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REGISTRATION & DISCLOSURE

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2006004155201**

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

RE: Jeffrey David Swanson, Respondent
CRD No. 2385161

Pursuant to NASD Rule 9216 of FINRA's Code of Procedure, I submit 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, 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

Jeffrey David Swanson ("Swanson") entered the securities industry in 1993 as a registered representative with Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch" or the "Firm"), a member of FINRA. Throughout his tenure at Merrill Lynch, Swanson worked in a group within the Firm known as the Callaway Group. The Callaway Group serviced institutional clients and provided investment pension consulting services. During the relevant period, January 1, 2003 through December 31, 2004, Swanson was employed with Merrill Lynch as a registered representative and Investment Associate. On December 29, 2006, Swanson terminated his employment with Merrill Lynch. Swanson is not currently associated with any FINRA member firm but is still within the jurisdiction of FINRA pursuant to Article V, Section 4 of FINRA's By-Laws. Swanson has no prior disciplinary history.

OVERVIEW

In 2003, Merrill Lynch began providing continuing education training to its employees through computer-based training and testing programs that were offered through a web-based platform known as Merrill Lynch University, or MLU ("MLU"). Included on MLU, was Merrill Lynch's Firm Element training module which the Firm required the employees to complete in order to meet NASD's Firm Element Continuing Education requirement pursuant to NASD Membership and Registration Rule 1120(b). The Firm Element training program was developed by the Firm after conducting a training needs analysis. The required Firm Element training modules included proficiency tests for the Firm Element training administered in 2003 and for the Firm Element training administered in 2004. Respondent Swanson worked as a Series 7 registered representative in Merrill Lynch's Jacksonville, Florida office at the time Merrill Lynch administered the Firm Element training modules in 2003 and 2004. Respondent Swanson allowed a subordinate Client Associate in his office to complete the modules for him using Swanson's User ID and password. The subordinate completed the training modules and proficiency tests for Swanson for both 2003 and 2004, after logging onto MLU as Swanson.

FACTS AND VIOLATIVE CONDUCT

1. Beginning in 2003, Swanson's employer, Merrill Lynch, required all registered persons who had customer contact concerning securities products and who were registered with the firm, including Swanson, to complete an internal, computer-based Firm Element Continuing Education program. The covered representatives were required to complete the separate training modules and proficiency tests for the 2003 training and to complete the separate training modules and associated proficiency tests for the 2004 training as part of the Firm Element program.
2. In or about November 2003 and November 2004, Swanson was required to complete Merrill Lynch's Firm Element training modules and proficiency tests. Swanson was notified by Merrill Lynch via electronic mail that he must complete the Firm Element training modules for both 2003 and 2004. The electronic mail indicated that the Firm Element training was a NASD regulatory requirement and that he was required to complete the Firm Element training.
3. In or about November 2003 and November 2004, Swanson allowed a subordinate Client Associate to complete the Firm Element training programs for him by completing the modules and taking the applicable proficiency tests for him, using Swanson's User ID and password.
4. The Client Associate logged onto Merrill Lynch's continuing education system, MLU, as Swanson and completed the Firm Element training programs for him by

completing the training modules and taking and passing the associated proficiency tests for him.

5. After completing the 2004 Firm Element training and the associated proficiency tests, the Client Associate notified Swanson via electronic mail that he had "passed" his Firm Element training.

Such acts, practices and conduct constitute a violation of NASD Conduct Rule 2110 by Respondent Swanson.

OTHER FACTORS

- B. I also consent to the imposition of the following sanctions:

A 30-day suspension from association with any member of FINRA in any capacity and a fine of \$5,000.

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

~~The fine shall be due and payable either immediately upon reassociation with a member firm following the 30-day suspension noted above, 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.~~

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, I 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 NASD Rule 8310 and IM-8310-1).

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against me;

- B. To be notified of the Formal 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, I specifically and voluntarily waive 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.

I further specifically and voluntarily waive any right to claim that a person violated the ex parte prohibitions of NASD Rule 9143 or the separation of functions prohibitions of NASD 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

I understand that:

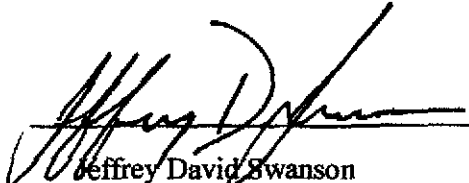
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;

2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my disciplinary record;
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-3; and
4. I 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. I 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.

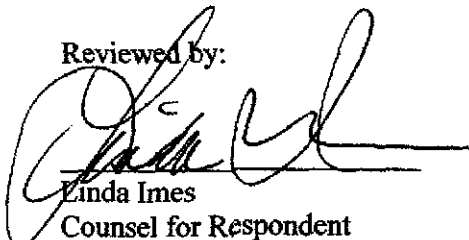
D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with ~~the AWC in this Statement. This Statement does not constitute factual or legal~~ findings by FINRA, nor does it reflect the views of FINRA or its staff.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have 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 me to submit it.

10/31/08
Date:


Jeffrey David Swanson
Respondent

Reviewed by:


Linda Imes
Counsel for Respondent
Spears & Imes, LLP
51 Madison Avenue
New York, New York 10010
(212) 213-6996

Accepted by FINRA:

12/5/08
Date

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


Katherine A. Malfa
Vice President and Chief Counsel
FINRA - Department of Enforcement
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