

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015047927501**

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

RE: First Manhattan Co., Respondent
Member Firm
CRD No. 1845

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent First Manhattan Co. 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

Respondent has been a member of FINRA since January 11, 1955, and its registration remains in effect. Respondent is a New York limited partnership, with headquarters and sole branch in New York, New York. Respondent has approximately 80 registered representatives.

RELEVANT DISCIPLINARY HISTORY

Respondent does not have any relevant disciplinary history with the Securities and Exchange Commission, any state securities regulator, or self-regulatory organization.

OVERVIEW

Respondent violated MSRB Rules G-17 and G-30 on seven occasions by failing to purchase municipal securities for its customers at prices that were fair and reasonable in relation to prevailing market conditions. Respondent also violated MSRB Rule G-27 by failing to adopt, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with MSRB Rule G-30.

FACTS AND VIOLATIVE CONDUCT

MSRB Rule G-30(b)(i) requires “[e]ach broker, dealer and municipal securities dealer, when executing a transaction in municipal securities for or on behalf of a customer as agent, [to] make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions.” In seven transactions in July and August 2015, identified on Attachment A, Respondent bought municipal securities for its customers from an unaffiliated dealer, without making a reasonable effort to obtain prices that were fair and reasonable in relation to prevailing market conditions.¹ The unaffiliated dealer was Respondent’s counterparty for nearly all of its municipal securities transactions, and Respondent did not consider the prices being offered by other broker-dealers, resulting in the transactions identified on Attachment A being executed at prices away from the market. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rules G-30(b)(i) and G-17, the latter of which requires that each dealer deal fairly with all persons and not engage in any deceptive, dishonest, or unfair practice.

MSRB Rule G-27(b) requires each dealer to establish and maintain a system to supervise the municipal securities activities of its associated persons that is reasonably designed to achieve compliance with MSRB Rules and applicable securities laws and regulations. Furthermore, MSRB Rule G-27(c) requires each dealer to adopt, maintain, and enforce written supervisory procedures reasonably designed to ensure that the conduct of municipal securities activities of the dealer and its associated persons are in compliance with MSRB Rules and applicable securities laws and regulations.

From July 2015 to May 2016, Respondent’s procedures did not state how a designated principal shall monitor for compliance with MSRB Rule G-30(b)(i)’s requirement to make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions. Furthermore, although a registered principal periodically reviewed summary, aggregate pricing data to determine whether First Manhattan’s pricing across all of its municipal securities transactions was comparable on average to market prices, the review was not reasonably designed to achieve compliance with MSRB Rule G-30(b)(i) because aggregated data can obscure information about individual transactions. As a result of the foregoing conduct, Respondent violated MSRB Rule G-27.

In May 2016, Respondent implemented new written supervisory procedures that required a comparison of the pricing of each municipal securities transaction against one or more independent sources.

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

- A censure;
- A fine of \$100,000.

¹ Respondent provided evidence that it already has paid restitution to the customers listed on Attachment A in the total amount of \$48,220.64 plus interest.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

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

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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 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 understands 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 the 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 it has agreed to the AWC's 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 it to submit it.

First Manhattan Co.
Respondent

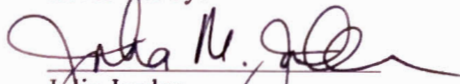
3-9-20
Date

By: Neal K. Stearns

Print Name: Neal K. Stearns

Title: Senior Managing Director

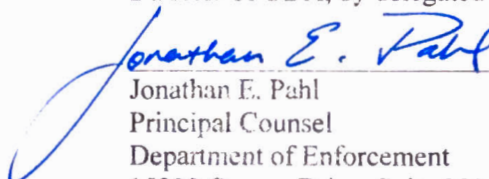
Reviewed by:


Julia Jordan
Counsel for Respondent
Sullivan & Cromwell LLP
1700 New York Avenue, NW, Suite 700
Washington, DC 20006

Accepted by FINRA:

March 23, 2020
Date

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


Jonathan E. Pahl
Principal Counsel
Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, MD 20850

**First Manhattan Co.
FINRA Matter No. 2015047927501
AWC Attachment A**

Trade Date	Trade Time	CUSIP	Customer	Volume	Price¹	Restitution
7/10/2015	13:43:06	745181N52	AK	80,000	98.50	\$4,041.60
7/21/2015	16:18:25	745181N52	AK	120,000	98.50	\$3,888.24
7/02/2015	14:32:07	745181P35	MS	250,000	103.00	\$12,227.50
7/02/2015	14:32:07	745181P35	MS	250,000	103.00	\$12,227.50
8/05/2015	14:25:59	745181P35	MS	135,000	102.779	\$6,301.80
8/11/2015	11:35:55	745181P35	MS	100,000	102.774	\$4,913.00
7/09/2015	12:31:06	745190W61	DR	100,000	115.022	\$4,621.00
Total Restitution						\$48,220.64

¹ All prices in this Attachment A exclude commissions.