

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015043587201**

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

RE: George K. Baum & Company, Respondent
Member Firm
CRD No. 36354

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent George K. Baum & Company ("GKB" or the "Firm") 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 the Firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. GKB 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

GKB became a FINRA member on April 25, 1994, and is headquartered in Kansas City, Missouri. GKB employs 138 registered persons at 30 branch offices. The Firm engages in a general securities business.

RELEVANT DISCIPLINARY HISTORY

The Firm has no relevant disciplinary history.

OVERVIEW

Between February 2014 and December 2014 (the "Relevant Period"), GKB improperly received certain reimbursements from municipal bond proceeds for expenses incurred during three municipal bond rating trips that were not reasonably related to the business purpose of the trips. Through this conduct, GKB violated MSRB Rule G-17.

During the Relevant Period, GKB also failed to establish and maintain a supervisory system for ratings trip expenses that was reasonably designed to ensure compliance with MSRB Rules. Specifically, GKB reviewed and approved certain ratings trip expenses without fully reviewing all of the relevant information, such as itineraries and agendas, and was therefore unable to determine whether all of the expenses were reasonably related to the business purpose of the trips. GKB also failed to review ratings trip expenses charged to certain issuers to ensure that expenses unrelated to the business of the ratings trips were not collected from municipal bond proceeds. Through this conduct, GKB violated MSRB Rule G-27.

FACTS AND VIOLATIVE CONDUCT

GKB Improperly Charged Three Municipal Issuers for Certain Ratings Trip Expenses Unrelated to the Business Purpose of the Trips

During the Relevant Period, GKB sought and received reimbursements from municipal bond offering proceeds for certain ratings trips expenses that were unrelated to the business purposes of the trips and, as such, excessive expenses.¹

The May 2014 Ratings Trip – Additional Stays, Meals and Entertainments

In December 2013, a city retained GKB as its financial advisor for bond projects related to a maximum security detention facility (the “City”). To that end, in connection with a planned issuance of general obligation bonds, a GKB representative planned a ratings trip to New York City for himself and three other issuer personnel. The ratings trip was scheduled for Thursday, May 15, 2014 through Saturday May 17, 2014. The attendees had one meeting scheduled for Thursday, May 15th, and three meetings scheduled for Friday, May 16th. The GKB representative and the issuer personnel planned to return to their residences on May 17th.

The total cost of the ratings trip was \$16,626.98. The GKB representative estimated the costs of the ratings trip unrelated to the business purpose of the trip totaled \$1,626.98, deducted that amount, and then billed the city \$15,000 for the trip. The City’s taxpayers ultimately paid the ratings trip expenses of \$15,000 as a cost of issuance. In fact, \$3,723.48 of the trip’s expenses billed to the City were unrelated to the business purpose of the ratings trip. These expenses included: (1) flight changes and hotel expenses unrelated to the ratings trip; (2) tickets to a Broadway musical for the GKB representative and one issuer personnel; (3) tickets to a baseball game for the GKB representative and two issuer personnel; and (4) flight changes and additional hotel stays for the GKB representative and two issuer personnel to attend the baseball game (the original game they planned

¹ See *DOE v. Gardnyr Michael Capital, Inc., et. al.*, Discip. Proc. No. 2011026664301 (January 28, 2014).

to attend was rained out).²

The total costs of the ratings trip unrelated to the business purpose of the trip were \$5,350.46. Even with the deduction of \$1,626.98, GKB improperly billed the City \$3,723.48 for costs unrelated to the business purpose of the trip as a cost of issuance.³

The November 2014 Ratings Trip – Additional Stay for a GKB representative

In early 2014, a county retained GKB as its financial advisor for an issuance of approximately \$2 million in debt (the “County”). In connection with the issuance, the GKB representative planned a ratings trip to San Francisco, California for himself and three other issuer personnel. The County had meetings with ratings agencies scheduled for Monday, November 17, 2014. The issuer personnel flew to San Francisco on Sunday, November 16th, and stayed one night at the Westin Hotel. They departed on November 17th.

The GKB representative and his spouse flew to San Francisco on Friday, November 14, 2014 and departed on November 17th with the issuer personnel. The GKB representative and his spouse stayed at the St. Regis Hotel for three nights, and the stay on Friday and Saturday was unrelated to the business purpose of the ratings trip. The cost of the ratings trip totaled \$7,577.35, and the GKB representative estimated that the costs of the ratings trip unrelated to the business purpose of the trip totaled \$1,577.35. GKB billed the county a total of \$6,000 for the trip, which was ultimately paid by the County’s taxpayers as a cost of issuance.

In fact, a portion of the \$6,000 billed to the County for ratings trip expenses included part of the GKB representative’s weekend stay with his spouse in San Francisco. GKB improperly billed the County for \$1,577 for hotel expenses incurred by the GKB representative as a cost of issuance.⁴

The February 2014 Ratings Trip – Additional Guest Expenses

GKB was retained as the financial advisor for the issuance of \$90 million in general obligation bonds by a school district (the “School District”). A GKB representative scheduled a ratings trip to San Francisco for the issuer personnel and their spouses, as well as the GKB representative and his spouse. The trip was

² Under MSRB Rule G-20(d), GKB was permitted to host issuer personnel for theatrical, sporting and other entertainments during the ratings trip. Passing the costs of these entertainments to taxpayers as an expense of the ratings trip, however, violated MSRB Rule G-17. *See id.*

³ On October 12, 2017, GKB issued a check to the City for \$3,723.48.

⁴ On October 26, 2015, GKB issued a check to the County for \$1,577.

scheduled for February 6 through February 8, 2014. The ratings trip costs totaled \$6,225.59. The issuer personnel from the School District reimbursed GKB for their spouses' airfares, meals, and transportation expenses during the ratings trip. GKB deducted an additional \$191.27 from the ratings trip expenses to cover, in part, the representative's spouse's expenses, but did not deduct the total amount related to the spouse's expenses. GKB billed the School District \$4,725.92 for the ratings trip. Those ratings trip expenses were ultimately paid by the school district's taxpayers as a cost of issuance.

The total cost for the GKB representative's spouse to attend the ratings trip was \$401.55, including airfare, meals and transportation expenses. Even with the deduction of \$191.27 from the ratings trip expenses, GKB improperly billed the School District \$210.28 for the GKB representative's spouse to attend the ratings trip as a cost of issuance.⁵

GKB violated MSRB Rule G-17

MSRB Rule G-17 states that municipal securities dealers "shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice." The duty of fair dealing imposed by Rule G-17 governs the obligations of municipal securities dealers to issuers.

In a January 2007 Interpretive Notice, the MSRB stated that dealers "should be aware that characterizing excessive or lavish expenses for the personal benefit of issuer personnel as an expense of the issue may, depending on all the facts and circumstances, constitute a deceptive, dishonest or unfair practice."⁶

In a September 2009 Reminder Notice, the MSRB stated that Rule G-17 "may apply in connection with certain payments made and expenses reimbursed during the municipal bond issuance process for excessive or lavish entertainment or travel expenses."⁷

GKB failed to deal fairly with the City, the County, and the School District when the Firm sought and obtained reimbursement from municipal bond proceeds for certain expenses from three ratings trips that were unrelated to the business purpose of the trips. By virtue of the foregoing, GKB violated MSRB Rule G-17.

GKB Failed to Reasonably Supervise Ratings Trips

MSRB Rule G-27(b) requires municipal dealers to establish and maintain a supervisory system that is reasonably designed to achieve compliance with

⁵ On December 17, 2015, GKB issued a check for \$210 to the School District.

⁶ *Dealer Payments in Connection with the Municipal Securities Issuance Process* (January 29, 2007).

⁷ *Reminder Notice on Fair Practice Duties to Issuers of Municipal Securities* (September 29, 2009).

applicable securities laws, regulations, and MSRB Rules. Rule G-27(c) requires each municipal dealer to adopt, maintain, and enforce WSPs that are reasonably designed to ensure that the conduct of municipal securities activities is in compliance with applicable securities laws, regulations, and MSRB Rules.

During the Relevant Period, the GKB supervisor responsible for reviewing and approving all ratings trips expenses did not receive or review the itineraries or agendas in connection with the expense reports. Without this information, the supervisor could not determine whether the ratings trip expenses were both reasonable and related to the business purposes of the trips. Further, the supervisor did not review the ratings trip expenses actually charged to the issuers to ensure that expenses unrelated to the ratings trips were not billed as a cost of issuance and passed on to taxpayers.

The Firm's written supervisory procedures ("WSPs") for ratings trips during the Relevant Period stated: "Entertainment that could be perceived as lavish or extraordinary, such as trips, sporting events, bond rating trips, or closing dinners involving customers, potential customers, issuers or any other persons or entities must be preapproved by Senior Management." These WSPs failed to reasonably address ratings trips expenses because they did not contain any specific guidelines regarding expense limits, non-reimbursable expenses, prohibited expenses, and permissible charges to issuers. Also, GKB relied on its representatives to determine whether preapproval of expenses was required, but did not provide training or implement any procedures or processes to ensure that its representatives appropriately identified expenses for preapproval.

By virtue of the foregoing conduct, GKB violated MSRB Rule G-27.

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

1. A censure; and
2. A fine of \$35,000 (\$20,000 of which is attributable to the violation of MSRB Rule G-17 and \$15,000 of which is attributable to the violation of MSRB G-27).

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

GKB 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.

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Complaint issued specifying the allegations against the Firm;
- 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, GKB 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.

GKB 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

GKB understands that:

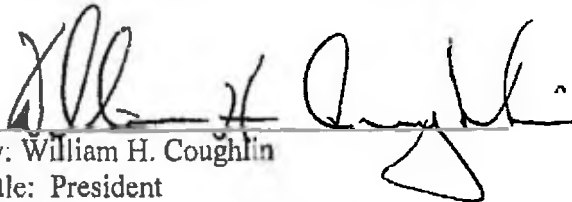
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and
- C. If accepted:

1. this AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against GKB;
 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. GKB 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. GKB 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 the Firm'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. GKB may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. GKB understands that the Firm 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.

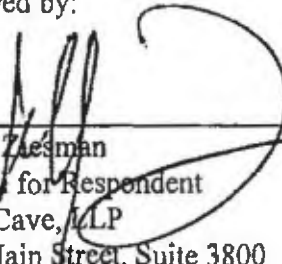
The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to its provisions voluntarily; and that no offer, threat, 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 the Firm to submit it.

Respondent George K. Baum & Company

12/07/2017
Date (mm/dd/yyyy)


By: William H. Coughlin
Title: President

Reviewed by:


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Accepted by FINRA:

01/03/2018
Date

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


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GKB Corrective Action Statement

GKB reimbursed each of the issuers as soon as possible after learning of the improper reimbursements of costs and confirming the appropriate amounts with FINRA. GKB changed its Written Supervisory Procedures in December 2015 to address the issues identified regarding expenses incurred on ratings trips by FINRA during their 2014 cycle examination, and provided training to all appropriate personnel regarding expenses incurred on ratings trips in December 2015 and January 2016.

This Corrective Action Statement is submitted by GKB. It does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA, or its staff.