

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012031136601**

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

RE: David G. Zeng, Respondent
CRD No. 4303055

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, David G. Zeng ("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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Respondent first became registered with FINRA as a General Securities Representative ("GSR") in 2001 during his employment at Morgan Stanley Dean Witter Inc. From April 17, 2009 until December 20, 2011, when he resigned, Respondent was employed as a GSR with Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch" or the "Firm") and worked in the Firm's Santa Fe, New Mexico office. Respondent has not been associated with a FINRA regulated broker-dealer since the termination of his employment from the Firm on December 20, 2011. FINRA retains jurisdiction over Respondent pursuant to Article V, Section 4(a) of the By-Laws.

Respondent has no prior disciplinary history.

FACTS AND VIOLATIVE CONDUCT

On January 2, 2013, the Firm filed an Amended Uniform Termination Notice for Securities Industry Registration (Form U-5A), which contained an allegation that the Respondent improperly created fictitious account statements and provided them to his uncle, who was not a customer of the Firm. The U-5A also stated that the Respondent

was the subject of several customer complaints, which principally alleged unsuitable trading, misrepresentations and omissions.

On February 5, 2013, FINRA sent a letter to Respondent pursuant to FINRA Rule 8210 requesting that Respondent provide a written statement concerning several customer complaints that Merrill Lynch became aware of after Respondent resigned from the Firm. A copy of the letter was sent via certified mail, and it was returned to FINRA marked "Return To Sender Unclaimed Unable To Forward." Another copy of the letter was sent via first class mail, and has not been returned. The letters were mailed to Zeng's residential address as reflected in the Central Registration Depository ("CRD"). The Respondent failed to provide the requested written statement by the due date and he has not provided the statement to date.

On February 26, 2013, FINRA sent a second letter, via certified and first class mail, to Respondent pursuant to FINRA Rule 8210 that advised the Respondent that he had failed to respond to the February 5, 2013 FINRA Rule 8210 request for information. In addition, the February 26, 2013 letter requested that the Respondent provide the written statement that FINRA previously requested on February 5, 2013. The letters were mailed to Zeng's residential address as reflected in the CRD. The copy of the letter sent via certified mail was returned to FINRA marked "Return To Sender Unclaimed Unable To Forward." The copy of the letter sent via first class mail has not been returned. In addition, a copy of the letter was sent to the Respondent via email. Respondent failed to provide the requested written statement by the due date and has not provided the requested written statement to date.

On March 1, 2013, FINRA sent a letter to Respondent via certified and first class mail, pursuant to FINRA Rule 8210 requesting that Respondent provide testimony to FINRA on March 27, 2013 and on March 28, 2013; in connection with this matter. The letters were mailed to Zeng's residential address as reflected in the CRD. The copies of the letter that were sent by certified and first class mail were not returned to FINRA. In addition, a copy of the letter was sent via email. The Respondent failed to provide testimony on March 27, 2013 and March 28, 2013, as required by FINRA Rule 8210, and has not provided testimony to date.

On March 7, 2013, Respondent informed FINRA that he would not cooperate with FINRA's requests for testimony and documents in connection with this matter.

By virtue of this conduct, the Respondent violated FINRA Rule 8210. In addition, the Respondent violated FINRA Rule 2010, which requires the observance of high standards of commercial honor and just and equitable principles of trade.

OTHER FACTORS

B. Respondent also consents to the imposition of the following sanction:

- A bar from association with any FINRA regulated broker-dealer in any capacity.

The sanction imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

Respondent 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 Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, Respondent 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).

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- To have a Formal Complaint issued specifying the allegations against him;
- To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- 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
- 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, Respondent specifically and voluntarily waives 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.

Respondent 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

Respondent 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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against him;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's 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. Respondent 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. Respondent 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 Respondent'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.

Respondent 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; that Respondent 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 Respondent to submit it.

23th July 2013
Date

David Zeng
David G. Zeng
Respondent

Accepted by FINRA:

August 19, 2013
Date

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

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