

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

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REGISTRATION & DISCLOSURE

Department of Enforcement,

Complainant,

v.

DEREK ALLEN CHOWEN
Registered Representative
(CRD No. 4286245)

Respondent.

**Disciplinary Proceeding
No. 2008012409101**

Hearing Officer Sara Nelson Bloom

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 14, 2009

INTRODUCTION

Disciplinary Proceeding No. 2008012409101 was filed on July 15, 2009, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Derek Allen Chowen submitted an Offer of Settlement (Offer) to Complainant on September 8, 2009. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, 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, to the entry of

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findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Derek Allen Chowen (Chowen) entered the securities industry as a General Securities Representative of Edward Jones (Member), a member of FINRA, on December 5, 2000. Chowen was registered with the Member until February 11, 2008. On February 4, 2008, he became registered with another member of FINRA in the same capacity, and was registered with that Firm until June 17, 2008. He is currently not registered with any member of FINRA and has no disciplinary history.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

1. During all relevant times, RB was a member of the public who maintained a Simplified Employee Pension plan (SEP) securities account at the Member, which was serviced by Chowen.
2. On or about May 18, 2007, Chowen placed orders to sell shares of five mutual funds in RB's SEP Account, which included:
 - a. 356,793 Class B shares of Federated American Leaders Fund, at a sales price of \$25.42 per share for the principal amount of \$9,069.69, with a gross deferred sales charge of \$69.69, leaving net proceeds of \$9,000.00;

- b. 598.504 Class B shares of Lord Abbett Mid Cap Value Fund, at a sales price of \$23.47 per share for the principal amount of \$14,046.89, with a gross deferred sales charge of \$46.89, leaving net proceeds of \$14,000.00;
 - c. 245.081 Class B shares of Federated Market Opportunity, at a sales price of \$12.31 per share for the principal amount of \$3,016.95, with a gross deferred sales charge of \$16.95, leaving net proceeds of \$3,000.00;
 - d. 1004.56 Class B shares of Federated Kaufmann Fund, at a sales price of \$6 per share for the principal amount of \$6,027.36, with a gross deferred sales charge of \$27.36, leaving net proceeds of \$6,000.00; and,
 - e. 230.431 Class B shares of Federated Capital Appreciation Fund, at a sales price of \$26.27 per share for the principal amount of \$6,053.42, with a gross deferred sales charge of \$53.42, leaving net proceeds of \$6,000.00.
3. On May 21, 2007, Chowen used the proceeds for the sale of the five mutual fund positions to purchase 1,269,629 Class A shares of Franklin Mutual Shares Fund for RB's SEP Account, at a purchase price of \$29.93 per share for a total purchase price of \$38,000.00, and he received a gross commission of \$1,900 and a net commission of \$760 on the transaction.
4. Chowen placed the orders to sell the five mutual fund positions and purchase a different mutual fund, as described above, without the knowledge or consent of RB, and in the absence of written or oral authorization to Chowen to exercise discretion in RB's SEP Account.
5. During all relevant times, ES, KS, JH and JS were members of the public. JS and ES were husband and wife who maintained separate IRA Accounts at the Member, which were serviced by Chowen. JH maintained a securities account with the Member, which was serviced

by Chowen. KS maintained a securities account with the Member in the name of her Revocable Living Trust, which was serviced by Chowen.

6. From on or about May 18, 2007 to on or about June 26, 2007, Chowen, pursuant to verbal authority, exercised discretion in the IRA account of ES, without having obtained prior written authorization from ES and prior written acceptance of the account as discretionary by the Member. During this period of time Chowen placed a total of 4 purchases and 5 sales of securities on a discretionary basis. For these transactions, ES was charged gross commissions of \$1,622.50, and Chowen received net commissions of \$649.

7. On or about June 26, 2007, Chowen, pursuant to verbal authority, exercised discretion in the revocable living trust account of KS, without having obtained prior written authorization from KS and prior written acceptance of the account as discretionary by the Member. On this date, Chowen placed a total of 1 purchase and 2 sales of securities on a discretionary basis. For these transactions, KS was charged gross commissions of \$488, and Chowen received net commissions of \$195.20.

8. On or about July 24, 2007, Chowen, pursuant to verbal authority, exercised discretion in the account of JH, without having obtained prior written authorization from JH and prior written acceptance of the account as discretionary by the Member. On this date, Chowen placed a total of 1 purchase and 4 sales of securities on a discretionary basis. For these transactions, JH was charged gross commissions of \$950, and Chowen received net commissions of \$380.

9. On or about July 24, 2007, Chowen, pursuant to verbal authority, exercised discretion in the IRA account of JS, without having obtained prior written authorization from JS and prior written acceptance of the account as discretionary by the Member. On this date,

Chowen placed a total of 1 purchase and 4 sales of securities on a discretionary basis. For these transactions, JH was charged gross commissions of \$600, and Chowen received net commissions of \$240.

10. On or about August 6, 2008, Staff sent Chowen a request that he provide a written statement responding to questions regarding the alleged unauthorized transactions in RB's SEP account, as noted in paragraphs 2 through 4 above, and the alleged trading on a discretionary basis without written authorization and approval by the Member in the accounts of ES, KS, JH and JS, as noted in paragraphs 6 through 9 above, pursuant to and in accordance with the provisions of NASD Rule 8210. The request for information was sent by first class mail and certified mail, return receipt requested, to Chowen's address of record as contained in the records of the Central Registration Depository (CRD Address). The first class mailing was not returned to the Staff, and the certified return receipt was returned apparently signed by Chowen, showing that he received the letter on August 11, 2008.

11. Having not received a response to the initial request for information and documentation, on or about September 5, 2008, the Staff sent Chowen a letter marked "second request," regarding the alleged unauthorized transactions in RB's SEP account, as noted in paragraphs 2 through 4 above, and the alleged trading on a discretionary basis without written authorization and approval by the Member in the accounts of ES, KS, JH and JS, as noted in paragraphs 6 through 9 above, pursuant to and in accordance with the provisions of NASD Rule 8210. The request for information was sent by first class mail and certified mail, return receipt requested, to Chowen's CRD Address. The first class mailing was not returned to the Staff, and the certified mailing was returned marked "Return to Sender - Unclaimed."

12. Chowen failed to respond to each and all of the requests for documents and information described in paragraphs 10 and 11 above, and the time for Chowen to respond has passed.

Based on the foregoing, Respondent violated NASD Rules 2110, 2510(b), and 8210.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be barred from association with any member of FINRA in any capacity.

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 Order.

SO ORDERED.

FINRA

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



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