

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Daryl Winfield Riley (CRD No.1190212),

Respondent.

DISCIPLINARY PROCEEDING
No. 2009018214701

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Over a two year period, between February 2007 and May 2009 (the "Relevant Period"), Daryl Winfield Riley ("Riley") exercised discretion for approximately 1,495 solicited purchases in 145 customer accounts. Riley did not have the customers' written authorization and his employer, Wells Fargo Advisors LLC ("Wells Fargo" or the "Firm"), had not accepted the accounts as discretionary. Riley's conduct therefore violated NASD Rules 2510(b) and 2110 and FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. Riley entered the securities industry in 1989 and, prior to joining Wells Fargo in February 2007, was employed at eight FINRA-regulated firms. According to his Central Registration Depository ("CRD") report, Riley has held Series 4, 6, 7, 9, 10,

24, 53, 63 and 65 licenses. Riley served as a registered representative, manager and compliance officer during his career.

3. On or about May 26, 2009, Wells Fargo filed a Uniform Termination Notice from Securities Industry Registration ("Form U5"), reporting that on May 18, 2009, the Firm terminated Riley's employment for "improper use of discretion."
4. Riley is currently employed as a registered representative with a FINRA regulated firm.

FACTS

5. The Firm's written policies and procedures generally prohibit discretionary accounts and only allow registered representatives to exercise discretion in certain types of customer accounts that require Firm approval.
6. During the relevant period, Riley managed approximately 250 to 300 Firm customer accounts. The Firm did not approve any of these accounts as discretionary. Riley did not have written authorization from any customer to exercise discretion in these accounts.

Customer Complaints Regarding Riley's Improper Use of Discretion

7. Customer RN was approximately 67 years old when he opened his Asset Advisor Individual Retirement Account ("IRA") with Riley in 2007.
8. On or about May 8, 2009, the Firm received a complaint from RN alleging that Riley had used improper discretion in RN's account. RN complained that Riley purchased shares of Arbor Realty Trust ("ABR") and Apollo Investment Company ("AINV") on May 4, 2009 for RN's account, without discussing the transactions with him in

advance or informing him of the transaction after it was effected. The Firm settled RN's complaint on or about July 28, 2009.

9. Riley made 24 solicited purchases in RN's account between December 2007 and May 2009. He testified that he exercised discretion in RN's account approximately 20% of the time, representing approximately 5 purchases.
10. Customer EN was approximately 49 years old when he opened his Asset Advisor IRA with Riley in July 2008.
11. On or about May 29, 2009, after the Firm terminated Riley's employment, customer EN sent an email to the Firm in which EN alleged that Riley purchased stocks for EN's account without discussing with him the specific stocks he purchased or the size of the trades. According to EN, he did not learn about the transactions until after the trade executions. The Firm settled EN's complaint on or about August 28, 2009.
12. Riley effected 45 solicited purchases in EN's account between August 2008 and May 2009. He testified that he exercised discretion in EN's account more than half of the time, representing approximately 23 purchases.

Riley's Unauthorized Use of Discretion in Additional Customer Accounts

13. Riley effected 113 solicited purchases in ML's accounts between June 2007 and May 2009. He testified that he exercised discretion in ML's accounts more than half of the time, representing approximately 57 purchases.
14. Riley effected 77 solicited purchases in MH's account between July 2007 and May 2009. He testified that he exercised discretion in MH's account more than half of the time, representing approximately 39 purchases.

15. Riley effected 65 solicited purchases in AP's and HP's account between March 2007 and May 2009. He testified that he exercised discretion in AP's and HP's account more than half of the time, representing approximately 33 purchases.
16. Riley effected 33 solicited purchases in AB's account between November 2007 and May 2009. He testified that he exercised discretion in AB's account more than half of the time, representing approximately 17 purchases.
17. Riley effected 21 solicited purchases in SL's account between June 2007 and May 2009. He testified that he exercised discretion in SL's account more than half of the time, representing approximately 11 purchases.
18. Riley effected 17 solicited purchases in TR's account between June 2008 and May 2009. He testified that he exercised discretion in TR's account approximately 10% of the time, representing approximately 2 purchases.
19. Riley effected an aggregate of approximately 187 discretionary solicited purchases in the accounts of RN, EN, ML, SL, MH, TR, AP, HP and AB.
20. Between February 2007 and May 2009, Riley effected approximately 2,564 solicited purchases in his additional customers' accounts. He testified that he exercised discretion in his additional customers' accounts more than half the time, representing approximately 1,308 additional discretionary purchases, as reflected in Schedule A (attached).

CAUSE OF ACTION

Discretionary Trading without Written Authority (NASD Conduct Rules 2510 and 2110 and FINRA Rule 2010)

21. The Department realleges and incorporates by reference paragraphs 1 to 20 above.
22. For customers RN, EN, ML, SL, MH, TR, AP, HP and AB, and those customers listed in Schedule A, Riley failed to obtain prior written authorization from those customers to exercise discretion in their respective accounts.
23. Riley also failed to obtain written acceptance from Wells Fargo to designate as discretionary the accounts of RN, EN, ML, SL, MH, TR, AP, HP and AB and those accounts listed in Schedule A.
24. Riley admitted that, without the customers' written authorization and without the Firm's acceptance of the accounts as discretionary, he had exercised discretion in the accounts of RN, EN, ML, SL, MH, TR, AP, HP and AB and the accounts of the customers listed in Schedule A.
25. By exercising discretion without written authority in these accounts, and failing to obtain the Firm's acceptance of the accounts as discretionary, Riley violated NASD Conduct Rules 2510 and 2110 and FINRA Rule 2010.

RELIEF REQUESTED

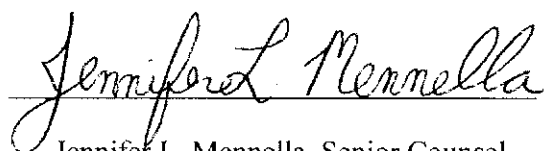
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;

- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: 6/20/12



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Schedule A

	<u>ACCT NUM</u> <i>(last four digits)</i>	<u>CUSTOMER/</u> <u>ACCOUNT NAME</u> <u>INITIALS</u>	<u>FIRST TRADE</u> <u>OCCURRED</u>	<u>TOTAL</u> <u>PURCHASES</u> <u>MARKED</u> <u>SOLICITED</u>	<u>APPROXIMATE</u> <u>NUMBER OF</u> <u>VIOLATIVE</u> <u>PURCHASES</u>
1		C.H.C.	1/28/2008	110	56
2		J.J.	1/16/2008	50	26
3		B.	12/19/2008	64	33
4		B.T.	7/16/2007	76	39
5		W.O.B.	8/10/2007	79	40
6		W.H.	6/29/2007	48	24
7		R.P.	7/31/2008	35	18
8		G.M.	11/28/2007	45	23
9		L.T.	8/16/2007	43	22
10		N.M.	6/18/2007	52	27
11		J.P.	1/16/2008	23	12
12		T.O.	3/29/2007	37	19
13		J.C.	5/29/2007	40	20
14		N.C.	8/11/2008	47	24
15		L.B.	1/22/2008	21	11
16		W.M.J.	12/20/2007	25	13
17		M.J.L.	9/2/2008	39	20
18		L.F.	4/11/2008	18	9
19		G.N.	5/24/2007	23	12
20		S.C.	3/10/2008	42	21
21		T.R.	8/28/2007	23	12
22		J.F.C.	9/3/2008	38	19
23		M.M.	5/2/2008	41	21
24		R.B.	8/15/2007	33	17
25		L.F.T.	5/30/2008	37	19

	<u>ACCT NUM</u> <i>(last four digits)</i>	<u>CUSTOMER/ ACCOUNT NAME</u> <u>INITIALS</u>	<u>FIRST TRADE</u> <u>OCCURRED</u>	<u>TOTAL</u> <u>PURCHASES</u> <u>MARKED</u> <u>SOLICITED</u>	<u>APPROXIMATE</u> <u>NUMBER OF</u> <u>VIOLATIVE</u> <u>PURCHASES</u>
26		M.A.M.	1/16/2008	36	18
27		A.R.	2/5/2008	37	19
28		E.G.	1/16/2008	20	10
29		C.H.	2/25/2008	18	9
30		L.D.J.	10/3/2008	30	15
31		T.H.K.	4/2/2007	38	19
32		A.W.L.	10/1/2007	25	13
33		M.L.R.	1/6/2009	42	21
34		L.G.	4/10/2007	22	11
35		F.F.C.	6/18/2008	35	18
36		L.M.	1/24/2008	24	12
37		R.R.M.	9/25/2007	27	14
38		S.L.	9/20/2007	20	10
39		E.B.	10/9/2007	24	12
40		W.K.	6/13/2007	25	13
41		H.L.	8/13/2007	25	13
42		W.C.	3/30/2007	18	9
43		J.A.C.	4/11/2008	20	10
44		R.D.	11/27/2007	20	10
45		T.R.	8/28/2007	23	12
46		W.W.W.	7/30/2007	29	15
47		A.A.	7/17/2007	24	12
48		V.R.	1/9/2009	7	4
49		G.V.	4/13/2007	22	11
50		A.S.	9/6/2007	11	6
51		W.H.	9/12/2007	23	12
52		R.I.	9/21/2007	22	11
53		E.J.	10/4/2007	12	6
54		L.N.D.	9/24/2007	28	14

	ACCT NUM (last four digits)	CUSTOMER/ ACCOUNT NAME INITIALS	FIRST TRADE OCCURRED	TOTAL PURCHASES MARKED SOLICITED	APPROXIMATE NUMBER OF VIOLATIVE PURCHASES
55		E.L.	8/24/2007	21	11
56		P.G.	4/18/2007	15	8
57		L.B.	10/4/2007	15	8
58		E.C.	12/11/2007	26	13
59		J.D.F.	8/20/2008	24	12
60		J.Y.M.	8/9/2007	19	10
61		T.S.	12/20/2007	19	10
62		L.P.	3/7/2008	22	11
63		H.L.	7/12/2007	18	9
64		R.S.	2/29/2008	25	13
65		J.A.	11/2/2007	19	10
66		G.B.	3/6/2008	18	9
67		C.H.	6/4/2008	15	8
68		R.B.	6/9/2008	20	10
69		M.S.	4/11/2007	10	5
70		G.F.T.	5/7/2008	18	9
71		J.Y.M.	4/24/2008	19	10
72		M.P.	4/16/2008	19	10
73		J.S.	11/15/2007	10	5
74		W.F.T.	7/17/2008	14	7
75		M.C.	1/14/2008	21	11
76		L.H.	9/19/2007	17	9
77		A.K.	4/11/2008	13	7
78		S.S.	7/6/2007	8	4
79		J.S.	11/15/2007	10	5
80		L.E.	7/12/2007	13	7
81		M.G.I.	3/27/2007	8	4
82		M.M.	12/10/2007	18	9
83		V.O.	6/25/2007	8	4

	<u>ACCT NUM</u> <i>(last four digits)</i>	<u>CUSTOMER/ ACCOUNT NAME</u> <u>INITIALS</u>	<u>FIRST TRADE</u> <u>OCCURRED</u>	<u>TOTAL</u> <u>PURCHASES</u> <u>MARKED</u> <u>SOLICITED</u>	<u>APPROXIMATE</u> <u>NUMBER OF</u> <u>VIOLATIVE</u> <u>PURCHASES</u>
84		Y.W.L.	3/17/2008	16	8
85		E.W.	7/25/2007	8	4
86		G.B.	3/6/2008	11	6
87		W.C.	1/31/2008	11	6
88		D.M.	7/26/2007	15	8
89		S.A.R.	3/11/2008	14	7
90		Y.L.	1/30/2008	13	7
91		S.M.	9/12/2007	7	4
92		L.W.	8/10/2007	10	5
93		H.W.D.	5/30/2008	12	6
94		U.	4/24/2008	10	5
95		W.H.	7/13/2007	3	2
96		K.H.	5/4/2007	8	4
97		B.B.	4/4/2007	10	5
98		M.M.	1/6/2009	5	3
99		E.S.	7/5/2007	9	5
100		R.C.	6/18/2008	8	4
101		A.K.	1/12/2009	5	3
102		A.P.	1/12/2009	5	3
103		J.Y.	4/13/2007	4	2
104		H.R.T.	9/25/2007	8	4
105		W.J.I.	12/19/2007	3	2
106		L.M.	4/12/2007	4	2
107		H.M.	11/23/2007	6	3
108		R.D.V.	1/9/2009	2	1
109		J.B.	5/28/2008	4	2
110		S.F.H.	5/4/2007	3	2
111		L.W.	5/17/2007	5	3
112		J.W.W.	3/20/2009	4	2

	ACCT NUM (last four digits)	CUSTOMER/ ACCOUNT NAME INITIALS	FIRST TRADE OCCURRED	TOTAL PURCHASES MARKED SOLICITED	APPROXIMATE NUMBER OF VIOLATIVE PURCHASES
113		L.D.	7/22/2008	2	1
114		W.H.	7/13/2007	4	2
115		E.H.	6/12/2007	3	2
116		R.J.I.	12/20/2007	2	1
117		R.C.	1/12/2009	3	2
118		B.W.	8/6/2007	5	3
119		L.E.	7/26/2007	3	2
120		K.H.	5/17/2007	3	2
121		E.B.	7/30/2007	2	1
122		C.L.T.	4/29/2008	3	2
123		P.M.F.	6/2/2008	2	1
124		M.G.	7/18/2008	3	2
125		J.G.H.	7/23/2008	3	2
126		S.P.	11/7/2007	3	2
127		S.S.S.	11/7/2007	2	1
128		W.B.T.	2/13/2009	2	1
129		B.W.	4/4/2007	2	1
130		O.C.	3/16/2007	2	1
131		C.H.R.	2/9/2009	2	1
132		I.T.	1/28/2009	2	1
133		G.B.K.	12/22/2008	2	1
134		E.L.H.	1/6/2009	2	1
135		W.C.L.	6/19/2008	2	1
136		J.C.M.	2/5/2008	2	1
137		J.W.	3/14/2007	2	1
				2,564	1,308