

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014040437101**

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

RE: Derek Prater, Respondent
General Securities Representative
CRD No. 4063564

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Derek Prater ("Respondent"), 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 entered the securities industry in October 1999 in a non-registered capacity when he became employed with a FINRA-regulated broker-dealer. From that time until December 2010, Respondent was employed at various FINRA regulated broker-dealers in registered and non-registered capacities. He received his Series 6 and 63 licenses in 2001 and his Series 31 and 66 licenses in 2006.

In August 2011, Respondent joined Edward D. Jones & Co., L.P. (the "Firm") as a registered representative.

On March 7, 2014, the Firm filed a Form U5 disclosing that Respondent's employment terminated on February 11, 2014 as a result of his improper use of discretion in customer accounts, in violation of the Firm's policies, and provision of inaccurate information to the Firm in connection with its investigation of such misconduct.

Respondent is not currently associated with a FINRA regulated broker-dealer. However, FINRA retains jurisdiction over him pursuant to Article V, Section 4(a) of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

Respondent has no prior disciplinary history in the securities industry.

OVERVIEW

During June through December 2013, Respondent violated FINRA Rule 2010 by executing 13 unauthorized trades in the accounts of two customers of his FINRA-regulated broker-dealer, and NASD Rule 2510(b) and FINRA Rule 2010 by executing 36 discretionary trades in the accounts of 18 firm customers despite the fact that the Firm prohibited the use of discretion in such accounts. Additionally, in December 2013, Respondent made misstatements to the firm in connection with its investigation of this misconduct, in violation of FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Unauthorized Trading

FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of his business. Unauthorized trading violates Rule 2010.

Respondent effected 13 unauthorized trades, both sales and purchases of mutual funds, in accounts belonging to two Firm customers, JM and BH, without their knowledge or consent. Six of these unauthorized trades were made in the account of customer JM between June 18, 2013 through October 21, 2013 in amounts ranging from approximately \$30,000 to \$42,000.

On October 22, 2013, Respondent effected seven unauthorized trades in three of customer BH's accounts in amounts ranging from approximately \$3,100 to \$25,000.

Respondent violated FINRA Rule 2010 by executing 13 trades in the accounts of customers JM and BH without their prior knowledge, authorization or consent as described above.

Improper Discretionary Trading

NASD Rule 2510(b) provides that no member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual ... and the account has been accepted by the member.

Subsequent ratification by the customer of a trade that was executed based on the improper exercise of discretion does not excuse this violation. A violation of NASD Rule 2510(b) constitutes a violation of FINRA Rule 2010.

During 2013, the Firm's written supervisory procedures ("WSPs") prohibited its registered representatives from exercising discretion in customer accounts. Further, at no time did the Firm accept any of Respondent's customer accounts for discretionary trading.

Between July through December 2013, Respondent effected trades on 36 occasions in the accounts of 18 Firm customers. Although the trades were verbally authorized by the customers, Respondent did not speak with any of the customers on the dates of these trades prior to entering the relevant orders.

Respondent violated NASD Rule 2510(b) and FINRA Rule 2010 by exercising discretion on 36 occasions in the accounts of 18 Firm customers, without the required prior written authorization from the customers and written acceptance from the Firm.

Misstatements to the Firm

Making false statements to a FINRA-regulated broker-dealer violates FINRA Rule 2010.

On December 18, 2013, as part of the above investigation conducted by the Firm into Respondent's misconduct, a Firm compliance officer, PW, e-mailed Respondent requesting that he provide a written statement setting forth the circumstances surrounding the trading that occurred in Firm customer JM's account over the past year.

Later on December 18, 2013, Respondent replied to PW's e-mail, stating both that he spoke to JM by telephone "approximately on a monthly basis," and he received telephone orders from JM on the dates of three trades that he effected in JM's account on June 21, 2013, September 25, 2013 and October 24, 2013.

The above representations, that during 2013, Respondent spoke to JM by telephone both on approximately a monthly basis and on the dates of the above three trades, were false. Respondent did not speak to JM during that year.

Based on the foregoing, Respondent violated FINRA Rule 2010.

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

- A two-year suspension from association with any FINRA member in any capacity; and

- a fine of \$17,500.

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(s) 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 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.
- 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.

2/8/2016

Date: 02/8/2016



Derek Prater

Accepted by FINRA:

2/22/16

Date: 02/22/2016

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



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