

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012034584301**

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

**RE: James Mark McLaughlin, Respondent
Former Registered Representative
CRD No. 1925099**

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

McLaughlin (CRD No. 1925099) was registered as a General Securities Representative from September 1989 until October 2012, and as a General Securities Principal from February 2001 until October 2012. McLaughlin was registered with SAI from October 2000 until October 2012. On October 29, 2012, SAI terminated McLaughlin's registrations for violating firm policies and procedures relating to excessive trading. On January 15, 2013, SAI filed an amendment to the Form U5 reporting a written complaint against McLaughlin filed by customer DM. The complaint alleged that losses in the customer's account were caused by excessive trading. Although McLaughlin currently is not associated with a FINRA member firm, FINRA retains jurisdiction over him pursuant to Article V, Section 4(a) of its By-Laws.

OVERVIEW

Between October 2010 through October 2012 ("the relevant period"), McLaughlin: (i) engaged in excessive trading in four customers' accounts in violation of NASD Rule 2310 and FINRA Rules 2111 and 2010; (ii) recommended unsuitable short-term trading of A-share mutual funds in four customers' accounts in violation of NASD Rule 2310

and FINRA Rules 2111 and 2010; (iii) engaged in unauthorized trading in three customers' accounts in violation of FINRA Rule 2010 and; (iv) exercised discretion in one customer's account without having written authorization in violation of NASD Rule 2510 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Excessive Trading

"Excessive trading" occurs when (i) a registered representative has control over trading in an account and (ii) the level of activity in that account is inconsistent with the customer's objectives and financial situation. Excessive trading violates FINRA's suitability standards under NASD Rule 2310 and FINRA Rule 2111¹ by representing an unsuitable frequency of trading.

Excessive trading is generally measured by (i) the turnover rate, that is, the number of times the value of the account is turned over within a given period of time and (ii) the cost-to-equity ratio, which represents the percentage of return on the customer's average net equity needed to pay commissions and other account expenses over a given period of time. The cost-to-equity ratio also represents the amount an account would have to earn to break even.

During the relevant period, McLaughlin excessively traded at least four customers' accounts. The number of trades, turnover rate, and cost-to-equity ratio for these accounts—all measured across the two-year relevant period (October 2010 through October 2012)—were:

- For customer LC, McLaughlin caused the execution of 286 purchase and sale transactions resulting in a turnover rate of 47.63 and a cost-to-equity ratio of 228.03%.
- For customer LR, McLaughlin caused the execution of 459 purchase and sale transactions resulting in a turnover rate of 15.86 and a cost-to-equity ratio of 69.54%.
- For customer FR, McLaughlin caused the execution of 140 purchase and sale transactions resulting in a turnover rate of 6.79 and a cost-to-equity ratio of 32.74%.
- For customer TW, McLaughlin caused the execution of 111 purchase and sale transactions resulting in a turnover rate of 8.75 and a cost-to-equity ratio of 44.50%.

By virtue of this conduct, McLaughlin engaged in excessive trading and violated NASD Rule 2310 when he excessively traded the above customers' accounts between October

¹ FINRA Rule 2111 replaced NASD Rule 2310 on July 9, 2012.

2010 and July 8, 2012. McLaughlin violated FINRA Rule 2111 when he excessively traded his customers' accounts between July 9, 2012 and October 2012. As a result of these violations, McLaughlin also violated FINRA Rule 2010.

Unsuitable Short-Term Trading of A-share Mutual Funds

From October 2010 through October 2012, McLaughlin recommended that customers FR, KC, DM, and ES purchase \$167,500 worth of A-share mutual funds, which he then recommended selling after only an average of 167 days.¹ In total, McLaughlin recommended that these customers purchase 11 Class A Mutual Fund share positions and then sell them within a year of purchase.

The unsuitable purchases and sales recommended by McLaughlin resulted in the four customers collectively paying unnecessary mutual fund fees—\$8,375 in upfront fees associated with A-shares—and McLaughlin receiving a benefit from the short-term trading by earning over \$8,000 in commissions from the A-share purchases. Had these customers purchased C-shares, the aggregate amount of sales load paid would have been \$1,675. In recommending the A-share purchases and sales, McLaughlin did not consider the anticipated holding periods of the products at the time of the recommendations. As front-loaded products, the A-shares were intended to be held long-term, which McLaughlin's recommendations ignored.

McLaughlin had no reasonable basis to believe that the short-term trading of A-share mutual funds was suitable for his customers. Therefore, he violated NASD Rule 2310 when he made the unsuitable recommendations to short-term trade A-share mutual funds between October 2010 and July 8, 2012. McLaughlin violated FINRA Rule 2111 when he made such unsuitable recommendations between July 9, 2012 and October 2012. As a result of these violations, McLaughlin also violated FINRA Rule 2010.

Unauthorized Trading and Exercising Discretion Without Prior Written Authorization

During the relevant period and as described above, McLaughlin excessively traded the accounts of customers LC, LR, FR, and TW. He did so at least in part by placing trades in these accounts without having discussions with the customers about the trades prior to the transactions and without obtaining the customers' authorization to place these trades before he placed them. Three of these customers (LR, FR, and TW) did not give McLaughlin discretion to trade in their accounts. One of these customers (LC) verbally gave McLaughlin discretionary authority, but she did not provide McLaughlin any written authorization to exercise discretion in her account. In addition, her account had not been approved and accepted as a discretionary account by SAI.

¹ A-share mutual funds are intended to be long term investments due to the 5% upfront fee paid by the customer.

By engaging in unauthorized trading, McLaughlin violated FINRA Rule 2010. By exercising discretion without written authority, McLaughlin violated NASD Rule 2510(b) and FINRA Rule 2010.

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

- A bar from associating with any member firm in any and all capacities.

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. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

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 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.

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.

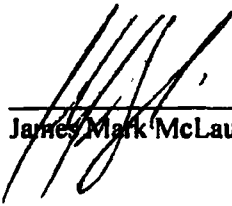
OTHER MATTERS

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;
- 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.

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.

October 23, 2014
Date


James Mark McLaughlin, Respondent

Reviewed by:

Emily Sides Bonds

Emily Sides Bonds, Esq.

Jones Walker LLP

1819 5th Ave N, Ste 1100

Birmingham, AL 35203

T: (205) 244-5235

Counsel for Respondent

11/25/14

Date

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

Roberta Vassallo

Roberta Vassallo

Counsel

FINRA Department of Enforcement

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