

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

Department of Enforcement,

Complainant,

v.

Daryl Winfield Riley,
CRD No. 1190212,

Respondent.

Disciplinary Proceeding
No. 2009018214701

Hearing Officer Maureen A. Delaney

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: 12-7-12

INTRODUCTION

Disciplinary Proceeding No. 2009018214701 was filed on June 20, 2012, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Daryl Winfield Riley submitted an Offer of Settlement (Offer) to Complainant dated November 27, 2012. 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

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

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.

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."

Riley is currently employed as a registered representative with a FINRA regulated firm.

Riley has not been subject to any relevant disciplinary history within the past five years.

FINDINGS AND CONCLUSIONS

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

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.

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.

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

Customer RN was approximately 67 years old when he opened his Asset Advisor Individual Retirement Account ("IRA") with Riley in 2007.

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.

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.

Customer EN was approximately 49 years old when he opened his Asset Advisor IRA with Riley in July 2008.

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.

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

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.

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.

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.

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.

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.

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.

Riley effected an aggregate of approximately 187 discretionary solicited purchases in the accounts of RN, EN, ML, SL, MH, TR, AP, HP and AB.

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 of the Complaint.

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.

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.

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.

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.

Based on the foregoing, Respondent violated NASD Conduct Rules 2510 and 2110 and FINRA Rule 2010.

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

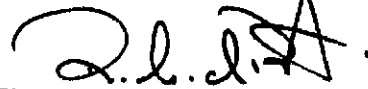
It is ordered that Respondent be fined \$5,000 and suspended from association with any FINRA member firm in all capacities for one month.

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

SO ORDERED.

FINRA

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

A handwritten signature in black ink, appearing to read "R. Best", is written over a horizontal line.

Richard Best
Chief Counsel
FINRA Department of Enforcement
One World Financial Center
200 Liberty Street
New York, NY 10281
Phone: 646.315.7308
Fax: 202.689.3424