

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20090162623-03**

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

RE: Brean Murray, Carret & Co., Respondent
BD No. 23723

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Brean Murray, Carret & Co. ("Respondent" or the "firm") 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 the Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Respondent has been a member of FINRA since December 23, 1988 and its registration remains in effect. The firm operates as a full service brokerage firm.

RELEVANT DISCIPLINARY HISTORY

On February 17, 2010, FINRA issued AWC No. 200600446610-01, in which Respondent and JSB, accepted and consented to, without admitting or denying, FINRA's findings, which among other things, included that from July 1, 2005 through June 25, 2006, the firm, acting through JSB, permitted JB, an unregistered person, to act the capacity of a General Securities Representative ("GSR") and a General Securities Principal ("GSP"), in violation of NASD Rules 1021, 1031 and 2110. For that registration violation, Respondent and JSB were each censured and jointly and severally fined \$15,000. That earlier AWC also found that Respondent's written

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supervisory procedures were inadequate in certain areas, including with respect to registration. A fine of \$15,000 was imposed on the firm for the inadequate written procedures, and the firm agreed to an undertaking to revise its written supervisory procedures in the areas found deficient and to provide a representation to FINRA within 30 business days of acceptance of the AWC that the procedures had been revised and the date the revised procedures were implemented.

The firm has had no other relevant disciplinary history within the last five years with the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator

OVERVIEW

At different times, during the period November 1, 2005 through June 24, 2010, Respondent permitted three persons to function as principals, without being registered as GSPs, and thereby violated NASD Membership and Registration Rule 1021, NASD Conduct Rule 2110 (for conduct before December 15, 2008), and FINRA Rule 2010 (for conduct after December 14, 2008).

From November 1, 2005 through July 1, 2010, Respondent did not establish and maintain a supervisory system that was reasonably designed to achieve compliance with the rules and regulations applicable to the registration of principals, and thereby violated NASD Conduct Rule 3010, NASD Conduct Rule 2110 (for conduct before December 15, 2008), and FINRA Rule 2010 (for conduct after December 14, 2008).

FACTS AND VIOLATIVE CONDUCT

1. Over the time period November 2005 through June 2010, Respondent permitted two individuals who were registered as GSRs, and a third individual, who was registered as a GSR and a Research Analyst, to function as principals, without being registered as GSPs. Each of the individuals was actively engaged in the management of the firm's investment banking and/or securities business, by among other things, supervising persons associated with the firm. Specifically:
 - a. From on or about November 1, 2005 through April 9, 2010, one individual, whose registration as a GSP had previously lapsed, and before becoming re-registered as a GSP through Respondent, acted as the firm's President and Chief Executive Officer, and actively managed Respondent's investment banking and securities business and supervised various registered persons;
 - b. From on or about April 23, 2008 through July 1, 2010, a second individual, before becoming registered as a GSP through Respondent, acted as a senior manager at the firm and supervised the firm's sales, trading and research departments; and

- c. From on or about January 20, 2009 through June 24, 2010, a third individual, before becoming registered as a GSP through Respondent, acted as a manager at the firm and supervised the conduct of eight different research analysts.

Respondent thereby violated NASD Membership and Registration Rule 1021, NASD Conduct Rule 2110 (for conduct before December 15, 2008), and FINRA Rule 2010 (for conduct after December 14, 2008).

2. From November 1, 2005 through July 1, 2010, Respondent did not establish and maintain a supervisory system that was reasonably designed to achieve compliance with the rules and regulations applicable to the registration of principals.

Respondent failed to adequately ensure that individuals had the requisite registrations to supervise employees and business areas to which they were assigned. Specifically, the firm failed to promptly identify all persons who needed principal registration. Additionally, after identifying individuals who should become registered as principals, the firm permitted representatives to delay taking the required examinations, which, in turn, contributed to the registration violations described above.

By not establishing and maintaining a supervisory system that was reasonably designed to achieve compliance with the rules and regulations applicable to principal registration, Respondent violated NASD Conduct Rule 3010, NASD Conduct Rule 2110 (for conduct before December 15, 2008), and FINRA Rule 2010 (for conduct after December 14, 2008).

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

- A censure;
- A fine in the amount of \$40,000; and
- The following undertakings:
 - Within 60 calendar days after the date of issuance of this AWC, Respondent shall undertake to review its supervisory system and procedures concerning compliance with the applicable laws, regulations and rules regarding principal registration. As part of that review, Respondent must determine whether individuals previously identified by Respondent as requiring principal registration have become so registered.
 - No later than 60 calendar days after the date of issuance of this AWC, Respondent shall prepare a written report detailing its review, findings and recommendations and submit a copy of that report to Department

of Enforcement staff at FINRA's New York District Office ("Enforcement"). The written report shall address, at a minimum, (i) the adequacy of the firm's policies and systems, procedures, and training relating to the registration of principals; (ii) a description of the review performed and the conclusions reached; and (iii) recommendations, if any, for modifications and additions to the firm's policies, systems, procedures and training. To the extent that the report recommends the implementation of additional systems and procedures regarding registration, those shall be implemented within 60 calendar days of the submission of the written report to Enforcement.

- In addition, within 60 calendar days of the submission of the written report to Enforcement, an officer of Respondent must certify to Enforcement in writing that the firm has completed its review and that it has established systems and procedures reasonably designed to achieve compliance with those laws, regulations, and rules regarding principal registration.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which Respondent proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Complaint issued specifying the allegations against it;
- 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, Respondent specifically and voluntarily waives any right to claim bias or prejudice 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.

Respondent further specifically and voluntarily waives 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

Respondent 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 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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's 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. Respondent 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. Respondent 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

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

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it 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 Respondent to submit it.

Brean Murray, Carret & Co.

March 23, 2011

Date

By: Kenneth J. Kirsch

Print Name: Kenneth J. Kirsch

Print Title: Chief Financial Officer

Reviewed by:

Susan L. Merrill 

Susan L. Merrill, Esq.
Counsel for Respondent
Bingham McCutchen LLP
399 Park Avenue
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(212) 705-7705

Accepted by FINRA:

April 12, 2011

Date

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

A handwritten signature in black ink, appearing to read "Gary A. Chodosh", written over a horizontal line.

Gary A. Chodosh
Senior Regional Counsel
FINRA Department of Enforcement
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March 2011

This Corrective Action Statement is submitted by Brean Murray, Carret & Co. (the "Firm"). It does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA, or its staff.

Two of the individuals who are the subject of this letter of Acceptance Waiver and Consent took their exams and became registered as General Securities Principals in 2010, after the Firm received notice from FINRA. The third individual, who first became registered as a General Securities Principal in 1990, and whose General Securities Principal registration had lapsed, became re-registered in 2010.

The Firm has updated and revised its supervisory systems to ensure that its employees are properly registered, including individuals with supervisory responsibilities.