

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012030677801**

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

RE: H. Rivkin & Co., Inc., Respondent
BD No. 29459

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent H. Rivkin & Co., Inc. ("Rivkin" 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 Rivkin alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Rivkin 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

The Firm, which is located in Pennington, New Jersey, has a total of nine registered individuals and has been a FINRA member since 1992. The Firm conducts an institutional securities business and its registration with FINRA remains in effect.

RELEVANT DISCIPLINARY HISTORY

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

OVERVIEW

From at least May 2009 through May 2012, the Firm did not preserve, in an easily accessible place, some of its electronic communications, as the Firm did not have direct access to such communications.

FACTS AND VIOLATIVE CONDUCT

From at least May 2009 through May 2012, the Firm failed to preserve some of its business-related electronic communications in an easily accessible place. During this period, the Firm's registered representatives sent and received Bloomberg messages relating to the Firm's business. Those business-related electronic communications were retained by Bloomberg, but not by the Firm. The Firm did not have custody or control over those records since it could not easily access them without first requesting them from Bloomberg and then paying a fee for their retrieval.

By failing to preserve all of its business-related electronic communications in an easily accessible place, the Firm violated Rule 17a-4 under the Securities and Exchange Act of 1934, NASD Conduct Rule 3110(a) (for conduct before December 5, 2011), and FINRA Rules 4511 (for conduct after December 4, 2011) and 2010.

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

- A censure; and
- A fine in the amount of \$7,500.¹

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

Rivkin 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

Rivkin 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;

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.

- 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, Rivkin specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, 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.

Rivkin 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

Rivkin 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 the Firm; and
- C. If accepted:
 - 1. this AWC will become part of the Firm’s permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
 - 2. this AWC will be made available through FINRA’s public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313;

4. the Firm 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. The Firm 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 the Firm's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and
- D. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm 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 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; 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 the Firm to submit it.

H. Rivkin & Co., Inc.

7/28/15
Date (mm/dd/yyyy)

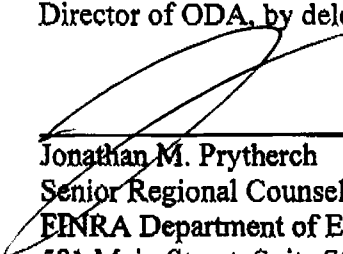
By:


Harold J. Rivkin
President

Accepted by FINRA:

8/6/2015
Date

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



Jonathan M. Prytherch
Senior Regional Counsel
FINRA Department of Enforcement
581 Main Street, Suite 710
Woodbridge, New Jersey 07095
Phone: (732) 596-2078
Fax: (202) 721-6571