Chief Counsel and Associate V.P.
FINRA Department of Enforcement
1801 K Street, NW, Suite 800
Washington, DC 20006
(202) 974-2917 (telephone)
(202) 721-8303 (fax)

ATTACHMENT A

Transaction	Annuitant Name	Investment Product	Date of Recommendation	Initial Purchase Amount
1	BA	JNL Perspective II NY	Sep-08	\$300,739.26
2	BA	JNL Perspective II NY	Sep-08	\$9,578.79
3	CC	JNL Perspective II NY	Jul-07	\$107,494.05
4	CC	JNL Perspective II NY	Jul-07	\$20,147.97
5	DH	JNL Perspective II NY	Jun-08	\$13,460.39
6	DK	JNL Perspective II NY	May-06	\$42,558.94
7	EA	JNL Perspective II NY	Aug-06	\$10,043.10
8	EM	JNL Perspective II NY	Sep-08	\$88,685.88
9	ES	JNL Perspective II NY	Nov-06	\$105,471.39
10	GWG	JNL Perspective II NY	Jun-07	\$123,127.85
11	HM	JNL Perspective II NY	May-06	\$324,967.96
12	HM	JNL Perspective II NY	May-06	\$5,554.60
13	LB (DB)	JNL Perspective II NY	Jun-07	\$50,090.47
14	RD	JNL Perspective II NY	Aug-06	\$104,148.61
15	RD	JNL Perspective II NY	Nov-06	\$35,000.00
16	RH	JNL Perspective II NY	Jun-08	\$123,467.44

ATTACHMENT A

Transaction	Annuitant Name	Investment Product	Date of Recommendation	Initial Purchase Amount
17	RH	JNL Perspective II NY	Jul-08	\$17,000.11
18	SS	JNL Perspective II NY	Mar-07	\$12,513.68
19	SS	JNL Perspective II NY	May-07	\$6,308.93