

**FINRA**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 200700942951**

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REGISTRATION & DISCLOSURE

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

Re: James Edward Tuckett ("Tuckett")  
General Securities Representative  
CRD 1002182

Pursuant to NASD Rule 9216 of the FINRA Code of Procedure, James Edward Tuckett ("Tuckett") 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 Tuckett alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Tuckett 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**

Tuckett has been in the securities industry and registered with FINRA as a general securities representative since July 1981. He was employed by Dean Witter Reynolds, Inc., the predecessor firm to Morgan Stanley DW Inc. (the "Firm"), from September 1986 through November 2006. Tuckett has not been registered with FINRA or employed in the securities industry since he retired from the Firm on November 28, 2006. Tuckett has no prior formal disciplinary history.

FINRA By-laws Article IV, Section 6 and Article V, Section 4, provides that a person who is no longer associated with a member or whose registration is revoked or cancelled is still subject to NASD rules for a period of two years after the effective date that the person ceases association with the member or terminates his or her registration. Accordingly, FINRA has jurisdiction over Tuckett and he is subject to discipline based upon conduct that commenced prior to the termination of his association with a member.

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## **FACTS**

During the period September 1986 until his retirement in November 2006, Tuckett was a registered Series 7 general securities representative with the Firm. In this capacity, he recommended and sold mutual funds and securities. Tuckett was located at the Firm's branch office in Kansas City, Missouri.

While employed at the Firm, Tuckett serviced the securities accounts of Customer A and her stepdaughter, Customer B. Customer A and Customer B opened their accounts with Tuckett in 2001 and 2002 respectively. Neither Customer A nor Customer B gave Tuckett written authorization to exercise discretion in their respective accounts nor did Tuckett obtain the Firm's written acceptance of the accounts as discretionary.

During the period from June through August 2006, Tuckett exercised discretion and executed 15 trades in the accounts of Customer A and B, without obtaining the required written authority from the customer and approval of the firm to do so.

In Customer A's account, during the period from June through August 2006, Tuckett exercised discretion and executed 12 trades (9 purchases and 3 sales) in the shares of several mutual funds without obtaining the required written authority of the customer and approval of the firm to do so.

In Customer B's account, during August 2006, Tuckett exercised discretion and executed the sale of Berkshire Hathaway B stock and the purchase of shares in two mutual funds without obtaining the required written authority of the customer and approval of the firm to do so.

## **VIOLATIVE CONDUCT BY RESPONDENT**

NASD Conduct Rule 2510(b) provides that, a registered representative may not exercise discretion in a customer account without written authorization from the customer and the firm's written acceptance of the account as discretionary. NASD Conduct Rule 2110 requires that members and associated persons "observe high standards of commercial honor and just and equitable principles of trade." In this matter, Tuckett exercised discretion in two customer accounts without written authorization from each customer and the Firm's written acceptance of the accounts as discretionary. By virtue of the foregoing, Tuckett violated NASD Conduct Rules 2110 and 2510(b).

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

- a suspension from association with any FINRA member firm in all capacities for 10 business days and;

- a \$7,500 fine, payable upon reassociation with a member firm following the suspension for 10 business days noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding.

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

## **II.**

### **WAIVER OF PROCEDURAL RIGHTS**

Tuckett specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

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

Tuckett further specifically and voluntarily waives 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**

Tuckett 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 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 Tuckett; and
- C. If accepted:
  - 1. this AWC will become part of Tuckett's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against him;
  - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Tuckett's 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. Tuckett 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. Tuckett 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 Tuckett's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and
  - 5. Tuckett agrees that the fine shall be due and payable either immediately upon reassociation with a member firm following the suspension for 10 business days 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.

6. Tuckett specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

- D. Tuckett may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Tuckett understands that he 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.

Tuckett certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Tuckett 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 Tuckett to submit it.

July 16, 2008  
Date

  
James Edward Tuckett  
Pro Se

Accepted by FINRA:

July 28, 2008  
Date

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

  
Myles L. Orosco  
Director  
FINRA Department of Enforcement  
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New York, NY 10005  
646-315-7383 (Telephone)  
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