

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**Kelly Demetrius Wright,
(CRD No. 2062526),**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2005000346102**

HEARING OFFICER ANDREW H. PERKINS

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 11, 2008

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REGISTRATION & DISCLOSURE**

INTRODUCTION

Disciplinary Proceeding No. 200500346102 was filed on April 9, 2008, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA") ("Complainant"). Respondent Kelly Demetrius Wright ("Wright" or "Respondent") submitted an Offer of Settlement ("Offer") to Complainant on September 18, 2008. Pursuant to NASD Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to NASD Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

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Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, 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, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent entered the securities industry on June 21, 1990, as a General Securities Representative of a member of FINRA. On October 28, 1996, he became registered as a General Securities Principal. Between the dates of April 11, 1996 through June 18, 1997 and January 27, 1998 and April 4, 2006, Respondent was registered in these capacities with Emmett A. Larkin Co., Inc., a FINRA member. Respondent is not currently associated with any FINRA members.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

Customer Background and Activity in Customer Accounts

Account of MM

In September 2003, MM opened an account with Emmett A. Larkin Co., Inc. Wright was broker on the account. MM was a 45 year-old divorced schoolteacher with two dependent children. Prior to opening this account, MM's investment experience was limited to mutual funds. MM funded this account with a cash deposit of \$49,000. The new account form was incomplete as to

investment objectives when MM signed it, and Wright represented to the customer that he would complete the form. The completed new account form listed MM's two primary objectives to be growth and speculation. In actuality, MM's primary investment objectives were growth and income. Although MM did not understand Wright's trading strategies, MM relied on Wright to make appropriate investment decisions in the account. Wright exercised discretionary power in trading the account.

Wright began aggressively trading MM's account shortly after it was opened. Between October 2003 and November 2004, there were 61 opening¹ options trades and 56 opening stock trades in the account. The activity resulted in an annualized cost-to-equity ratio of 45.7%. In other words, MM's account would have needed an annual appreciation of 45.7% just to break even. The annualized turnover rate, computed using stock trades only, was 13.59. The total fees and commissions during the period were approximately \$23,856. As a result of Wright's trading, MM's account realized losses totaling approximately \$40,455.

Account of OJ and VJ

In August 2003, married customers OJ and VJ opened an account with Emmett A. Larkin Co., Inc. Wright was broker on the account. OJ was a 35 year-old self employed real estate developer with an income listed as over \$125,000. Prior to opening this account, OJ had no options experience. OJ and VJ funded the account with a cash deposit of \$100,000. OJ's and VJ's

¹ An opening trade for a stock or option is defined as a transaction that increases a position either on the long or short side.

investment objectives were listed as growth and income. OJ and VJ relied on Wright to make appropriate investment decisions in the account, and Wright exercised discretionary power in trading the account.

Wright began aggressively trading OJ's and VJ's account shortly after it was opened. Between August 2003 and May 2004, there were 53 opening options trades and 32 opening stock trades in the account. The activity resulted in an annualized cost-to-equity ratio of 52.61%. In other words, OJ's and VJ's account would have needed an annual appreciation of 52.61% just to break even. The annualized turnover rate, computed using stock trades only, was 12.29. The total fees and commissions during the period were approximately \$27,135. As a result of Wright's trading, OJ's and VJ's account realized losses totaling approximately \$19,629.

Account of JL and NL

In September 2002, married customers JL and NL opened an account with Emmett A. Larkin Co., Inc. Wright was broker on the account. JL was a 40 year-old self-employed writer. JL listed no dependents and an annual income of less than \$125,000. Prior to opening this account, JL and NL had no options experience. The account was funded with deposits totaling about \$250,000. At the time JL and NL opened their account, they completed a new account form, a margin account application and an options account application. The new account form and the margin account application list their first two investment objectives as income and safety of principal. The options account application erroneously lists JL and NL's primary objectives as

speculation and income. JL and NL relied on Wright to make appropriate investment decisions in the account, and Wright exercised discretionary power in trading the account.

Wright traded aggressively in JL's and NL's account. Between January 2003 and September 2004, there were 117 opening options trades and 78 opening stock trades in the account. The activity resulted in an annualized cost-to-equity ratio of 71.33%. In other words, JL's and NL's account would have needed an annual appreciation of 71.33% just to break even. The annualized turnover rate, computed using stock trades only, was 15.66. The total fees and commissions during the period were approximately \$74,026. As a result of Wright's trading, JL's and NL's account realized losses totaling approximately \$105,889.

FIRST CAUSE OF ACTION

Discretionary Trading Without Written Authorization

NASD Conduct Rules 2510, 2860(b)(18)(A)(i) and 2110

From approximately January 2003 and November 2004, Wright exercised discretion in effecting stock and option transactions in the accounts of JL and NL, MM, OJ and VJ with Emmett A. Larkin Co., Inc. This discretion was exercised without prior written authorization from any of the customers. Furthermore, Emmett A. Larkin Co., Inc. did not accept any of the customer accounts as discretionary accounts (in writing or otherwise) prior to Wright's exercise of discretionary power.

SECOND CAUSE OF ACTION

EXCESSIVE AND UNSUITABLE TRADING

NASD Conduct Rules 2310, 2510(a), 2860(b)(19) and 2110 and IM-2310-2

The vast majority of the trading activity in the subject accounts was solicited by Wright. Wright employed largely the same trading strategies within each of the customer accounts without regard to the individual needs of each customer.

Wright failed to factor in trading costs in the purchase and sale of equities which negatively affected his customers. Within very short periods of time after acquisition, Wright often sold equities after a very small rise in value. By not accounting for the costs and commissions, the tiny profits that would have been realized were negated and exceeded by the costs and commissions, thereby creating a net loss for the customers for these transactions.

For instance, on February 6, 2004, Wright purchased 500 shares of MCHP at \$30.18 for customers OJ and VJ's account (for a total of \$15,394.54, including costs and commissions). On February 18, 2004, Wright sold the shares at \$30.73 (for a total of \$15,047.77, including costs and commissions). Thus, Wright sold the stock for a potential \$275 profit but the trading cost the customers \$621.73 in fees and commissions. The customers suffered a net loss of \$346.73 from these transactions.

Wright often utilized options in combination with the stock trading in the customer accounts, thereby generating multiple commissions each time he opened or closed a position. Many of the stock purchases he recommended were accompanied by a married put position (a long stock position accompanied by a long put in the same stock for the identical quantity). In some instances, Wright sold both the stock and put positions shortly after acquisition in order to chase small profits when the stock had small increases in value. Again, Wright failed to account for the fees and commissions associated with the transactions. Thus, the tiny profits that would have been realized were negated and exceeded by the costs and commissions, thereby creating a net loss for the customers for these transactions. By selling so soon after acquisition, Wright's trading undermined the rationale behind the married put position - to allow participation in the unlimited upside potential on a stock over a period of time ending with the puts' expiration, and downside protection over that same period.

For instance, on July 15, 2004, Wright purchased 500 shares of MAT for customer JL and NL's account at \$17.04 (for a total of \$8,694.50, including costs and commissions). At the same time, Wright purchased put contracts that expired on August 21, 2004 at \$.15 per contract (for a total of \$107, including costs and commissions). On July 26, 2004, the Wright sold the stock at \$17.12 (for a total of \$8,505.29, including costs and commissions). Thus, Wright sold the stock for a potential \$40 profit but the trading cost the customers \$229.21 in fees and commissions for the stock trades and \$107 for the put contracts. Wright allowed the puts to expire. The customers suffered a net loss of \$296.21 from these transactions.

Wright also used covered call writing strategies in the customer accounts (a long stock position accompanied by the sale of a call contract for the same stock for the identical quantity). In many instances, Wright would establish buy-write positions (the simultaneous purchase of a stock and the sale of a call contract for the same stock for the identical quantity). In some instances, Wright established buy-write positions that severely capped potential profits but exposed the customers to catastrophic losses.

For instance, on December 3, 2003, Wright effected trades in customer MM's account involving buy-writes in ORCL. Wright purchased ORCL stock for the account at \$13.05 and simultaneously sold covered calls with a 12.5 strike price that expired in March 2004 on the stock position for \$1.20. This trading created a maximum potential gain of \$.65 per share (before subtracting commissions) that would be realized if the stock rose above the call's strike price. At the same time, the customer MM was exposed to a potential loss of \$11.85 per share (before subtracting commissions). On January 21, 2004, Wright sold the shares from customer MM's account after an increase in value of \$1.75 and bought back the calls at \$2.50 per contract. However, due to the commissions costs associated with the purchase and sales totaling \$633.76, MM's account incurred a net loss of \$183.76. Wright executed nearly identical trades in OJ and VJ's account and RL and NL's account.

Wright also used several collar strategies in the customer accounts (purchasing stock along with the purchase of a put option and the simultaneous sale of a call option for the same stock in an

identical quantity). In some instances, Wright established collar positions that severely capped potential profits while exposing the customers to large potential losses.

For instance, on February 23, 2004, Wright purchased XING stock for accounts of customers JL and NL and MM. At the same time, Wright also purchased married put options and sold covered calls. Wright received three commissions for the opening trades. A maximum gain of \$.538 per share, before subtracting commissions, would be realized if the stock rose above the call's strike price. But the customers were exposed to a potential loss of \$4.462 per share, before subtracting commissions. In short, Wright's trading strategy created potential losses more than eight times the potential gains for the customers. These trades resulted in net losses to these customers totaling \$7,292.41 (including costs and commissions of \$1,946.41).

The trading strategies employed by Wright were not suitable for the customers. The cost-to-equity and turnover ratios in each of the customers' accounts show that the trading was excessive in view of the customers' financial situations and investment objectives.

THIRD CAUSE OF ACTION

CHURNING

**Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and
NASD Conduct Rules 2120 and 2110 and IM-2310-2**

All of the customers described above relied on Wright to make appropriate decisions for their accounts and Wright traded the accounts exercising discretionary power. Thus, Wright

controlled the accounts. In pursuing the aggressive trading strategy in the customers' accounts, Wright acted with intent to defraud or with reckless disregard for the customers' best interest, for purposes of generating commissions

Wright, by engaging in the scheme referenced in the above paragraphs, with scienter, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce, or of the mails: 1) employed devices schemes or artifices to defraud; 2) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or 3) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers or prospective purchasers.

FOURTH CAUSE OF ACTION

Undisclosed Outside Business Activities

NASD Conduct Rules 3030 and 2110

In February 2004, Wright, OJ (a customer of Emmett A. Larkin Co., Inc.) and a third individual organized a limited liability company (LLC). In the same month, OJ withdrew the cash balance of more than \$45,000 from his Emmett A. Larkin Co., Inc. securities account, and used these and other funds to capitalize the LLC with approximately \$180,000. The LLC, acting through Wright, opened a commodities trading account with a non-FINRA member firm. Wright traded in the account through April 2004, losing approximately \$80,000. By directing the trading decisions

and executing trades, Wright was actively conducting the business of the LLC. The LLC was dissolved in July 2004.

The business activity of Wright described in preceding paragraph was not within the scope of his relationship with his employer firm, and Wright did not provide the firm with written notice of the activity. By virtue of his active involvement with the LLC, Wright was an employee of the company and was required to disclose this outside business activity to his firm.

Based on the foregoing, Respondent violated NASD Conduct Rules 2110, 2510(b) and 2860(b)(18)(A)(i), 2310, 2510(a), 2860(b)(19), IM-2310-2, 2120, IM-2310-2, 3030 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder as alleged in the Complaint.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be:

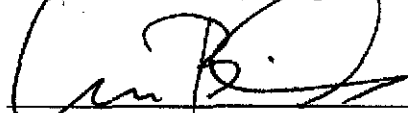
Barred from association with any FINRA member in any capacity.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to IM-8310-3(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

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



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