

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070103988

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

RE: Stephen G. Condos
CRD No. 2064521

~~Chuck A. Roberts~~
~~CRD No. 2064602~~

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Stephen G. Condos ("Condos") and Chuck A. Roberts ("Roberts") (together, "Respondents") submit this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below.¹ This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondents alleging violations based on the same factual findings described herein.

I.

A. ACCEPTANCE AND CONSENT

Respondents 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:

B. BACKGROUND

Respondents are currently employed as registered representatives by Morgan Stanley Smith Barney ("the Firm") at its Seventh Avenue, New York, City branch office (the "Branch"). They both began working at the Firm at one of its predecessor organizations in March of 2005.

C. OVERVIEW

While employed at the Firm, Respondents headed a partnership. (This partnership is referred to herein as the "Group"). In the spring of 2005, a Sales Assistant who worked in the Group (the "Sales Assistant"), either alone or with another subordinate member of the Group, altered

¹ All NASD rules identified in this AWC have been incorporated into the FINRA Code of Procedures.

000120040 2010

customer records by inserting his Firm e-mail address in place of certain customers' e-mail addresses in the customers' online account profiles and in Firm paperwork, thus preventing trade confirmations from being sent to certain of such customers. Respondents had actual knowledge of this misconduct, which was undertaken in the misguided belief that such actions benefited the customers by, among other things, preventing the occurrence of excessive communications from the Firm.

Additionally, from mid-2005 to September of 2006, Roberts' mother-in-law participated through the Firm in 45 initial public offerings ("IPOs") in violation of NASD Conduct Rule 2790 as well as the Firm's policies. Roberts, who serviced his mother-in-law's accounts, knew or should have known that as an "immediate family member," she was prohibited from participating in these transactions.

As a result of the aforementioned alteration of documents, Respondents violated NASD Conduct Rule 2110 by causing a violation of NASD Conduct Rule 3110 and SEC Rule 17a-3. In addition, Roberts violated NASD Rules 2790 and 2110 in connection with the violative IPO trading described above.

II.

A. FACTS AND VIOLATIVE CONDUCT

Altering Customer E-Mail Addresses

NASD Conduct Rule 3110(a) provides, in pertinent part, that "[e]ach member shall make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated thereunder and with the Rules of this Association and as prescribed by SEC Rule 17a-3."

SEC Rule 17a-3 requires that registered broker-dealers shall make and keep accurate books and records relating to certain enumerated aspects of their business.

In or about March of 2005, the Group moved to the Firm from another member firm employer. Immediately thereafter, and through approximately July of that year, the Sales Assistant and possibly one or more other subordinate members of the Group, replaced a total of 51 customer e-mail addresses with the Sales Assistant's Firm e-mail address. The period of time that accounts subsequently bore the Sales Assistant's Firm e-mail address ranged from a day or less (at least three customers) to approximately two years (at least two customers). The changes were made in order to facilitate the opening of the online accounts and also to lessen the amount of communications that were received by customers as a result of the move. Respondents had knowledge of this conduct at the time that it occurred.

As a result of the foregoing conduct, the electronic delivery for approximately three customers of 35 trade confirmations were sent to the Sales Assistant's e-mail account rather than that of the appropriate customers. These customers continued to receive their monthly account statements, prospectuses and 1099 federal tax forms via U.S. mail.

Based upon the foregoing, Respondents violated NASD Conduct Rule 2110 by causing a violation by the Firm of NASD Conduct Rule 3110 and SEC Rule 17a-3.

Trading in IPOs--Roberts

NASD Rule 2790, subsequently renumbered as FINRA Rule 5130, prohibits a member, or a person associated with a member, from selling, or causing to be sold, a new issue to any account in which a restricted person has a beneficial interest. Under subsection (i)(10)(B)(iii) of this rule, a "restricted person" includes an "immediate family member" of a registered representative. "Immediate family member" is defined under subsection (i)(5) to include the representative's "parents, mother-in-law or father-in-law, spouse, brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, and children...."

Rule 2790 plays an important part in maintaining investor confidence in the capital raising and IPO processes. It protects the integrity of the initial public offering process by ensuring that firms and their associated persons do not take advantage of their insider positions to purchase new issues for their own financial benefit at the expense of public customers. See FINRA Notice to Members 08-57 (discussing Rule 5130).

NASD Conduct Rule 2110, subsequently renumbered as FINRA Rule 2010, obliges an associated person to "observe high standards of commercial honor and just and equitable principles of trade."

In March of 2005, Robert's mother-in-law opened several accounts at the Firm, each of which was serviced by Roberts. At the time that the accounts were opened, Roberts did not disclose to the Firm that the individual who owned the accounts was his mother-in-law. Had Roberts made such disclosure, the account numbers assigned to the accounts would contain a prefix which would identify them as being employee related.

Nonetheless, beginning immediately after Robert's mother-in-law opened her accounts and ending in September of 2006, she was allocated shares with respect to 45 IPOs. Because the account in which these trades occurred was not properly coded with the correct prefix, they were not identified by the Firm as being wrongful and were allowed to occur. The net profits from this trading was approximately \$15,700.

In September of 2006, a Firm compliance officer was discussing customer accounts with a member of the Group. At such time, the officer learned that the aforementioned customer was Roberts' mother-in-law. The Firm conducted an investigation and determined that she inappropriately participated in the aforementioned syndicate trading.

Based upon the foregoing, Roberts violated NASD Conduct Rules 2790 and 2110.

Discipline Imposed and Remedial Steps Taken by the Firm

On July 17, 2007, Respondents and the aforementioned Sales Assistants were sanctioned by the Firm and issued Letters of Caution as a result of the aforementioned conduct. The sanctions that were imposed included the withholding of syndicate sales commissions from Roberts on five deals. Also, Respondents were each suspended for 30 days without pay. Additionally,

Respondents were both placed on special supervision for a period of 12 months. Further, they were not promoted and were not permitted to move to a new satellite office that the Firm had opened.

B. SANCTIONS

Respondents also consent to the imposition of the following sanctions:

1. Condos- A censure; a three week suspension from association with any FINRA member in any capacity and a fine in the amount of \$15,000;
2. Roberts- A censure; a four week suspension from association with any FINRA member in any capacity and a fine in the amount of \$40,000.

Respondents agree to pay the monetary sanction upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have submitted an Election of Payment form showing the method by which they propose to pay the fine imposed.

Respondents specifically and voluntarily waive any right to claim that they are unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

Respondents understand that if they are barred or suspended from associating with any FINRA member, they 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, Respondents may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the relevant bar or suspension (see FINRA Rules 8310 and 8311).

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

III.

WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Complaint issued specifying the allegations against them;
- B. To be notified of the 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, Respondents 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.

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

IV.

OTHER MATTERS

Respondents understand that:

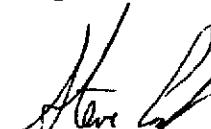
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against them; and
- C. If accepted:
 - 1. this AWC will become part of their permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against them;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about their disciplinary records;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and

4. Respondents 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. Respondents 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 their right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

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

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

January 8, 2010



Stephen G. Condos

January 2, 2010



Chuck A. Roberts

Reviewed by:

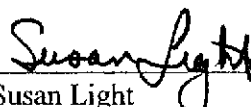


Alyson M. Weiss, Esq.
Loeb & Loeb LLP
345 Park Avenue, 18th floor
New York, New York
(212) 407-4000
Counsel for Respondents

Accepted by FINRA:

February 4, 2010
February 4, 2010

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



Susan Light
Senior Vice President & Chief Counsel
FINRA Department of Enforcement
14 Wall Street, 14th floor
New York, New York
(646) 315-7333 (tel.)
(646) 315-7441 (fax)