

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140406401 01**

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

RE: Harold Joseph Petro, Respondent
General Securities Representative
CRD No. 864270

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Harold Joseph Petro, 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

Harold Joseph Petro ("Petro") first entered the securities industry in November 1978 when he became associated with Merrill, Lynch, Pierce, Fenner & Smith ("Merrill" or "the Firm"). Petro was a registered representative with Merrill from that time until March 6, 2014, when his employment with the Firm terminated. Merrill filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") with respect to Petro's registration on March 24, 2014. Although Petro is not currently associated with a FINRA member, he remains subject to the jurisdiction of FINRA pursuant to Article V, Section 4(a) of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly-registered persons.

RELEVANT DISCIPLINARY HISTORY

Petro has no relevant disciplinary history.

OVERVIEW

In December 2013 and January 2014, Petro exercised discretion over four customer accounts and made multiple trades without written authorization. Relatedly, Petro mismarked ten order tickets related to those trades, identifying them as "unsolicited." As a result, Petro violated NASD Rule 2510(b) and FINRA Rule 4511, respectively, as well as FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

NASD Conduct Rule 2510(b) generally prohibits registered representatives from exercising discretion in a customer account unless the customer has provided written authorization to the registered representative to exercise discretion, and the account has been accepted as a discretionary account, in writing, by the registered representative's firm.

FINRA Rule 4511 replaced NASD Rule 3110 effective December 5, 2011 and requires, *inter alia*, that "(a) Members shall make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." An individual may violate FINRA Rule 4511 by causing his or her member firm to keep inaccurate books and records.

A violation of either NASD Conduct Rule 2510(b) or FINRA Rule 4511 is also a violation of FINRA Rule 2010, which requires registered persons to adhere to just and equitable principles of trade.

In late December 2013 and early January 2014, Petro exercised discretion to make trades of Bank of America shares in the accounts of four of his customers. The customers did not provide Petro with explicit instructions to place those trades, but had verbally granted Petro discretionary trading authority in their accounts. The written supervisory procedures at Petro's FINRA member firm, however, required written authorization from the customer and Firm approval before a representative could exercise discretion in a customer account.

Also at the time of the trading at issue, Merrill did not allow its representatives to solicit trades in the stock of Bank of America, its parent company. Petro marked the order tickets for ten trades in Bank of America as "unsolicited," when, in fact, those trades were not initiated by his customers. By mismarking order tickets as "unsolicited," Petro caused his member firm to keep inaccurate books and records.

As a result of such conduct, Petro violated NASD Rule 2510(b) and FINRA Rules 4511 and 2010.

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

- a suspension from association with any FINRA registered firm in any capacity for six (6) months; and
- a \$15,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the six (6) month 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 (mm/dd/yyyy)

Harold J. Petro
Harold Joseph Petro

Accepted by FINRA:

3/7/16
Date

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

Christopher M. Burky
Christopher M. Burky
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FINRA Department of Enforcement
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