

FINRA
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070094749¹

**To: Department of Enforcement ("Enforcement")
Financial Industry Regulatory Authority ("FINRA")¹**

**Re: Aric Kyle Heiselman ("Heiselman")
General Securities Representative
CRD 4453249**

Pursuant to NASD Rule 9216 of the FINRA Code of Procedure, Aric Kyle Heiselman ("Heiselman") 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 Merrill Lynch alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Heiselman 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

Heiselman has been employed as a registered representative at various times with FINRA member firms from July 2001 through November 2007 and has been registered as a Series 7 general securities representative with FINRA since October 2001. During this period, Heiselman worked at Morgan Stanley Dean Witter (July 2001 – October 2002); ING Financial Partners (April 2003 – December 2005); Edward D. Jones & Co. (January 2006 – April 2007) and A.G. Edwards & Sons, Inc (June 2007 – November 2007).

Heiselman has not been employed in the industry since November 28, 2007.

¹In July 2007, the NASD, Inc. became FINRA.

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Pursuant to FINRA By-laws Article IV, Section 6 and Article V, Section 4, FINRA has jurisdiction over this matter. Heiselman has no prior relevant formal disciplinary history.

FACTS

During the period January 2006 to April 2007, Heiselman was a general securities registered representative with Edward D. Jones & Co. ("EDJ" or the "Firm"). In this capacity, he recommended and sold mutual funds and securities. Heiselman was located in a two person office in Strasburg, Pennsylvania.

A customer of Heiselman had an IRA at another brokerage firm (Brokerage Firm A). Heiselman's customer informed him that Brokerage Firm A failed to effect a timely transfer of her (the customer's) IRA account to EDJ. On April 11, 2007, Heiselman called a representative of Brokerage Firm A to request that the customer's IRA be transferred to EDJ. During this telephone call, the representative of Brokerage Firm A informed Heiselman that he needed to speak to the customer to effect this transfer. Heiselman then instructed his assistant to impersonate Heiselman's customer in this conversation with the representative from Brokerage Firm A.

The day after Heiselman requested his assistant to impersonate the customer, Heiselman impersonated another customer on a telephone call with a representative of another brokerage firm (Brokerage Firm B), the company that held that customer's 401(k) account. Heiselman falsely identified himself on the telephone as the second customer in order to complete a requested rollover of the customer's 401(k) account at Brokerage Firm B to EDJ.

VIOLATIVE CONDUCT BY RESPONDENT

NASD Conduct Rule 2110 requires registered representatives, such as Heiselman, "[i]n the conduct of [his] business, to observe high standards of commercial honor and just and equitable principles of trade." In this matter, Heiselman caused another person to impersonate one customer and he impersonated another customer. By virtue of the foregoing, Heiselman failed to conduct his business with high standards of commercial honor and therefore violated NASD Rule 2110.

- B. Heiselman also consents to the imposition of the following sanctions:
- a suspension in all capacities for 30 business days and;
 - a \$7,500 fine.

Heiselman agrees that the fine shall be due and payable either immediately upon reassociation with a member firm following the suspension for 30 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.

Heiselman 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.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Heiselman 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 Heiselman;
- 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, Heiselman 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.

Heiselman 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

Heiselman 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 Heiselman; and
- C. If accepted:
 - 1. this AWC will become part of Heiselman'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 Heiselman'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. Heiselman 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. Heiselman 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 Heiselman's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and

5. Heiselman understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, Heiselman 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 FINRA Rule 8310 and IM-8310-1.)

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

Heiselman 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 Heiselman 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 Heiselman to submit it.

3/17/08

Date

Aric K. Heiseleman

By:

Aric K. Heiselman

Aric K. Heiselman

Pro Se

Accepted by FINRA:

3/24/2008

Date

Signed on behalf of the

Director of ODA, by delegated authority

Myles L. Orosco

Myles L. Orosco

Director

FINRA Department of Enforcement

14 Wall Street 14th Floor

New York, NY 10005

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