

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014040082301**

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

RE: D.H. Hill Securities, LLLP, Respondent
Member Firm
CRD No. 41528

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent D.H. Hill Securities, LLLP 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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, 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

D.H. Hill Securities, LLLP (CRD 41528) is a broker-dealer based in Kingwood, Texas. It has approximately 50 registered representatives in 15 branches. Its principal source of revenue has alternated between underwriting and commissions over the past three years. D.H. Hill Securities has no prior disciplinary history.

OVERVIEW

During the period February 2012 through April 2013, D.H. Hill Securities participated as dealer manager of a REIT offering. D.H. Hill Securities took over from another firm which had been the dealer manager of the offering. When D.H. Hill Securities replaced the prior dealer manager, it failed to seek or obtain authorization from FINRA's Corporate Financing Department to proceed with the offering, as required by FINRA Rule 5110(b)(4)(B). Instead, it believed it could rely on the prior "no objections" opinion issued to the predecessor manager, although D.H. Hill Securities was not a party to the terms and arrangements approved by that opinion. It also failed to file required materials in connection

with a follow-on offering for the same issuer on a timely basis, and did not have adequate supervisory procedures to enforce or implement the limits on underwriting compensation and other offering expenses for offerings it managed, in violation of FINRA 3010(b). This resulted, among other things, in its inability to accurately account for its underwriting compensation in a timely manner.

FACTS AND VIOLATIVE CONDUCT

D.H. Hill's Participation in the Initial REIT Offering

In February 2010, a public non-traded real estate investment trust ("the REIT") initiated a public offering of a minimum of 200,000 shares and a maximum of 25,000,000 shares of common stock at \$10 per share. The original dealer manager sought and obtained the Corporate Financing Department's opinion that the proposed terms and arrangements of the offering were not unfair or unreasonable under FINRA Rule 5110(b)(4)(B). Corporate Financing cleared the offering by issuing a "no objections" letter on January 26, 2010. At that time, D.H. Hill Securities was not a participant in the underwriting in any capacity. The letter specifically stated that "the Department also requires any amendments to the above documents [which include the Dealer Manager Agreement] ... to be filed on a timely basis for review."

In early 2012, the REIT sought to replace the dealer manager for the offering. D.H. Hill Securities and the issuer executed a new dealer manager agreement outlining the terms and arrangements on January 25, 2012, but D.H. Hill Securities failed to notify Corporate Financing of the change or seek its opinion of the terms and arrangements of the offering. D.H. Hill Securities (acting primarily through retail broker-dealers) raised \$25,274,148 in offering proceeds from February 3, 2012 to April 25, 2013. Throughout the entire offering period, the REIT accepted subscriptions for and issued 4,455,678 shares of its common stock, including 162,561 shares of the REIT's common stock issued pursuant to its distribution reinvestment plan, resulting in offering proceeds totaling \$43,943,731.

Rule 5110(b)(4)(B) states that "No sales of securities subject to this Rule shall commence unless:...(ii) FINRA has provided an opinion that it has no objections to the proposed underwriting and other terms and arrangements..." D.H. Hill participated in the offering when it assumed the role of dealer manager on February 3, 2012; however, it did not file the required information and documentation which FINRA reviews to determine the fairness and reasonableness of the proposed underwriting compensation and other terms and arrangements.

D.H. Hill Securities improperly relied on the "no objection" opinion issued to the prior dealer manager the initial offering. This opinion was based solely on the terms and arrangements proposed to FINRA by the predecessor dealer manager

and does not transfer to new terms or arrangements entered into by other member firms. D.H. Hill entered into a separate dealer manager agreement with the REIT and was required to file and obtain an opinion on the underwriting terms and arrangements contained within that agreement. Moreover, the "no objections" notification to the predecessor dealer manager specifically required that any amendments to the agreement be filed with Corporate Financing. Therefore, the Corporate Financing Department never issued a "no objections" opinion to D.H. Hill Securities regarding its participation in the initial offering, and D.H. Hill Securities participated in that offering without obtaining a "no objections" opinion from FINRA in violation of Rule 5110(b)(4)(B) (and FINRA Rule 2010).

D.H. Hill's Participation in the Follow-On REIT Offering

D.H. Hill Securities also failed to comply with the requirements of FINRA Rule 5110 by not promptly filing required documents when the REIT initiated a follow-on offering in the spring and summer of 2013. The REIT initiated the follow-on offering of up to 20,000,000 shares of its common stock at \$10 per share (on July 26, 2013) with D.H. Hill Securities as the dealer manager.

On December 7, 2012, the REIT filed a Form S-11 for the follow-on offering to the initial offering discussed above. The Form S-11 identified D.H. Hill Securities as the dealer manager for the offering, and indicated that D.H. Hill Securities was sent a copy of the Form S-11. Although FINRA Rule 5110(b)(4)(A) requires the filing of certain materials with Corporate Financing within one business day of the submission of certain filings to the SEC, D.H. Hill Securities failed to make any filings with Corporate Financing until approximately six months later, on June 11, 2013.

Deficient Written Supervisory Procedures

D.H. Hill Securities' written supervisory procedures included provisions that prohibit the receipt of underwriting compensation in excess of 10 percent in public offerings in which it participated. The written supervisory procedures for participating in public offerings of Direct Participation Programs and non-traded REITs note that underwriting compensation may not exceed 10%, of the offering proceeds, and total organization and offering expenses may not exceed 15% of the offering proceeds. However, the procedures did not include an adequate system to monitor for and address the accumulation of excessive underwriting compensation. In addition, D.H. Hill Securities' written supervisory procedures did not designate any particular individual to oversee the firm's compliance with underwriting compensation or expense limits.

As a result of this omission, the firm was unable to provide an accurate accounting of its underwriting compensation on a timely basis. The firm relied on inaccurate information reported by other parties to quantify the dealer manager fees it received, which caused it to report inaccurate information in its responses

to FINRA staff inquiries. It also failed to have a system in place to allocate overhead costs to specific offerings in which it participated in order to calculate underwriting compensation.

D.H. Hill Securities' written supervisory procedures also failed to include provisions for obtaining a "no objections" opinion from FINRA when it acts as the dealer manager or lead placement agent in a public offering. The procedures merely require a Designated Principal to obtain a copy of the "no objections letter" filed by the lead placement agent with FINRA's Corporate Financing Department.

NASD Rule 3010(b) (superseded by FINRA Rule 3110 as of December 1, 2014) required that each firm "establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Rules of NASD." The supervisory system must include the designation of a registered principal to carry out the member's supervisory responsibilities.

D.H. Hill Securities did not have adequate procedures for fulfilling the responsibilities of a dealer manager of a public offering. Although they recited the compensation limits of Rule 2310, the procedures failed to establish an adequate system by which the firm would monitor for and address the accumulation of excessive compensation. The procedures did not contain a description of a reasonable process for how the firm would monitor the receipt and payment of underwriting compensation or other expenses of the offering, and did not designate any particular individual to oversee the firm's compliance with these limits. In addition, they did not include adequate procedures addressing or assigning responsibility for how the firm would comply with the filing requirements under FINRA Rule 5110(b)(4)(A). Therefore, the firm violated NASD Rule 3010(b) (and FINRA Rule 2010).

* * *

By virtue of the foregoing conduct, Respondent D.H. Hill Securities violated NASD Rule 3010(b) and FINRA Rule 5110(b). By violating those provisions, they also failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

B. Respondent also consents to the imposition of the following sanctions:

1. a censure;
2. a \$30,000 fine; and
3. the following undertaking:

a. D.H. Hill Securities, LLLP shall:

- (1) Retain, within 60 days of the date of the Notice of Acceptance of this AWC, an Independent Consultant, not unacceptable to FINRA staff, to conduct a comprehensive review of the adequacy of Respondent's policies, systems and procedures (written and otherwise), and training relating to participation as dealer manager or managing underwriter in securities offerings. The Independent Consultant, any firm with which the Independent Consultant is affiliated or of which he or she is a member, and any person engaged to assist the Independent Consultant in performance of his or her duties, shall not have provided consulting, legal, auditing or other professional services to, or had any affiliation with, Respondent during the two years prior to the date of the Notice of Acceptance of this AWC.
- (2) Exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Consultant.
- (3) Cooperate with the Independent Consultant in all respects, including by providing staff support. D.H. Hill Securities, LLLP shall place no restrictions on the Independent Consultant's communications with FINRA staff and, upon request, shall make available to FINRA staff any and all communications between the Independent Consultant and Respondent and documents reviewed by the Independent Consultant in connection with his or her engagement. Once retained, D.H. Hill Securities, LLLP shall not terminate the relationship with the Independent Consultant without FINRA staff's written approval. D.H. Hill Securities, LLLP shall not be in and shall not have an attorney-client relationship with the Independent Consultant, and shall not seek to invoke the attorney-client privilege or other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports or documents to FINRA.
- (4) At the conclusion of the review, which will be no more than ninety days after the date of the Notice of Acceptance of this AWC, require the Independent Consultant to submit to the itself and FINRA staff a Written Report. The Written Report shall address, at a minimum, (i) the

adequacy of D.H. Hill Securities, LLLP's policies, systems, procedures, and training relating to its participation as dealer manager or managing underwriter in securities offerings; (ii) a description of the review performed and the conclusions reached; and (iii) the Independent Consultant's recommendations for modifications and additions to Respondent's policies, systems, procedures and training.

- (5) Require the Independent Consultant to enter into a written agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any other employment, consultant, attorney-client, auditing, or other professional relationship with the Respondent, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any firm with which the Independent Consultant is affiliated or of which he or she is a member, and any person engaged to assist the Independent Consultant in performing his or her duties pursuant to this AWC, shall not, without prior written consent of FINRA staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondent or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

- b. Within 30 days after delivery of the Written Report, D.H. Hill Securities, LLLP shall adopt and implement the recommendations of the Independent Consultant or, if it determines that a recommendation is unduly burdensome or impractical, propose an alternative procedure to the Independent Consultant designed to achieve the same objective. D.H. Hill Securities, LLLP shall submit such proposed alternatives in writing simultaneously to the Independent Consultant and FINRA staff. Within 30 days of receipt of any proposed alternative procedure, the Independent Consultant shall: (i) reasonably evaluate the alternative procedure and determine whether it will achieve the same objective as the Independent Consultant's original recommendation; and (ii) provide D.H. Hill Securities, LLLP with a written decision reflecting his or her determination. D.H. Hill Securities, LLLP will abide by the Independent Consultant's ultimate determination with respect to any proposed alternative procedure and must adopt and implement all recommendations deemed appropriate by the Independent Consultant.

- c. Within 30 days after the issuance of the later of the Independent Consultant's Written Report or written determination regarding alternative procedures (if any), D.H. Hill Securities, LLLP shall provide FINRA staff with a written implementation report, certified by an officer of D.H. Hill Securities, LLLP, attesting to, containing documentation of, and setting forth the details of its implementation of the Independent Consultant's recommendations.
- d. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth above.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against it;
- 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, Respondent specifically and voluntarily waives 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. Respondent further specifically and voluntarily waives 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

Respondent understands that:

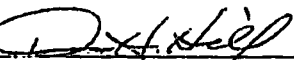
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against it; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary records and may be considered in any future actions brought by FINRA or any other regulator against it;
 - 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. Respondent 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. Respondent 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 Respondent's: (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. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it 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.

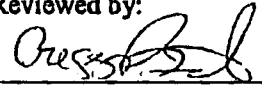
The undersigned, on behalf of D.H. Hill Securities, LLLP, certifies that he is authorized to act on the firm's behalf and has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; has agreed to its provisions voluntarily; and that no offer, 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 Respondent to submit it.

10/26/2016
Date

Respondent D.H. Hill Securities, LLLP

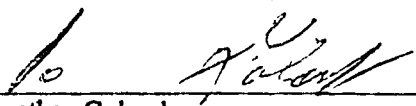
By: 
Danny H. Hill, President

Reviewed by:


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Accepted by FINRA:

Nov. 3, 2016
Date

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


Jonathan Golomb
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FINRA Department of Enforcement
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