

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2011025773503**

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

RE: Brimberg & Co. (BD No. 1315), Member Firm

and

Jay Clint Tomlinson (CRD No. 2680269), General Securities Principal

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Brimberg & Co. ("Brimberg" or "the Firm") and Jay Clint Tomlinson ("Tomlinson") (collectively "Respondents") submit 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 Respondents alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondents hereby accept and consent, 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

Brimberg

Brimberg has been a member firm since September 10, 1956. The Firm is a small, full service broker-dealer. It currently employs eight registered representatives.

Tomlinson

On December 21, 1995, Tomlinson first became registered with FINRA as a General Securities Representative through an association with Brimberg. Since

1995, Tomlinson has been employed by Brimberg and he registered with FINRA as a General Securities Principal on March 2, 2006. He is also registered as an Equity Trader Limited Representative and Operations Professional. He currently serves as the Firm's Chief Compliance Officer and oversees the day-to-day operations of the Firm.

RELEVANT DISCIPLINARY HISTORY

The Firm has no relevant formal disciplinary history with the Securities and Exchange Commission, any state securities agency or any self-regulatory organization.

Tomlinson has no formal disciplinary history with the Securities and Exchange Commission, any state securities agency or any self-regulatory organization.

OVERVIEW

Respondents did not timely respond to 8 out of 42 requests for documents and information issued pursuant to FINRA Rule 8210. They provided the requested items approximately 10 months after their due date. The requests were issued to the Firm in connection with FINRA's routine 2011 cycle examination of the Firm.

FACTS AND VIOLATIVE CONDUCT

The First Set of Requests

By letter dated July 25, 2011, FINRA staff requested 38 items of information and documents covering nine broad areas: (a) Anti-Money Laundering procedures, (b) Bank Secrecy Act procedures, (c) correspondence, (d) qualifications and registration of employees, (e) commissions, (f) supervisory controls, (g) written supervisory procedures, (h) underwriting and unregistered offerings, and (i) net capital. This initial request was addressed to Tomlinson and delivered by email to his work address and by hand to the Firm's offices. The July 25, 2011 letter was issued pursuant to Rule 8210 but it did not impose a deadline for the requested items.

By letter dated August 5, 2011, addressed to Tomlinson and delivered to him by email to his work address, FINRA staff requested and specified the outstanding information originally requested in the July 25, 2011 letter. The August 5, 2011 letter, issued pursuant to Rule 8210, requested a response by August 19, 2011. Respondents produced some but not all of the requested items. Specifically, 15 of the 38 items originally requested in the July 25, 2011 letter were outstanding as of August 19, 2011.

By letter dated August 19, 2011, addressed to Tomlinson and delivered to him by email to his work address, FINRA staff requested and specified the outstanding information and documents originally requested in the July 25, 2011 letter. The August 19, 2011 letter, issued pursuant to Rule 8210, requested a response by September 2, 2011. In response to this letter, between August 19, 2011 and September 2, 2011, Respondents responded to the outstanding items due from the July 25, 2011 letter, except for seven items.

The Second Set of Requests

By letter dated September 6, 2011, FINRA staff requested a new set of four items pursuant to Rule 8210. This letter was delivered to Tomlinson by email at his work address. The September 6, 2011 letter requested a response by September 20, 2011. By this date, Respondents responded to 3 of the 4 requested items.

As of September 20, 2011, 8 items were outstanding (7 outstanding from the July 25, 2011 request and 1 outstanding from the September 6, 2011 request) out of a total of 42 requested items. FINRA staff had issued three letters concerning the first set of requested items and one letter had been sent concerning the second set of requested items.

Two Follow Up Letters Concerning the Outstanding 8 Items

By letter dated September 30, 2011, addressed to Tomlinson and delivered to him by email to his work address, FINRA staff requested and specified the eight outstanding items (information and documents) originally requested in the July 25, 2011 and September 6, 2011 letters. The September 30, 2011 letter, issued pursuant to Rule 8210, requested a response by October 14, 2011. Respondents did not respond by October 14, 2011.

By letter dated December 2, 2011, addressed to Tomlinson and delivered to him by email to his work address, FINRA staff again requested and specified the eight outstanding items (information and documents) originally requested in the July 25, 2011 and September 6, 2011 letters. The December 2, 2011 letter was issued pursuant to Rule 8210 and was also sent by first class mail and certified mail, return receipt requested, to the Firm's offices. Respondents did not respond to this letter.

The FINRA Rule 9552 Notices of Suspension

By May 2012, Respondents had not provided the documents and information specified in the December 2, 2011 letter and previous letters. On May 4, 2012, Respondents were served with separate notices of intent to suspend them pursuant to FINRA Rule 9552 (the "9552 Suspension Notices"). The 9552 Suspension

Notices notified Respondents that they would be suspended on May 29, 2012 if they failed to comply with the outstanding requests by that date.

On or about May 29, 2012, Respondents responded to the 9552 Suspension Notices by producing documents and information that substantially complied with the eight outstanding items, thereby staying the suspensions. Respondents fully complied with the outstanding items on June 20, 2012 and July 11, 2012 -- approximately 10 months after the August 19, 2012 due date for the first set of requests and the September 20, 2011 due date for the second set of requests. By reason of their untimely responses to the requests, Respondents violated FINRA Rules 8210 and 2010.

B. Respondents also consent to the imposition of the following sanctions:

1. Respondent Brimberg consents to the imposition of the following sanctions:

- a. A censure; and
- b. A fine in the amount of \$10,000.¹

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

Brimberg 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.

2. Respondent Tomlinson consents to the imposition of the following sanctions:

- a. A suspension from associating in all capacities with any member firm for 30 days; and
- b. A fine in the amount of \$7,500.

Tomlinson agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Tomlinson has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed. Tomlinson specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the

¹ Pursuant to the General Principles Applicable to all Sanction Determinations contained in the Sanction Guidelines, FINRA imposed a lower fine in this case after it considered, among other things, the firm's revenues and financial resources. See Notice to Members 06-55.

monetary sanction imposed in this matter.

Tomlinson understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, Tomlinson 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).

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against Respondents;
- 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, Respondents specifically and voluntarily waive any right to claim bias or prejudgment 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.

Respondents 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

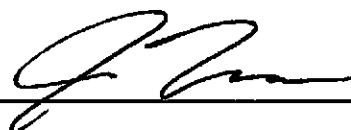
Respondents understand that:

- 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 them; and**
- C. If accepted:**
 - 1. this AWC will become part of Respondents' permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against them;**
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondents' 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. Respondents 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. Respondents 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 their right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.**
- D. Respondents may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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 the Firm, 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. Tomlinson also certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it. Respondents certify that they have agreed to the provisions of the AWC 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 Respondents to submit it.

10/23/2012
Date (mm/dd/yyyy)

Respondent Brimberg & Co.

By: 
Title: CIO

10/23/2012
Date (mm/dd/yyyy)

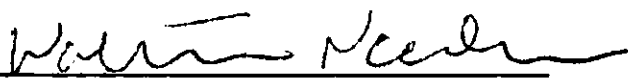
Respondent Jay Clint Tomlinson



Accepted by FINRA:

11/20/2012
Date

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


Walter A. Naeder
Principal Regional Counsel
FINRA Department of Enforcement
One World Financial Center
200 Liberty Street
New York, New York 10280
212-858-4776 (p)
212-858-4770 (f)
Walter.naeder@finra.org