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REGISTRATION & DISCLOSURE

FINRA
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070094290

TO: Department of Enforcement
FINRA

RE: Gary G. Kelly
Former Registered Representative
CRD No. 1604064

Pursuant to NASD Rule 9216 of FINRA's Code of Procedure, Gary G. Kelly ("Kelly") 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 Kelly alleging violations based on the same factual findings.

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

Kelly first became associated as a registered representative with a FINRA (formerly known as the NASD) Member in 1987. In March 2002, Kelly became registered with RBC Dain Rauscher ("RBC" or the "Firm") as a General Securities Representative and remained there until he was permitted to resign on June 23, 2006. On July 14, 2006, Kelly became registered with Moors & Cabot, Inc. ("Moors & Cabot") as a General Securities Representative. Kelly was permitted to resign from Moors & Cabot on February 22, 2007, and is no longer employed in the securities industry.

PRIOR DISCIPLINARY HISTORY

Kelly has no prior disciplinary history.

FACTS

On April 22, 2003, in Newton District Court of Massachusetts, Kelly was charged with, entered a plea of no contest to, and was convicted of, violating Massachusetts General Law ("M.G.L.") c269 §13A – Reporting False Crime; and M.G.L. c274 §7 – Conspiracy, both misdemeanor convictions. These convictions occurred while Kelly was employed at the Firm, however he did not promptly report his convictions to the Firm.

Question 14B(1)(a) of Kelly's December 2003 Form U4 asked whether Kelly had "ever been convicted of or pled guilty or nolo contendere in a domestic...court to a misdemeanor involving...any fraud, false statements or omissions...or a conspiracy to commit any of these offenses?" Kelly falsely answered "No" in response to this question. Question 14B(1)(b) on Kelly's Form U4 asked whether he had "ever been charged with a misdemeanor specified in 14B(1)(a)." Kelly falsely answered "No" in response to this question. In December 2004, after his convictions occurred, the Firm required Kelly to complete an Annual Update Questionnaire (the 2004 Annual Update) which asked Kelly the following question: "Have you been charged with or convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a misdemeanor involving...any fraud, false statements or omissions...or a conspiracy to commit any of these offenses?" In response to this question, Kelly falsely answered "No."

Kelly's statements on the 2004 Annual Update, as well as his Form U4, failed to disclose his April 2003 misdemeanor convictions for Reporting False Crime and Conspiracy and misled the Firm to believe he did not have a prior criminal history. By not disclosing his criminal history, Kelly: (1) violated NASD Rule 2110 and IM 1000-1 by failing to promptly report to his member employer two misdemeanor convictions which subjected him to statutory disqualification and which occurred during his employment; (2) caused his member firm employer to violate NYSE Rule 346(f) by failing to disclose his criminal history to his member firm employer, including two misdemeanor convictions that subjected him to statutory disqualification; and (3) violated NYSE Rule 345.12 by submitting an inaccurate Form U4 containing false information.

Furthermore, Pursuant to Sections 3(a)(39)(F) and 15(b)(4)(B) of the Securities Exchange Act of 1934, Kelly was statutorily disqualified from employment in the industry beginning April 22, 2003. Kelly will remain statutorily disqualified until 2013.

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

A suspension from association with any member firm in any capacity for a period of six months.

A fine of \$5,000, payable upon either immediately upon reassociation with a member firm following the six-month 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.

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 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.

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 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:

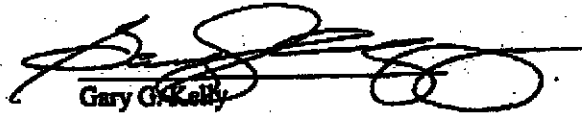
1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my disciplinary record;
3. 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 understand that I may attach a Corrective Action Statement to this AWC, which is a statement of demonstrable corrective steps taken to prevent future misconduct. I further 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.

3-3-08

Date


Gary O'Kelly

Reviewed By: _____

George Hardiman, Esq.
The Law Offices of George G. Hardiman
15 Foster Street
Quincy, MA 02169
(617) 770-0000 Ext: 124

Accepted by FINRA:

3/25/08
Date

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


Anthony J. Cavallaro, Vice President
Scott M. Andersen, Enforcement Director
Jessica A. Poropat, Sr. Enforcement Attorney
FINRA Department of Enforcement
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New York, NY 10005
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