

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012033514203**

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

RE: Gregory R. Swenson
Former Registered Representative
CRD No. 2236695

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

Gregory R. Swenson ("Swenson" or "Respondent") first became registered as a General Securities Representative (Series 7) ("GSR") with a former FINRA member firm in November 1992. He subsequently became registered as a General Securities Principal (Series 24) ("GSP") in February 2003 and a General Securities Sales Supervisor in March 2005 (Series 9 and 10). From 1992 to August 2008, Swenson was registered with five different FINRA member firms. From January 21, 2009 to August 22, 2014, Swenson was registered with FINRA member firm Agincourt, Ltd. ("Agincourt" or "Firm") as a GSR and GSP, and he was the President of the Firm. Swenson is not currently registered with any FINRA member firm.

Although no longer registered with a FINRA member, FINRA retains jurisdiction over Swenson pursuant to Article V, Section 4 of FINRA's By-Laws.

OVERVIEW

From approximately July 2009 through at least December 2012 (the “Relevant Period”), Agincourt, through Swenson, placed orders for securities primarily in initial public offerings (“IPOs”) for corporate bonds for an unregistered proprietary trading firm (hereinafter referred to as “Firm G”). In connection with this business, Swenson made misleading and inaccurate statements to numerous corporate bond dealers while participating in and obtaining allocations of bonds for Firm G. In addition, during the Relevant Period, Swenson caused Agincourt to fail to make and/or preserve sufficient order tickets and a new account form for its customer, Firm G. As a result of the foregoing conduct, Swenson violated NASD Rule 3110(a)¹ and FINRA Rules 2010 and 4511.

FACTS AND VIOLATIVE CONDUCT

A. Swenson’s Misleading and Inaccurate Statements to Corporate Bond Dealers

1. Background

During the Relevant Period, Firm G, a U.S.-based company, operated as an unregistered proprietary trading firm that purchased and sold primarily fixed income securities, including investment-grade quality, new-issue corporate bonds. Many of these bonds were issued in IPOs and/or through restricted offerings made pursuant to Rule 144A² and Regulation S (“Reg S”)³ of Securities Act of 1933. After Firm G purchased the bonds, it typically sold them on the secondary market, often within days, to make a profit. Firm G purchased the bonds directly through accounts it opened and maintained with the corporate bond dealers and indirectly through accounts opened by its agents (“Agents”).

In late-June 2009, Agincourt, through Swenson, entered into an agreement with Firm G to have Agincourt serve as an Agent for Firm G. As an Agent, Swenson purchased securities – primarily corporate bonds in IPOs – for Firm G. Agincourt, through Swenson, purchased these securities for Firm G through delivery-versus-payment accounts (“DVP” accounts”) that Swenson caused to be open in the name of Agincourt with at least ten corporate bond dealers. Firm G

¹ NASD Rule 3110(a) was superseded by FINRA Rule 4511 effective December 5, 2011.

² Rule 144A is a safe-harbor promulgated under the Securities Act of 1933 (“Securities Act”) that provides for an exemption from the registration requirements of Section 5 of the Securities Act for certain offers and sales of securities among qualified institutional buyers (“QIBs”). For entities that are not dealers, Rule 144A defines a QIB as an entity that acts for its own account or the accounts of other QIBs that in the aggregate owns and invests on a discretionary basis at least \$100 million in securities of issuers that are not affiliated with the entity.

³ Regulation S is a safe-harbor promulgated under the Securities Act that provides an exclusion from the Section 5 registration requirements of the Securities Act for offerings made outside the U.S. by both U.S. and foreign issuers.

paid Agincourt 20% of the net profits generated from the purchase and subsequent sale of these securities. During the Relevant Period, Agincourt placed orders for Firm G in over 1,000 bond transactions totaling \$2.8 billion. Firm G paid Agincourt approximately \$786,439 for these transactions, of which approximately \$600,000 went directly to Swenson.

2. Swenson's Misleading and Inaccurate Statements to Corporate Bond Dealers

During the Relevant Period, Swenson made misleading and inaccurate statements to corporate bond dealers while participating in and obtaining bond allocations for Firm G. The misleading and inaccurate statements concerned the nature of Agincourt's business and identity of Agincourt's customer who was participating in the bond allocations, and Agincourt's status as a QIB and foreign buyer.

For example, Swenson represented to the corporate bond dealers that Agincourt was opening the DVP accounts to execute transactions for a large, Bermuda-based insurance company. Swenson provided the dealers with instructions for the DVP accounts to deliver the bonds to a clearing account in Agincourt's name that purported to benefit the insurance company. In fact, Swenson opened the DVP accounts at the dealers for the benefit of Firm G. All of the securities Agincourt purchased through its DVP accounts were purchased exclusively for Firm G and delivered into a clearing account that benefited Firm G.

He told some dealers that the insurance company was executing a "buy and hold" strategy when in fact the bonds were being purchased by Firm G whose strategy was to sell the securities immediately, often within days.

He certified on at least 15 QIB forms that Agincourt was a QIB in order to obtain allocations in restricted bond offerings made pursuant to Rule 144A. Swenson represented on the QIB forms that Agincourt was a QIB because it (a) was acting as a dealer in a riskless principal transaction; and (b) owned and invested on a discretionary basis \$25 million to \$550 million in securities. None of these representations was accurate. Agincourt was not a QIB and therefore ineligible to purchase the 144A securities.

He certified on five Reg S forms that Agincourt was a foreign buyer in order to obtain allocations in restricted offerings made pursuant to Reg S. In fact, although Agincourt was a foreign entity, it was not the buyer of the securities, and therefore ineligible to purchase the Reg S securities.

By making misleading and inaccurate statements to the corporate bond dealers, Swenson failed to observe high standard of commercial honor and just and equitable principals of trade in violation of FINRA Rule 2010.

B. Swenson Causes Agincourt to Fail to Make and Preserve Required Books and Records

Rule 17a-3(a)(6) of the Securities Exchange Act of 1934 ("Exchange Act") requires brokers and dealers to make and keep current a memorandum of each brokerage order which shall include, *inter alia*, "the time the order was received; the time of entry. . . and, to the extent feasible, the time of execution or cancellation."

Exchange Act Rule 17a-3(a)(17) requires firms to prepare an account record for each account with a natural person as a customer or owner. This Rule requires that that account record contain, among other things, the customer or owner's name, tax ID, telephone number, date of birth, employment status, annual income, net worth, and account investment objectives. The rule also states that the account record "shall indicate whether it has been signed by the associated person responsible for the account, if any, and approved or accepted by a principal..."

NASD Rule 3110(a) and FINRA Rule 4511 require member firms to make and preserve books and records as prescribed by SEC Rule 17a-3.

Here, Swenson accepted orders to buy and sell securities for Agincourt's customer, Firm G, without creating sufficient records of those orders. Swenson also never created an account record for Firm G at Agincourt. Accordingly, Swenson violated NASD Rule 3110 and FINRA Rule 4511 by causing Agincourt to fail to make and preserve sufficient order records and account records for Firm G in violation of Section 17(a) of the Exchange Act and Rules 17a-3(a)(6) and 17a-3(a)(17) thereunder.

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

1. A two-year suspension from associating with any FINRA member firm in any capacity; and,
2. A \$75,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the two-year 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 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

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;

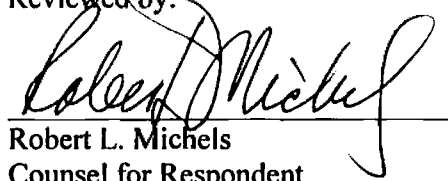
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my 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. 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.

12/13/2014
Date (mm/dd/yyyy)


Respondent, Gregory R. Swenson

Reviewed by:



Robert L. Michels
Counsel for Respondent
Winston & Strawn LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
Tele: (312) 558-5255

Accepted by FINRA:

2/12/15
Date

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



Jennifer L. Crawford
Director
FINRA Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, Maryland 20850
Tele: 301-258-8539
Fax: 301-208-8090