

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015043640701**

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

RE: Cabrera Capital Markets, LLC ("Respondent" or "Cabrera")
CRD No. 10081

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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

Cabrera has been a FINRA member since August 13, 1981, and its registration remains in effect. Cabrera has 27 registered representatives in 8 branch locations, with its main address in Chicago, Illinois. Cabrera's business primarily consists of trading for institutional investors, municipal underwriting, secondary trading in municipal securities, and corporate underwriting.

RELEVANT DISCIPLINARY HISTORY

Cabrera has no relevant disciplinary history.

OVERVIEW

Between August of 2012 and October of 2013, Cabrera was lead underwriter on five municipal bond issuances. For each issuance, Cabrera failed to maintain documentation to evidence that adequate due diligence was conducted in relation to the offerings. During the same time period, Cabrera's written supervisory procedures were not reasonably designed to achieve compliance with rules

governing due diligence obligations for its municipal securities transactions.

Between February and May of 2014, Cabrera failed to timely register as a municipal advisor, failed to timely update registrations for individuals involved in its municipal advisory business, and had written supervisory procedures pertaining to its municipal advisory business that were not reasonably designed to maintain compliance with the applicable regulations for a municipal advisory business.

FACTS AND VIOLATIVE CONDUCT

Cabrera Failed to Maintain a Reasonable Supervisory System for its Municipal Underwriting Business.

In 1989, the Securities and Exchange Commission ("SEC") adopted Rule 15c2-12 setting forth certain requirements for broker-dealers participating in an underwriting, including obtaining and reviewing the official statement from the issuer. Simultaneously with adopting Rule 15c2-12, the SEC provided interpretative guidance that, when underwriting municipal securities, broker-dealers are obligated under the anti-fraud provisions of the federal securities laws to form a "reasonable basis" that the key representations of the issuer in the official statement are truthful and complete. *See* Exchange Act Release No. 34-26985 (June 28, 1989). This obligation is often referred to as "due diligence."

Municipal Securities Rulemaking Board ("MSRB") Rule G-27 provides that every dealer shall establish and maintain a system to supervise the municipal securities activities reasonably designed to achieve compliance with all applicable securities laws and regulations, including but not limited to establishing written policies and procedures.

Between August of 2012 and October of 2013, Cabrera was the lead underwriter for five municipal issuances ranging in size from approximately \$8 million to approximately \$150 million. For each of the issuances Cabrera failed to maintain records evidencing sufficient due diligence was performed to form a reasonable belief that certain key representations made in the offering disclosure documents were true and complete. While there were due diligence files for each deal, the extent of documentation contained in the files varied from deal-to-deal.

Statements provided by Cabrera's representatives indicated there was additional due diligence performed that was not maintained in the due diligence files, such as via email, and that there was an analysis of information gathered that was not evidenced in the files. However, the failure to maintain centralized files hinders Cabrera's ability to reasonably supervise the underwriting of the issuances. Further, although personnel were directed to maintain due diligence materials, Cabrera's written supervisory procedures were not reasonably designed to achieve compliance with Rule 15c2-12 because they failed to provide specific direction

for the gathering and retention of documents evidencing due diligence when acting as a lead underwriter of municipal issuances.

In addition, Cabrera acted as a non-lead underwriter on several municipal issuances during the relevant time period. Cabrera's written supervisory procedures did not include any guidance as to the appropriate procedures to be followed when underwriting an issuance in which it was not the lead underwriter.

By reason of the foregoing conduct, Respondent violated MSRB Rule G-27.

Violations Pertaining to Municipal Advisory Business.

MSRB Rule A-12 requires that, prior to engaging in any municipal advisory activity, a municipal advisor must be duly registered with the MSRB and pay a fee. Securities Exchange Act Rule 240.15Ba2-6T requires that firms acting in the capacity of municipal advisors register with the SEC. Between February and May of 2014 Cabrera acted as a municipal advisor for four different municipalities. Cabrera was not properly registered with either the MSRB or the SEC during that time period.

Securities Exchange Act Rule 240.15Ba1-2(b) requires that a firm applying for registration or registered as a municipal advisor must complete a Form MA-I with respect to each person associated with the municipal advisor that engaged in municipal advisory business. Pursuant to Securities Exchange Act Rule 240.15Ba1-5, the form MA-I must be timely updated with any new information. Due to a clerical error, Cabrera failed to file a form MA-I for three individuals before they conducted municipal advisory activities between July of 2014 and October of 2014. These individuals, although properly registered with FINRA, were not properly identified as participants in the firm's municipal advisory business. After filing form MA-I's for two of these individuals in January of 2015, Cabrera failed to timely update the Form MA-I's when they were terminated in May and June of 2015. Cabrera then hired a municipal advisory principal in June 2015 but failed to file a Form MA-I for him until October of 2015.

MSRB Rule G-44 requires that each municipal advisor establish, implement, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules. Respondent's written supervisory procedures for its municipal advisory activities were not reasonably designed because they: (a) did not identify what steps are taken to supervise municipal advisory business and who was responsible for supervision; (b) failed to outline processes to avoid, investigate, and supervise potential conflicts of interest; (c) failed to address the servicing of accounts of municipal entities or obligated persons and the treatment of funds deposited as the result of bond sales proceeds; and (d) failed to determine whether funds being invested are proceeds from a municipal issuance or escrow.

By reason of the foregoing conduct, Respondent violated MSRB Rule A-12, Securities Exchange Act Rules 240.15Ba2-6T, 240.15Ba1-2(b), and 240.15Ba1-5, and MSRB Rule G-44.

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

Censure and a fine of \$25,000 (\$22,500 of which pertains to the violations of MSRB Rules G-27, A-12, and G-44).

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which Respondent 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 sanction(s) imposed in this matter.

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

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 record 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 understand 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 Respondent, 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 Respondent 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.

10/11/2017
Date (mm/dd/yyyy)

[Signature]
Cabrera Capital Markets, LLC

By: Robert Aguilar

Reviewed by:

[Signature]
Michael J. Diver
Counsel for Respondent
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, Illinois 60661-3693
(312) 902-5671

Accepted by FINRA:

10/12/17
Date

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

[Signature]
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