

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014043075802**

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

RE: James B. Felton, Respondent
General Securities Representative
CRD No. 2296005

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 James B. Felton entered the securities industry in 1992. He joined Citigroup Global Markets, Inc. in January 2002, and joined Morgan Stanley Smith Barney in June 2009 when Citigroup Global Markets and Morgan Stanley's Global Wealth Management Group combined to form Morgan Stanley Smith Barney LLC (MSSB). His registration with MSSB was terminated on October 22, 2014 for the conduct discussed herein. Felton held General Securities (Series 7), State Agent (Series 63), and Investment Advisor (Series 65) licenses. He worked in an Atlanta, Georgia office of MSSB during the period discussed herein. Felton has no prior disciplinary history.

Although Felton is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws because this AWC (1) is being issued within two years after the date upon which he ceased to be registered with a FINRA member, namely October 22, 2014, and (2) charges him with conduct committed while he was registered with a FINRA member.

OVERVIEW

Between November 2010 and May 2014, Felton allowed a former MSSB customer ("Customer A") – who had been banned from doing business with the firm – to continue trading through MSSB using accounts held in the name of an entity owned by one of Customer A's relatives. Felton accepted third-party instructions from Customer A without documenting Customer A's trading authorization in MSSB's books and records (which would have alerted the firm to Customer A's circumvention of the firm's trading ban against him). Felton also improperly certified that no one other than the owner of the entity had authorization to place trades in the accounts and falsely listed a person other than Customer A as the referral source for those accounts. Lastly, when asked about Customer A's involvement in the account, Felton told an MSSB compliance official that the named owner of the entity controlled the activity in the accounts, and encouraged the named owner to go along with this version.

By reason of the foregoing, Felton violated FINRA Rule 2010, NASD Rule 3110(c), and FINRA Rule 4512(a).

FACTS AND VIOLATIVE CONDUCT

Customer A had held accounts with Felton since approximately 2008. He had generally used these accounts to get access to syndicate business, which meant having access to initial public offerings and secondary offerings.

Prior to October 2009, MSSB received information alleging that Customer A was opening accounts on behalf of an undisclosed entity in order to obtain initial public offering shares. In response to this information, MSSB put Customer A on a list of individuals and entities that were potentially connected to illicit activity and were prohibited from doing business with the firm. All new accounts, outgoing wires, and third-party checks were screened against this list, and all registered representatives and managers were informed about the list and the screening requirements. The firm told Felton that Customer A's account was being closed.

Between November 2010 and October 2013, Felton opened six accounts in the name of an entity, SCI, which was owned by Customer A's sister-in-law. Felton knew that these accounts were being opened in response to the firm's refusal to do business with Customer A. Felton allowed Customer A to place orders in the SCI accounts, and communicated almost entirely with Customer A about the accounts, after Customer A's sister-in-law gave Felton verbal authorization to allow Customer A to act on her behalf. Contrary to MSSB policies and procedures, Felton failed to obtain or file any written documentation for Customer A's trading authority in the SCI accounts.

In addition to allowing Customer A to resume trading through the firm after the firm had shut down his accounts and banned Customer A as a customer, Felton provided inaccurate information on the account documentation for the SCI accounts. MSSB required that registered representatives complete enhanced due diligence (EDD) questionnaires for accounts owned by entities. Instead of accurately identifying Customer A on the EDD questionnaires as the referral source for the SCI accounts, Felton caused the new account documents to identify another registered representative as the source of the referral. In addition, Felton improperly certified on the EDD questionnaire that no one other than the named owner of SCI had authority to trade the accounts. Felton also failed to comply with MSSB's requirement that third-party trading authorizations be in writing.

The accounts held in the name of SCI conducted business from November 2010 until May 2014, during which time they purchased approximately \$98 million in securities and generated approximately \$440,000 in commissions for Felton.

In September 2014, a member of MSSB's investigations unit questioned Felton about the SCI accounts. Felton misled the firm as to Customer A's involvement in the accounts, telling the investigator that Customer A's sister-in-law made the trading decisions for the accounts and that the majority of his communications were with the sister-in-law. He also encouraged Customer A's sister-in-law to support this by telling her what he had told the firm.

Resulting Violations

Felton engaged in unethical behavior by disguising Customer A's control over the SCI accounts. Knowing that Customer A was prohibited from doing business at his firm, Felton opened accounts through which Customer A was able to continue to have access to public offerings. He misled the firm by withholding the fact that Customer A was controlling trading in the accounts, and by submitting inaccurate entries in the EDD system to hide Customer A's control over the SCI accounts and the referral source for them. This violated FINRA Rule 2010.

Felton also violated NASD Rule 3110(c) and FINRA Rule 4512(a), the books and records rules. NASD Rule 3110(c)(1)(D), in effect at the time the SCI accounts were opened, required firms to maintain information as to the names of any person authorized to transact business on behalf of any customer that was a corporation, partnership, or other legal entity.¹ Felton caused MSSB's books and records to be inaccurate by failing to provide this information, and by providing inaccurate information on the EDD forms as to Customer A's authority to place transactions in the accounts and as to the referral source of the SCI accounts.

Lastly, Felton engaged in unethical behavior by providing false information to MSSB in response to inquiries about the SCI accounts, and by encouraging

¹ NASD Rule 3110(c) was superseded by FINRA Rule 4512(a) on December 15, 2011.

Customer A's sister-in-law to provide the same false responses to the firm as he had.

* * *

By virtue of the foregoing, Felton violated NASD Rule 3110(c) and FINRA Rules 2010 and 4512(a).

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

1. a two-year suspension from association with any FINRA member firm in all capacities; and
3. a \$20,000 fine.

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

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 imposed in this matter.

I understand that if I am 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 suspension (see FINRA Rules 8310 and 8311).

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

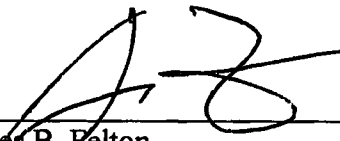
4. I may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. I may not take any position in any proceeding brought 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.

6/30/16

Date


James B. Felton
Respondent

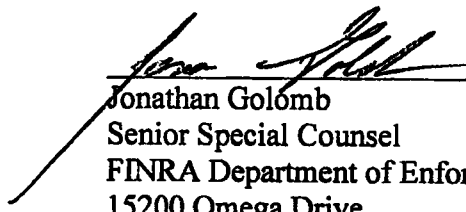
Reviewed by:

Glenn A. Delk, Esq.
Counsel for Respondent
1170 Angelo Court
Atlanta, GA 30319
(404) 233-3051

Accepted by FINRA:

July 13, 2016
Date

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


Jonathan Golomb
Senior Special Counsel
FINRA Department of Enforcement
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Rockville, MD 20832