

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013039016802**

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

RE: John Kelly, Respondent
Former Registered Representative
CRD No. 4758321

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 John Kelly entered the securities industry in 2004 when he became associated with Morgan Stanley & Co. Inc. ("Morgan Stanley" or "the Firm") as a General Securities Representative. On November 8, 2013, Morgan Stanley terminated Respondent's registration. Since that time, Respondent has not been associated with another FINRA member firm. Pursuant to Article V, Section 4 of the FINRA By-Laws, FINRA retains jurisdiction over Respondent.

OVERVIEW

Between March 2012 and June 2013, Respondent (i) engaged in check kiting, in violation of FINRA Rule 2010; (ii) willfully failed to disclose two civil judgments on his Form U4, in violation of Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010; and (iii) failed to timely respond to FINRA's requests for information made pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

Check Kiting

Between August 2012 and June 2013, while associated with Morgan Stanley, Respondent wrote 32 checks totaling \$14,050, payable to him, drawn from a Morgan Stanley brokerage account that Respondent knew lacked sufficient funds to cover the checks. In each instance, Respondent deposited the check into his personal account at another bank, and immediately withdrew cash against the check before the check was dishonored for non-sufficient funds. Although Kelly eventually deposited sufficient funds into the accounts and satisfied all overdraft fees, by engaging in this activity, Kelly temporarily gained access to funds that, at the time, he was not authorized to access.

FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade. By writing and depositing checks when he knew that he did not have sufficient funds in his brokerage account to cover the transactions, and immediately withdrawing cash against the checks, Respondent violated FINRA Rule 2010.

Failure to Disclose Civil Judgments

On or about March 8, 2012, while associated with Morgan Stanley, and after having submitted his initial Form U4 application, a civil judgment in the amount of \$6,355 was filed against Respondent in New York City Civil Court (the "March Judgment"). Respondent was required to amend his Form U4 to disclose any unsatisfied judgments by no later than 30 days after learning of the facts or circumstances giving rise to the amendment. Respondent willfully failed to amend his Form U4 to disclose the March Judgment.

Thereafter, on or about December 18, 2012, another civil judgment in the amount of \$9,922 was filed against Respondent in New York City Civil Court (the "December Judgment"). Respondent was again required to amend his Form U4 to disclose the unsatisfied judgment within 30 days. Respondent willfully failed to amend his Form U4 to disclose the December Judgment.

Article V, Section 2(c) of FINRA's By-Laws requires that every application for registration filed with FINRA be kept current at all times by supplementary amendments, which must be filed with FINRA not later than 30 days after learning of the facts or circumstances giving rise to the amendment. Question 14M of Form U4 requires registrants to disclose whether they have any unsatisfied judgments or liens against them.

FINRA Rule 1122 provides that "[n]o member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof."

By willfully failing to amend his Form U4 to disclose the two civil judgments, Respondent violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rule 1122. By virtue of these violations, Respondent also violated FINRA Rule 2010.

Failure to Comply with Rule 8210 Requests

In November 2013, FINRA staff sent Respondent written requests for information pursuant to FINRA Rule 8210. Respondent failed to comply with the requests until April 18, 2014, after FINRA staff sent Respondent a Notice of Suspension pursuant to FINRA Rule 9552 notifying him that he was going to be suspended from associating with any FINRA member because he had failed to comply with the November 2013 requests for information pursuant to FINRA Rule 8210.

By failing to timely respond to FINRA's requests for information and documents made pursuant to FINRA Rule 8210, Respondent violated FINRA Rule 8210. By virtue of Respondent's violation of FINRA Rule 8210, Respondent also violated FINRA Rule 2010.

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

- A two-year suspension from associating with any FINRA member in any capacity; and
- A \$15,000 fine.

I understand that this settlement includes a finding that I willfully omitted to state a material fact on a Form U4, and that under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 and Article III, Section 4 of FINRA's By-Laws, this omission makes me subject to a statutory disqualification with respect to association with a member.

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 fine shall be due and payable either immediately upon re-association 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.

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:

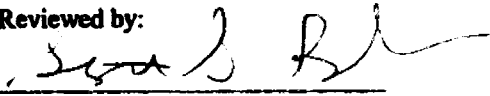
1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
3. FINRA may make a public 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.

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.

10/26/2015
Date (mm/dd/yyyy)


John Kelly, Respondent

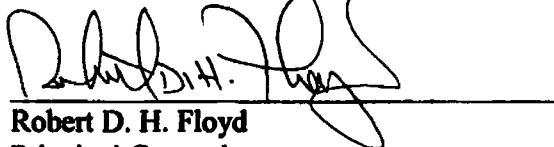
Reviewed by:


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New York, NY 10017
Scott.Balber@hsf.com
Counsel for Respondent John Kelly

Accepted by FINRA:

10/28/2015
Date

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

A handwritten signature in black ink, appearing to read "Robert D. H. Floyd", written over a horizontal line.

Robert D. H. Floyd
Principal Counsel
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