

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070119207
NO. 20090180095

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

RE: Thomas G. Fullerton, Respondent
General Securities Representative and General Securities
Sales Supervisor
CRD No. 1838721

Pursuant to FINRA 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

Thomas G. Fullerton entered the securities industry in 1988 as a General Securities Representative. From November 3, 2005 through May 1, 2009, he was registered as a General Securities Representative and as a General Securities Sales Supervisor with Liberty Partners Financial Services, LLC (the Firm), which discharged him. He currently is not registered with a FINRA member. Fullerton does not have any disciplinary history.

OVERVIEW

Between August 2006 and March 2009, Fullerton churned and engaged in excessive and qualitatively unsuitable trading in at least five customers' accounts.

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In addition, Fullerton also exercised discretion without having obtained prior written authorization in the course of his unsuitable trading. Fullerton willfully violated Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 thereunder, and violated NASD Conduct Rules 2510(a) and (b), 2310, 2120, 2110 and IM-2310-2 and FINRA Conduct Rules 2010 and 2020.

FACTS AND VIOLATIVE CONDUCT

Each of the customers identified below began investing with Fullerton sometime before 1998. Each of them placed the investment decisions in his or her account under Fullerton's control. Fullerton completed the new account forms for each customer; each form indicated an investment objective of growth or capital appreciation and a moderate risk tolerance. Fullerton chose the securities, and determined the quantity, timing and price at which each security would be purchased and sold. Generally, Fullerton purchased and sold the same securities in the customers' accounts, and kept the accounts fully invested in aggressive growth and speculative stocks and funds, without regard to the customers' individual financial status and investment objectives. Fullerton did not contact the customers to discuss the investments prior to or after any transaction. Fullerton did not obtain a written grant of discretion from any of the customers and the Firm did not accept any of the customers' accounts as discretionary.

Customers BJ and WJ

In November 2005, customers BJ and WJ transferred their trust account and two IRA accounts with Fullerton to the Firm. At that time BJ was 79 years old and WJ was 75 years old; they were retired from their work in a small town in central California as a bookkeeper and an editor of a local newspaper, respectively. They were in a 25% tax bracket, with income from social security payments, rental property, and withdrawals from their Firm accounts. Their three Firm accounts were valued at approximately \$180,000.00 (trust), \$50,000.00 (BJ's IRA), and \$7,000.00 (WJ's IRA), which together represented approximately one-third of their net worth.

From November 2005 through May 2007, Fullerton recommended and fully invested BJ's and WJ's three accounts in aggressive growth and speculative equities and ETFs, often utilizing margin and maintaining significant margin debit balances in the trust account. Separately, Fullerton also excessively traded the trust account. For the calendar year 2006, Fullerton engaged in approximately 90 trades in the trust account, generating approximately \$30,000 in commissions while the account earned \$600.00. In that account, Fullerton engaged in excessive in-and-out trading, resulting in a turnover rate of 6.2 and a commission-to-equity ratio of 22.6% during the period from August 2006 through January 2007.

In April 2007, at the urging of their son, BJ and WJ ordered Fullerton to liquidate their stock positions. In May 2007, BJ and WJ closed and transferred their accounts away from Fullerton and the Firm.

Customer DLR

In November 2005, customer DLR transferred his account with Fullerton to the Firm. At the time, DLR was a 79 year-old widower who was retired from his position as a maintenance foreman at an oil refinery in central California. Although DLR's new account form indicated investment objectives as capital appreciation and growth, and his risk tolerance as moderate, in fact his investment objective was income and his risk tolerance low. DLR was in the 15% tax bracket and his sources of retirement income were social security payments and withdrawals from his Firm brokerage account. Other than his Firm account, DLR owned two mobile homes, one in which he lived and one that was not rented and that he was unable to sell.

Fullerton engaged in excessive in-and-out trading in DLR's account, resulting in an annual turnover rate of 6.9 and a commission-to-equity ratio of 26.6% from July 2007 through October 2007. During this period, Fullerton executed 27 transactions in speculative securities, generating commissions of \$7,367.75, and portfolio losses of \$19,601.65.

In July 2008, DLR closed and transferred his account away from Fullerton and the Firm.

Customer JG

In November 2005, customer JG transferred her IRA account with Fullerton to the Firm. At that time, she was 73 years old, had been a widow for 12 years, and had always been a homemaker. She inherited the IRA from her deceased husband, who had put their accounts in Fullerton's control with an oral grant of discretion. When he died, JG continued the relationship with Fullerton that he had established with her husband. JG was in the 15% tax bracket. For income, she relied upon social security payments and income or withdrawals of principal from her IRA, in the amount of \$1,286.00, or \$1,116.00 net of taxes, per month.

In November 2005, JG's IRA account value was \$352,990.45, comprising cash in the amount of \$15,382.76 and securities valued at \$337,607.69; it represented approximately 70% of her liquid net worth. As of April 30, 2009, JG's IRA had a value of \$136,589.55, which reflected losses of \$133,817.90 as a result of Fullerton's trading.

Fullerton engaged in excessive in-and-out trading in JG's IRA, resulting in an annual turnover rate of 4.0 and a cost-to-equity ratio of 15% during the period from January 2008 through December 2008. . In particular, in February 2008,

Fullerton engaged in 19 in-and-out transactions, generating \$9,897.00 in commissions and mark-ups, while the portfolio's value increased only \$1,540.66, or 0.005% for the month.

Separately, after joining the Firm, Fullerton changed the nature and quality of the investments in JG's account, resulting in a concentration in speculative stocks. In November 2005, JG's account held cash in the amount of \$15,382.76 and securities valued at \$337,607.69, comprising eight closed end funds, four Class B-share mutual funds, and stock positions in two major retailers. Fullerton sold the mutual funds and kept the account wholly invested in aggressive and speculative securities.

Between November 2005 and March 2009, Fullerton executed a total of 314 transactions in JG's IRA in speculative securities. In particular, between August 2008 and September 2008, JG's IRA lost \$37,484.63 in value; approximately \$22,000.00 of the losses resulted from aggressive trading in a speculative bank stock that became worthless and stopped trading at the end of September 2008.

In May 2009, the Firm transferred JG's IRA to another registered representative.

Customers LU and LU

In November 2005, customers LU and LU transferred their account with Fullerton to the Firm. The account value was approximately \$83,000.00 and represented 80% of the customers' net worth. At that time, LU was 78 years old and worked part-time as a salesman at a Sears store in a central California town; he previously retired from a career in the U.S. Air Force. His wife, LU, was 79 years old and had always been a homemaker. Although the Firm lost contact with LU and LU sometime in 2008, Fullerton continued to trade their account. By March 2009, LU's and LU's account had a remaining value of \$1,521.96; the loss in value resulted from trading losses and commissions.

From November 2005 through March 2009, in LU's and LU's account, Fullerton recommended and invested approximately 80% of the account in equities and ETFs. From March 2006 through March 2007, in LU's and LU's account, Fullerton engaged in excessive in-and-out trading, resulting in an annual turnover rate of 16.7 and a commission-to-equity ratio of 60.3%. From March 2006 through March 2007, the account value declined from \$79,452.00 to \$48,342.00; during this time, the account's average commissions equaled approximately \$3,608.00 per month.

Between August and September 2008, the account value dropped from \$14,632.31 to \$1,624.22, due to aggressive trading in a speculative bank stock that became worthless and stopped trading at the end of September 2008.

Customer RN

In August 2006, customer RN transferred his IRA with Fullerton to the Firm. At that time, RN was 78 years old, and the account value was \$66,621.33. RN is retired from his work as a maintenance worker at a cement factory and his wife has always been a homemaker. In 1988, at age 60, RN received a \$137,000.00 lump-sum pension payout when his company closed its facility in the small central California town in which he lived. After investing in certificates of deposit at a local bank for a few years, RN opened an account with Fullerton, whom he knew through customers BJ and WJ. In 1998, RN began taking distributions from his IRA of \$2,000.00 per month. In October 2000, he reduced his monthly distributions to \$1,000 per month because the principal was declining. RN's IRA represented the majority of his and his wife's liquid net worth.

During the period from September 2007 through May 2008, in RN's IRA, Fullerton engaged in excessive in-and-out trading, resulting in an annual turnover rate of 7.2. Between August and September 2008, the account value dropped from \$24,936.66 to \$1,325.05, due to aggressive trading, including in a speculative bank stock that became worthless and stopped trading at the end of September 2008.

Violations

1. Excessive Trading Constituting Churning

During the periods noted above for each customer, respectively, while exercising control over the customers' accounts, Fullerton intentionally or recklessly excessively traded their accounts. The foregoing acts, practices and conduct constitute willful violations of Section 10(b) of the Exchange Act and Rule 10b-5, and violations of NASD Conduct Rules 2110 and 2120 by Fullerton. With respect to conduct concerning JG and LU and LU that occurred on or after December 15, 2008, the aforementioned acts, practices and conduct constitute separate and distinct violations of FINRA Conduct Rules 2010 and 2020 as well as willful violations of Section 10(b) and Rule 10b-5 by Fullerton.

2. Unsuitable Transactions

Fullerton recommended the aforementioned transactions without having reasonable belief that such transactions were suitable in view of the size and frequency of the transactions, the nature of the accounts, and the customers' financial situation, investment objectives, and needs. As noted above, each of the customers were retired and elderly. Each of the customers' accounts under Fullerton's control at the Firm represented a substantial percentage of the customers' life savings and net worth; each customer relied upon the account

portfolios for income. The foregoing transactions were unsuitable for each customer on the grounds of undue concentration in equities, the speculative nature of certain securities, and excessive trading.

The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110, 2310 and IM-2310-2 by Fullerton. With respect to conduct concerning JG and LU and LU that occurred on or after December 15, 2008, the aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2310, IM-2310-2, and FINRA Conduct Rule 2010.

3. Discretion Without Written Authorization and Approval

From November 2005 through either March 2009 or until the customer closed and transferred his or her Firm account, as noted above, Fullerton exercised discretionary power in each customer account described above, without the customer's prior written authorization and without obtaining the Firm's written acceptance of the account as discretionary. In addition, as described above, Fullerton effected purchase and sale transactions that were excessive in size or frequency in view of the financial resources and character of the accounts.

The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2510(a) and (b) and 2110 by Fullerton. With respect to conduct concerning JG and LU and LU that occurred on or after December 15, 2008, the aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2510(a) and (b) and FINRA Conduct Rule 2010 by Fullerton.

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

A bar from association with any FINRA member in any capacity.

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 FINRA Rules 8310 and 8311).

I understand that this settlement includes a finding that I willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 and that under Article III, Section 4 of FINRA's By-Laws, this makes me subject to a statutory disqualification with respect to association with a member.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

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

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

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 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 me; and

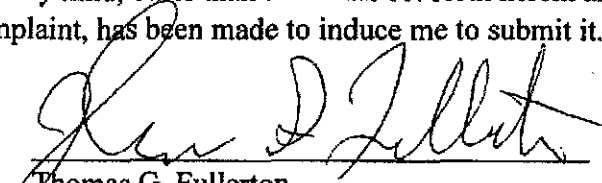
C. If accepted:

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 FINRA Rule 8313*; 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.

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.

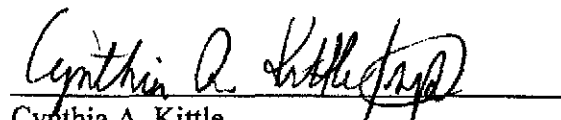
06/03/2010
Date (mm/dd/yyyy)


Thomas G. Fullerton

Accepted by FINRA:

6/24/2010
Date

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


Cynthia A. Kittle
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