

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009018062601**

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

RE: Francis Paul Anton II ("Anton"), Respondent
Former Registered Representative
2626685

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Anton 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

Anton, who was born in [REDACTED] entered the securities industry in 1995 as a Series 7 registered employee with PaineWebber Incorporated ("PaineWebber"). After leaving PaineWebber, Anton worked for several FINRA-regulated firms, including Dean Witter Reynolds Inc., NationsBanc Investments Inc., and Banc of America Investment Services, Inc. On June 2001, Anton joined Morgan Keegan & Co., Inc. ("Morgan Keegan" or the "Firm") as a junior trader on the SBA desk, and in or around April 2003, he was promoted to head trader.

Morgan Keegan terminated Anton's employment on April 30, 2009. On May 11, 2009, FINRA received a Uniform Termination Notice for Securities Industry Registration ("Form U5") from the Firm, reporting Anton's April 30, 2009 termination of employment. Anton has not been employed in the securities industry since April 30, 2009 but remains subject to FINRA's jurisdiction pursuant to FINRA By-law Article V, Section 4, until April 29, 2011.

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RELEVANT DISCIPLINARY HISTORY

Anton has not been the subject of any prior relevant formal disciplinary history.

OVERVIEW

During the period from February 2008 through April 2009 (the "Relevant Period"), while serving as the head trader on the Small Business Administration desk (the "SBA Desk") of Morgan Keegan, Anton, effected four fictitious trades in securitized SBA loans, totaling \$82,652,497 million, in order to reduce the SBA Desk's inventory levels. Anton effected the fictitious trades to purported institutional buy-side customers. In addition, during the Relevant Period, beginning in February 2008, Anton, in direct contravention of his supervisors' instructions, engaged in the following conduct: (a) maintaining an improper inventory level of "interest only strips" ("IO Strips") relating to securitized SBA loans, (b) ran four fictitious trades of securities in the Firm's trading system via Bloomberg, thereby erroneously reflecting a lower inventory position, and (c) moved forward the settlement dates on SBA products by 30 days. Anton was unable to sell the SBA securities without having the Firm incur a significant loss due to a lack of buy-side interest during the Relevant Period.

FACTS AND VIOLATIVE CONDUCT

I. Background

During the Relevant Period, the SBA Desk, which was a small part of the Firm's Fixed Income Business, purchased U.S. Government-guaranteed small business loans from small regional banks throughout the United States. After purchasing the loans, the SBA Desk pooled the loans ("SBA pools"), securitized them, and ultimately sold the SBA loan-backed securities ("SBA Securities") to Morgan Keegan's institutional customers through the Firm's financial advisors (the "Sales Force"). The SBA business was a niche market, which posed difficulties for Anton to find or generate new demand for the products. As Head Trader, Anton was responsible for the execution of the SBA Desk's functions; in that capacity, he oversaw the purchase of US-government guaranteed portions of SBA loans from SBA lenders throughout the country.

In or around spring 2006, the market for SBA Pools and securities dramatically declined. The Firm's existing SBA institutional customers ceased purchasing SBA products and the SBA Desk and Sales Force were unable to find new investors. As a result of sluggish sales, Anton's inventory levels began to increase significantly. During this same time period, Anton created a new asset-backed product composed of the "interest-only," or "IO Strips" portion of an individual SBA loan. The interest only portion of an individual SBA loan was "stripped" from the original loan. These IO Strips were then pooled together, securitized, and offered as an investment option for the Firm's institutional clients.

According to the Firm's written supervisory procedures ("WSPs"), SBA loans that had been originated more than 120 days were considered "aged." As a matter of course, "aged" SBA loans were less desirable to investors than newer SBA loans, and therefore more difficult to sell.

According to Anton and his supervisor, the "aged" SBA loans were prohibited from being held in the Firm's inventory above \$200,000,000. During the Relevant Period, the SBA Desk's "aged" loan inventory exceeded the Firm's allowable amounts, which resulted in SBA Desk's having excessively high inventory levels.

In response to this situation, Anton developed a strategy to generate sales in the SBA securities that were asset-backed by the undesirably "aged" SBA loans. Anton repackaged "aged" loans through the creation of "mixed" loan pools ("aged" loans and new loans together in a pool that were then securitized), thereby gradually selling the "aged" loans and reducing inventory levels. To implement the strategy Anton needed to purchase pools of new SBA loans, which would increase the Firm's already excessive inventory levels.

In late 2006, a dramatic decline in the SBA Desk's overall sales occurred after one of the Firm's large institutional IO Strip investors ceased purchasing the product. In or around April 2007, Anton's manager instructed him to immediately reduce the Firm's inventory by selling both SBA Pools and IO Strips. To meet these goals, Anton wanted to use approximately \$100 million worth of SBA loans from the existing inventory of approximately \$150 million, to create an additional \$9 million of IO Strips. Anton's manager disapproved of Anton's strategy and advised him not to effect a third IO Strip offering unless Anton was able to find a pre-order buyer, who would purchase the entire offering.

In April 2007, the Firm's management, including a risk committee reprimanded Anton for violating the Firm's risk policies and procedures and carrying \$8 million worth of IOs. Subsequent to the reprimand, Anton was unable to reduce the SBA Desk's inventory levels in accordance with the Firm's credit and risk levels.

II. Anton's Fictitious Trading

- (a) Market Manipulation in violation of Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 promulgated thereunder, and NASD Rules 2120 and 2110 and FINRA Rule 2010; and**
- (b) Unethical business practices in violation of NASD Conduct Rule 2110 and FINRA Rule 2010.**
- (c) Inaccurate entries in the Firm's books and records, in violation of NASD Rules 3110 and 2110 and FINRA Rule 2010.**

Although during the Relevant Period, Anton was able to sell the IO Strips, he could not sell the SBA Securities. Anton subsequently decided to place fictitious trades in the Firm's trading system via Bloomberg to create the impression that the SBA Desk's inventory levels were lower than they actually were. By doing so, Anton could gradually sell the SBA Securities and eventually comply with the Firm's prescribed inventory levels. As a result, during the Relevant

<u>Trade #</u>	<u>SBA Pool Cusip #</u>	<u>Original Trade Date</u>	<u>Amount</u>
1	83164kj95	5/29/2008	\$25,000,000
2	83164kb51	10/10/2008	\$13,000,000
3	83164kc84	12/30/2008	\$12,000,000
		12/31/2008	\$10,000,000
4	83164ksv6	3/24/2009	\$22,652,497

The four fictitious trades created the false impression that Anton had purportedly sold SBA Securities to certain of the Firm's institutional customers and that the Firm's SBA desk had decreased overall inventory levels by a total of \$75 million. Anton purportedly sold each of the four fictitious SBA Securities to other broker-dealers instead of institutional customers. Moreover, entering the fictitious sales of the SBA Securities at a price above the mark-to-market price, Anton created the false impression that he had avoided selling the SBA Securities at a loss.

In addition to his effecting the four false trades, Anton, over a period of four to five months, also manipulated forward the settlement dates for the trades. The settlement date for each fictitious transaction was 30 days post execution. As the settlement date for each order approached, Anton manipulated them forward to afford him additional time to try to sell the SBA Securities. In 30-day forward settlement intervals, Anton cancelled and corrected trades in the same pool of SBA Securities at the same transaction quantity, which triggered the creation of a "cancel & correct" ticket. During the Relevant Period, the value of the four fictitious trades totaled \$82,652,497 million.

On or about April 20, 2009, a Firm employee who was responsible for obtaining funding for, among other products, the SBA pools through repurchase agreements using fixed income products as collateral, discovered a discrepancy in the SBA Securities' reporting position. The Firm employee reported her observation to the Firm's management, which investigated and noted the repeated pattern of cancellation and corrections relating to the SBA security trades in 30-day intervals.

Although Anton neither colluded with any other Firm employees to enter the fictitious trades nor did he personally benefit from the fictitious trading, he misrepresented to certain non-supervisory Firm staff that he had mistakenly effected the trades and that he would correct the errors. When Anton's managers confronted Anton, he admitted that he effected four false trades and manipulated the corresponding settlement dates.

As a result of the foregoing conduct, Anton willfully violated Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 promulgated thereunder, and NASD Rules 2120 and 2110 and FINRA Rule 2010. By his conduct, Anton also engaged in unethical business practices in violation of NASD Conduct Rule 2110 and FINRA Rule 2010, and caused inaccurate entries in the Firm's books and records, in violation of NASD Rules 3110 and 2110 and FINRA Rule 2010.

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

- a six- (6) month suspension from association in any and all capacities with any FINRA regulated firm; and
- a \$10,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the six- (6) month suspension 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.

I specifically and voluntarily waive any right to claim that I am 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.

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 Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. 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 Securities Exchange Act of 1934, Rule 10b-5 promulgated thereunder, 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.

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 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.

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

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.

April 9, 2011

Accepted by FINRA:

4/25/2011
Date

Francis Paul Anton II
Pro se

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

Myles L. Orosco
Enforcement Director
FINRA Department of Enforcement
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