

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2012032945602**

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

RE: Andrew C. LeGros, Respondent  
CRD No. 1540847

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I 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 me alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. I 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**

Respondent Andrew C. LeGros ("LeGros") began working in the securities industry in 1986. He became registered with Legg Mason Wood Walker, Inc. in January 1995, which was acquired by Stifel, Nicolaus & Co. ("Stifel" or the "Firm") in December 2005. In December 2005, LeGros became registered with Stifel as a general securities representative and general securities sales supervisor, where he remained until March 2013, when he resigned. In March 2013, he became registered with another FINRA member firm until March 2015. LeGros has not been registered with a FINRA registered Firm since March 2015.

**RELEVANT DISCIPLINARY HISTORY**

Respondent has no relevant disciplinary history.

## **OVERVIEW**

From January 2006 until February 2013, LeGros circulated to institutional investors communications about companies which the Stifel research analysts discussed during morning calls and about which they wrote in their research reports. These communications violated several NASD rules in that they: (1) constituted "Research Reports" as defined by NASD Rule 2711(a)(9), but failed to meet the related requirements under Rule 2711; and (2) were not fair and balanced, did not provide a sound basis for evaluating the facts, and contained exaggerated, unwarranted and misleading statements, and therefore, violated NASD Rule 2210(d)(1). Due to these, and other violations detailed below, LeGros also violated NASD Rule 2110 (for the conduct before December 15, 2008) and FINRA 2010 (for the conduct on or after December 15, 2008).

## **FACTS AND VIOLATIVE CONDUCT**

LeGros was a Managing Director and an Institutional Equity Salesman at Stifel's Cleveland, Ohio branch office from December 2005 until he resigned in March 2013. He was not registered as a research analyst and did not work in Stifel's Equity Research department.

### **1. The Idea List**

#### **a. NASD Conduct Rule 2210(d)(1)**

From January 2006 until February 2013, LeGros created and distributed a communication that was typically over 200 pages long called the "Idea List," which he provided to institutional clients during meetings. The Idea List represented LeGros' top 10-20 stock picks as of the date of that particular Idea List. Each of the companies listed in the Idea List was also covered by Stifel's Research Department. The Idea List constituted "Institutional Sales Material" as defined in NASD Rule 2211(a)(2).<sup>1</sup> As such, pursuant to NASD Rule 2211(d)(1), the content standards of NASD Rule 2210(d)(1) applied. Several aspects of the Idea List violated NASD Rule 2210(d)(1), as described below.

First, LeGros provided a spreadsheet listing the stocks selected for the Idea List, along with financial information about each company, including most recent stock price, earnings per share ("EPS") data (actual and estimates), price per earnings ("P/E") data (actual and estimates), price targets, and target P/E. The spreadsheet failed to provide the source(s) of the financial information listed. In addition, during certain periods of time, the Idea List contained LeGros' personal price targets and target P/Es without expressly disclosing that the information was derived through LeGros' own calculations, the manner in which he derived these figures, and the source of those figures. In addition, LeGros failed to disclose that

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<sup>1</sup> As of February 4, 2013, NASD Conduct Rule 2211 was superseded by FINRA Rule 2210, relating to "Institutional Communications." The violations in this AWC are for the conduct through February 3, 2013.

there was no certainty that the estimates, target prices, or target P/Es would be achieved. Therefore, the spreadsheets failed to provide a sound basis for evaluating the facts with regard to the data provided for each stock.

LeGros also drafted a narrative summary and analysis of each company, including a discussion of recent trends and future forecasts. In these summaries, LeGros made a variety of claims without providing a sound basis for evaluating the facts with regard to them. For example, regarding one company, he wrote "[m]anagement . . . is solid and one of the best in the industry." In this, and many other instances, LeGros did not include the sources of the asserted claims or include any information about the bases for his statements. In addition, there were frequent references to "we," "I," "my," and "our," making it difficult to distinguish between LeGros' own views versus those of Stifel's Research Department. Another section contained a summary describing the "key criteria for stock selection," with the ultimate goal "[t]o help clients focus on stock that may offer the best potential to outperform the market." These statements failed to disclose that there was no certainty of success in meeting the stated "ultimate goal."

In addition, LeGros provided information which purported to show trading activity and performance data for the Idea List portfolio and which disclosed that "these numbers are not AIMR-compliant. These results are calculated from the change in paper portfolio values from one year to the next." These communications failed to provide a sound basis for evaluating the stated investment performance because: (1) they failed to explain that past performance is not indicative of future performance, and (2) the explanations that performance data was "not AIMR-compliant" and was calculated from the change in values "from one year to the next" failed to provide the reader with sufficient information to understand the significance of the performance presented or the manner in which it was derived. In addition, the communications were unwarranted and misleading because they failed to disclose that the "portfolio" was a hypothetical portfolio based on hypothetical trades, and that the "performance" was not based on actual performance.

Finally, the bulk of the Idea List comprised of approximately 200 pages of excerpts from the official Stifel Research Reports, which omitted material information about the stocks covered by the Research Report, did not include information relating to disclosures and certifications, and deleted extensive sections of analysis and supporting information. The excerpted pages also contained handwritten commentary by LeGros, many which were misleading or unwarranted, improperly suggested that past performance could be predictive of future similar performance, and predicted future performance.

As a result of the above, LeGros violated NASD Rule 2210(d)(1)(A) and (B), as well as NASD Rule 2110 (for the conduct before December 15, 2008) and FINRA 2010 (for the conduct on or after December 15, 2008).

## **b. Books and Records Violation**

In addition to the above content violations, LeGros violated NASD Rule 2110 (for the conduct before December 15, 2008) and FINRA 2010 (for the conduct on or after December 15, 2008) for causing the Firm to violate SEC Rule 17a-4, NASD Rule 3110(a) (for the conduct before December 5, 2011), FINRA Rule 4511 (for the conduct on or after December 5, 2011) and NASD Rule 2211(b)(2).

Specifically, from January 2006 until February 2013, LeGros created dozens of versions of the Idea List. LeGros failed to maintain a copy of each version provided to customers; rather, he generally maintained a copy of the most recent version. As a result, the Firm failed to maintain a copy of each version of the Idea List for the requisite period of time, as required by the above rules.

## **2. Research Insights Emails**

From January 2006 until February 2013, LeGros sent an email he titled "Stifel Research Insights by LeGros" ("Research Insights emails") to dozens of institutional customers several times per week. Each of the Research Insights emails was sent to at least 15 recipients. Each email had the following general characteristics: (1) it was typically 1½-3 pages in length; (2) it contained a detailed discussion and analysis of several companies that Stifel research analysts covered, which discussion included the views of the analysts, as well as LeGros' own views; (3) it listed "buy," "hold/neutral," and "sell" ratings; (4) it listed which stocks were on the Idea List; and (5) it listed current stock prices and market capitalization information. In addition, many of the Research Insights emails also identified LeGros' own personal EPS estimates and price targets, which sometimes deviated from those of the Stifel research analysts. Later versions disclosed that "full research reports and models are available upon request."

The Research Insights emails violated NASD Rules 2711 and 2210(d)(1), as well as NASD Rule 2110 (for the conduct before December 15, 2008) and FINRA 2010 (for the conduct on or after December 15, 2008).<sup>2</sup>

### **a. NASD Rule 2711**

NASD Rule 2711 contains specific requirements for communications that are deemed "Research Reports" under the rule. Rule 2711(a)(9) defines a "Research Report" as "any written (including electronic) communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision," unless it is distributed to fewer than 15 persons. The Research Insights

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<sup>2</sup> As with the Idea List, the Research Insights emails constituted "Institutional Sales Material" under NASD Conduct Rule 2211(a)(2). As such, per NASD Rule 2211(d)(1), the content standards of NASD Rule 2210(d)(1) applied.

emails constituted "Research Reports" under Rule 2711 and violated various aspects of Rule 2711.

The Research Insights emails provided ratings for specific stocks but did not define the meaning of each rating, thus violating Rule 2711(h)(4). They also failed to disclose the percentage of all securities rated by the member to which the member would assign a "buy," "hold/neutral," or "sell" rating, and the percentage of subject companies within each of these three categories for whom the member has provided investment banking services within the previous twelve months, in violation of Rule 2711(h)(5).

In addition, many of the Research Insights emails provided price targets (either those of Stifel's research analysts or LeGros') but failed to disclose the valuation methods used to determine the price target or the risks that may impede achievement of the price target, in violation of Rule 2711(h)(7).

The emails also violated Rule 2711(h)(9), which mandates certain disclosures in Research Reports that are required by applicable law or regulation, including the analyst certification required by Regulation AC. Moreover, these emails failed to make the additional disclosures required Rule 2711(h)(1), (h)(2), (h)(3), (h)(6), and (h)(8).

Finally, under Rule 2711(h)(1), the Research Insights emails that discussed fewer than six stocks should have included all relevant disclosures in the body of the communication. For those that covered six or more companies, a/k/a "compendium reports," Rule 2711(h)(11) allowed the reports to direct the reader "in a clear manner" to where they could obtain applicable current disclosures. The statement in the Research Insights emails that "Full research reports and models are available on request" was insufficient.

As a result of the above, LeGros violated NASD Rule 2711, as well as NASD Rule 2110 (for the conduct before December 15, 2008) and FINRA 2010 (for the conduct on or after December 15, 2008).

**b. NASD Conduct Rule 2210(d)(1)**

The Research Insights emails also violated NASD Rule 2210(d)(1). First, as with the Idea List, LeGros' frequent references to "we," "I," and "our" made it difficult to distinguish the source of the information or opinion, thus failing to provide a sound basis for evaluating the statements and claims.

Second, statements that LeGros made were often misleading or unwarranted. For example, in analyzing one company, LeGros discussed coal prices and stated "historically it takes about a year of pricing at the cost of production of coal . . . for production cuts to get large enough to drive up prices. We appear to be about at that spot." This claim suggested that past performance could

predict future similar performance. LeGros also made claims that predicted specific future performance or events. For instance, regarding one company, he stated "I think there is a high probability that we will increase earnings estimates and stock price targets as coal prices run up."

Finally, as with the Idea List, to the extent LeGros provided personal EPS estimates and prices targets, those communications failed to provide a sound basis for evaluating the facts because they did not disclose the manner in which he derived the figures and the source of the figures.<sup>3</sup>

As a result of the above, LeGros violated NASD Rule 2210(d)(1)(A) and (B), as well as NASD Rule 2110 (for the conduct before December 15, 2008) and FINRA 2010 (for the conduct on or after December 15, 2008).

### **3. Registration Violation**

As set forth above, the Research Insights emails constituted Research Reports under NASD Rule 2711. LeGros was not properly licensed or registered as a research analyst, therefore, should not have been circulating the Research Insights emails. As a result, LeGros violated NASD Rule 1050(a), as well as NASD Rule 2110 (for the conduct before December 15, 2008) and FINRA 2010 (for the conduct on or after December 15, 2008).

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

A suspension from associating with any FINRA member firm in any capacity for three (3) months and a \$15,000 deferred fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the 3-month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become 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

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<sup>3</sup> By March 2007, due to concerns about potential Rule 2711 issues, Stifel had implemented restrictions on the content of the Idea List and Research Insights emails that were intended to avoid the communications being deemed "Research Reports" under Rule 2711. The restrictions included a prohibition on LeGros providing personal price targets and EPS estimates, as well as any personal opinions relating to the stocks. Despite the restrictions, the Idea List continued to contain LeGros' personal price targets and EPS estimates until at least December 2007, and the Research Insights emails contained this information, as well as other personal commentary, until at least June 2009.

Securities Exchange Act of 1934. Accordingly, I 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**

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

- A. To have a Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive 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.

I 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**

I 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 me; and

C. If accepted:

1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
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; and
4. I 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. I 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 my: (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. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

01/11/2016  
Date (mm/dd/yyyy)

Andrew C. LeGros  
Respondent, Andrew C. LeGros

Reviewed by:

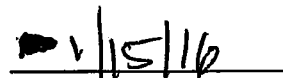


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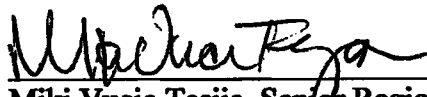
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Counsel for Respondent

Accepted by FINRA:

  
Date

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



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