

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012032540501**

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

RE: David McSwiggen, Respondent
Registered Representative
CRD No. 1077473

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

I.

ACCEPTANCE AND CONSENT

- A. McSwiggen 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

McSwiggen entered the securities industry in 1982, when he became registered as a General Securities Representative through a FINRA-registered firm. Between 1982 and 2006, McSwiggen was associated with eight different FINRA-registered firms. From August 2006 through April 2012, McSwiggen was associated with Chase Investment Services, Inc. ("Chase" or the "Firm"). McSwiggen currently is associated with a different FINRA-registered firm.

RELEVANT DISCIPLINARY HISTORY

McSwiggen does not have any relevant disciplinary history.

OVERVIEW

During the period October 2011 through December 2011 (the "Relevant Period"), McSwiggen marked 23 customer orders as unsolicited, when in each instance, the

customer order was, in fact, solicited. As a result of this conduct, McSwiggen caused the books and records of Chase to be inaccurate and, thereby, violated NASD Rule 3110 (for orders entered prior to December 5, 2011), FINRA Rule 4511 (for orders entered after December 5, 2011), and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

During the Relevant Period, certain of McSwiggen's customers called him and inquired about investing in gold. In response to these inquiries, McSwiggen identified a certain JP Morgan mutual fund (the "JP Morgan Fund") as one security that his customers could purchase to gain exposure to gold. At the same time that McSwiggen identified the JP Morgan Fund, he also identified additional securities that the customer could purchase to gain exposure to gold. The JP Morgan Fund was not on the Firm's "approved list," and as a result, registered representatives were not permitted to solicit orders for the JP Morgan Fund.

Following McSwiggen's identification of the JP Morgan Fund to nine of his customers, each of those customers placed one or more orders with McSwiggen to purchase the JP Morgan Fund. Certain of those customers, who already owned a different JP Morgan mutual fund, also placed a contemporaneous order to sell a corresponding amount of the JP Morgan mutual fund they already owned in order to make an exchange into the JP Morgan Fund.

According to the definitions of "solicited" and "unsolicited" orders in the Firm's written supervisory procedures, each of McSwiggen's customers' orders for the purchase of the JP Morgan Fund, as well as each sell order that comprised part of an exchange, should have been marked "solicited." In each instance, however, McSwiggen marked the order ticket "unsolicited." As a result of this conduct, McSwiggen caused the books and records of Chase to be inaccurate, in violation of Rule 17a-3 of the Securities Exchange Act of 1934, and thereby, McSwiggen himself violated NASD Rule 3110 (for orders entered prior to December 5, 2011), FINRA Rule 4511 (for orders entered after December 5, 2011), and FINRA Rule 2010.

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

A suspension of ten (10) business days from association with any FINRA-registered firm in any capacity; and

A fine of \$5,000.

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

proposes to pay the fine imposed.

McSwiggen specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

McSwiggen 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, McSwiggen 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

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

- A. To have a Complaint issued specifying the allegations against him;
- 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, McSwiggen 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.

McSwiggen 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

McSwiggen 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 him; and

C. If accepted:

1. this AWC will become part of McSwiggen'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 McSwiggen'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. McSwiggen 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. McSwiggen 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 McSwiggen'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.

D. McSwiggen may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. McSwiggen understands that he 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.

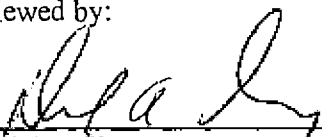
I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce me to submit it.

David McSwiggen, Respondent

11-12-2014
Date

David McSwiggen

Reviewed by:



David Genelly

Vanasco, Genelly and Miller

33 North LaSalle Street

Suite 2200

Chicago, Illinois 60602

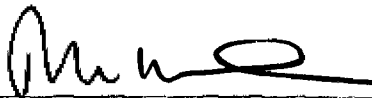
Tel. 312-786-5100

Accepted by FINRA:

December 17, 2014

Date

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



Thomas K. Anderson

Principal Regional Counsel

FINRA Department of Enforcement

55 West Monroe Street, Suite 2700

Chicago, Illinois 60603

Tel. 312.899.4673

Fax 202.721.8396