

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013038259601**

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

RE: Jack Theodore Johnson, Respondent
Registered Representative
CRD No. 1861254

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Jack Theodore Johnson ("Respondent" or "Johnson") 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 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 purpose 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

Johnson first became registered with a FINRA member in September 1988 when he obtained his Series 7 license. He obtained his Series 63 license in December 1988, his Series 3 in October 1991, his Series 65 in November 1993, and his Series 8 in February 1997. Johnson became registered with Morgan Stanley Smith Barney LLC ("Morgan Stanley" or the "firm") in 2009, where he was registered until September 11, 2013, when the firm filed a Form U5 terminating his registration. Johnson is currently registered with another FINRA member.

OVERVIEW

In May 2013, Johnson, after having reason to believe that one of his customers might have inside information about a pharmaceutical company, and in contravention of his firm's procedures, accepted that customer's order to purchase shares in the company; passed the information on to a second customer, who was also an employee of the company; and recommended to a third customer to wait before selling shares of the company. By reason of the foregoing, Johnson violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

On or about May 28, 2013, a customer called Johnson to place an order to purchase shares in a pharmaceutical company. The customer told Johnson that a family member had just been told by an insider of the company that, within days, one of its drugs would receive approval by European drug authorities for commercial sale to the public. Johnson accepted the customer's purchase order. Johnson did not personally trade on the information for his own account.

Morgan Stanley's procedures require that a registered representative not buy or sell a security if he has a reason to believe that a customer is trading while in possession of inside information. Instead, the registered representative must notify a supervisor.¹ In contravention of the firm's policy, Johnson nonetheless accepted his customer's trade. Johnson also failed to inform a supervisor of the customer's trading.

Two days after the customer made the investment, European drug authorities formally adopted a positive opinion about the drug, a necessary step before a drug is permitted to be sold to the public in Europe. Before market open the next morning, the pharmaceutical company issued a press release announcing the European drug authorities' positive opinion. That day, on news of the positive opinion, the issuer's stock price increased approximately five percent over the previous day's closing price.²

After Johnson's conversation with the customer but before the public announcement of the European drug authorities' positive opinion, Johnson spoke to a second customer, who was both a friend and an employee of the pharmaceutical company. He told the customer that an insider of the company had disclosed what appeared to be material nonpublic information and that one of Johnson's customers had received that information from a family member and consequently had invested in the company. The second customer did not use the information to trade the company's securities.

At or about this same time, a third customer, who had invested in the pharmaceutical company in 2012, contacted Johnson asking when was a good time to sell the 250 shares that the customer owned. Johnson told the customer to wait. As a result, the customer did not sell the shares until after the news announcement, thereby earning an additional \$537 by delaying the sale.

¹ Morgan Stanley's written supervisory procedures in force at the time instructed a registered representative: "If you have reason to believe that your client is trading while in possession of inside information, you must not buy or sell the security or recommend that any client buy or sell the security. You must immediately notify your Branch Manager or other supervisor, who must immediately review the matter with a member of the Compliance Department"

² The customer invested a total of \$38,477 in the pharmaceutical company but did not sell the shares immediately after the news. Based on the last sale price on the day of the news, Johnson's customer had unrealized gains of \$7,631 from trading ahead of the news about the pharmaceutical company.

Morgan Stanley's written supervisory procedures instructed its registered representatives, "You may never, under any circumstances, trade, cause, or encourage others to trade, or recommend securities or other financial instruments while in possession of inside information relating to such securities or financial instruments." Johnson failed to follow his firm's procedures by accepting his first customer's order; by sharing the information with his friend, the employee of the pharmaceutical company; and by recommending to the third customer to not immediately sell shares.

As a result of each of the foregoing three instances of misconduct, Johnson failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

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

- A three-month suspension in all capacities from associating with any FINRA member; and
- A \$10,000 fine.

I agree to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanctions 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 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:

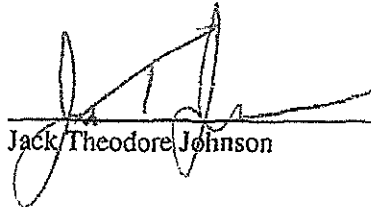
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (“ODA”), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; 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.

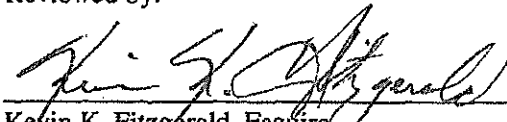
I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the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

4-24-15
Date



Jack Theodore Johnson

Reviewed by:

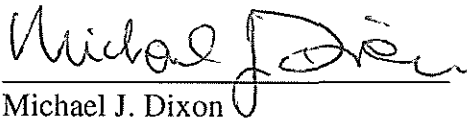


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Counsel for Jack Theodore Johnson

Accepted by FINRA:

June 1, 2015
Date

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


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