

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017052699901**

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

RE: Gregory T. Dean, Respondent
Former General Securities Representative
CRD No. 4922996

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Gregory T. Dean, 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

Dean first entered the securities industry in March 2005 when he became registered with FINRA as an Investment Company and Variable Contracts Products Representative (IR) through a member firm. Dean became registered with FINRA as a General Securities Representative (GS) through an association with another member firm in June 2005. He was associated with J.D. Nicholas & Associates, Inc. (Firm CRD #44791) from January 2007 until November 2014, and he became registered as a General Securities Principal (GP) in January 2008 and Operations Professional (OS) in November 2011. From November 21, 2014 through July 1, 2019, Dean was registered through Worden Capital Management LLC ("Worden") (Firm CRD #148366) as a GS, GP and OS. On July 1, 2019, Worden filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") disclosing that Dean was discharged subject to a permanent bar pursuant to a settlement with the Securities and Exchange Commission as described below.

RELEVANT DISCIPLINARY HISTORY

On June 10, 2019, a final judgment was entered against Dean, by consent, in an action brought by the Securities and Exchange Commission (Case No. 17-CV-139) in the United States District Court for the Southern District of New York. Dean admitted findings in the final judgment that, while Dean was associated with J.D. Nicholas, he knowingly or recklessly made trade recommendations to customers with no reasonable basis; made material misrepresentations and omissions to customers; and engaged in unauthorized trading in customer accounts between 2011 and 2014 in violation of Section 17(a) of the Securities Act of 1933 (the "Securities Act") and Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5. Dean consented to the entry of an injunction, disgorgement of \$253,881.98, pre-judgment interest of \$50,521.70 and a civil penalty of \$253,881.98.

On June 26, 2019, an Order Instituting Administrative Proceedings against Dean was filed by the Securities and Exchange Commission (File No. 3-19217) barring Dean from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

OVERVIEW

Between December 2014 and December 2017 (the "Relevant Period"), while associated with Worden, Dean churned and excessively traded seven customers' accounts. Dean's trading in his customers' accounts, which heavily utilized margin, caused significant account losses and high commissions and fees. As a result, Dean willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 and violated FINRA Rules 2020, 2111, and 2010.

FACTS AND VIOLATIVE CONDUCT

Section 10(b) of the Exchange Act makes it unlawful for any person to employ "any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the [Securities and Exchange] Commission may prescribe." Rule 10b-5 of the Exchange Act makes it unlawful for any person directly or indirectly, in connection with the sale or purchase of any security, to: (a) "employ any device, scheme, or artifice to defraud," (b) "make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made...not misleading," or (c) "engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person."

FINRA Rule 2020 is similar to Rule 10b-5 and provides that a member may not "effect any transaction in, or induce the purchase or sale of, any security by any manipulative, deceptive or other fraudulent device or contrivance."

FINRA Rule 2111, FINRA's suitability rule, imposes a "quantitative suitability" obligation that focuses on whether the number of transactions within a given timeframe is suitable in light of the customer's financial circumstances and investment objectives. Excessive trading occurs, and is unsuitable, when a registered representative, while exercising control over a customer's account, recommends a level of trading activity that is inconsistent with the customer's investment needs and objectives. The Supplementary Material to FINRA Rule 2111 at Rule 2111.05(c) states that, "[n]o single test defines excessive activity, but factors such as the turnover rate, cost-equity ratio, and the use of in-and-out trading in a customer's account may provide a basis for a finding that a member or associated person has violated the quantitative suitability obligation." Turnover rate represents the number of times that a portfolio of securities is exchanged for another portfolio of securities. The cost-to-equity ratio measures the amount an account has to appreciate just to cover commissions and other expenses. In other words, it is the break-even point where a customer may begin to see a return. A turnover rate of six or a cost-to-equity ratio above 20 percent generally indicates that excessive trading has occurred.

Excessive trading becomes churning, which violates Section 10(b) of the Exchange Act, Rule 10b-5 and Rule 2020, when the registered representative acts with an intent to defraud or a reckless disregard for the customer's interests.

Violations of FINRA Rules 2020 and 2111, as well as Exchange Act Section 10(b) and Rule 10b-5, also are violations of FINRA Rule 2010, which requires registered representatives to "observe high standards of commercial honor and just and equitable principles of trade."

During the Relevant Period, Dean engaged in churning and quantitatively unsuitable trading in the accounts of seven customers. Dean made all trading decisions in the seven customers' accounts, including which specific securities to buy and sell, when to buy and sell the securities, and the quantity of securities to buy and sell. Dean recommended the trading in the customers' accounts and each of the customers followed Dean's recommendations. Dean therefore exercised *de facto* control over these customers' accounts.

Dean's trading in the seven customers' accounts was excessive and conducted with reckless disregard for the customers' interests. Dean employed an investment strategy that entailed short-term in-and-out trades, and Dean used margin as a means to increase the buying power in his customers' accounts.

Dean's trading of the seven accounts resulted in high turnover rates and cost-to-equity ratios as well as significant losses, as set forth below.

- Between December 18, 2015 and August 31, 2017, Dean effected 93 trades in WC's account, which had an average monthly account balance of approximately \$13,770. WC's account exhibited an annualized turnover

rate of 30.99 and an annualized cost-to-equity ratio of 72.09%. WC's account incurred losses of \$77,274 and WC paid approximately \$17,700 in commissions and fees and almost \$3,000 in margin interest.

- Between May 18, 2015 and September 7, 2017, Dean effected 635 trades in RC's account, which had an average monthly account balance of approximately \$184,763. RC's account exhibited an annualized turnover rate of 92.12 and an annualized cost-to-equity ratio of 83.85%. RC's account incurred losses of \$1,295,625 and RC paid approximately \$297,797 in commissions and fees and over \$76,586 in margin interest.
- Between May 10, 2016 and March 28, 2017, Dean effected 75 trades in DG's account, which had an average monthly account balance of approximately \$14,000. DG's account exhibited an annualized turnover rate of 54.53 and an annualized cost-to-equity ratio of 130.64%. DG's account incurred losses of \$20,552 and DG paid approximately \$16,813 in commissions and fees and almost \$1,550 in margin interest.
- Between March 2, 2015 and March 23, 2017, Dean effected 201 trades in DM's account, which had an average monthly account balance of approximately \$86,833. DM's account exhibited an annualized turnover rate of 36.55 and an annualized cost-to-equity ratio of 45.47%. DM's account incurred losses of \$188,594 and DM paid approximately \$96,235 in commissions and fees and approximately \$18,934 in margin interest.
- Between December 30, 2014 and August 29, 2017, Dean effected 137 trades in EM's account, which had an average monthly account balance of approximately \$11,400. EM's account exhibited an annualized turnover rate of 60.39 and an annualized cost-to-equity ratio of 84.41%. EM's account incurred losses of \$98,230 and EM paid approximately \$22,648 in commissions and fees and approximately \$3,057 in margin interest.
- Between April 17, 2015 and July 28, 2017, Dean effected 137 trades in IR's account, which had an average monthly account balance of approximately \$12,762. IR's account exhibited an annualized turnover rate of 47.54 and an annualized cost-to-equity ratio of 132.97%. IR's account incurred losses of \$89,193 and IR paid approximately \$36,597 in commissions and fees and approximately \$4,415 in margin interest.
- Between May 29, 2015 and June 27, 2017, Dean effected 369 trades in BS's account, which had an average monthly account balance of approximately \$152,000. BS's account exhibited an annualized turnover rate of 51.38 and an annualized cost-to-equity ratio of 38.1%. BS's account incurred losses of \$65,364 and BS paid approximately \$75,625 in commissions and fees and almost \$45,000 in margin interest.

Dean's trading in the accounts of WC, RC, DG, DM, EM, IR, and BS was excessive and unsuitable given the customers' investment profiles. Moreover, Dean effected the short-term in-and-out trading with reckless disregard for these seven customers' interests.

Dean's trading in the seven customers' accounts resulted in more than \$1,834,832 in cumulative losses while generating more than \$715,930 in commissions, fees and margin interest charged to the customers. The level of trading activity in these accounts, which Dean controlled, made it nearly impossible to generate trading profits for the customers. This strategy did, however, increase commissions for Dean.

By virtue of the foregoing, Dean willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 and violated FINRA Rules 2111, 2020 and 2010.

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

- A bar from association in all capacities with any FINRA member firm;

I understand that this settlement includes a finding that I willfully violated Section 10(b) of the Securities Exchange Act of 1934 and that under Article III, Section 4 of FINRA's By-Laws, this makes me subject to a statutory disqualification with respect to association with a member.

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.

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 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

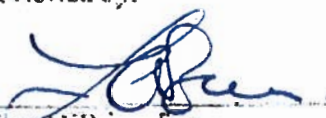
inconsistent with any part of this AWC. Nothing in this provision affects my: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

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.

07/21/2019
Date (mm/dd/yyyy)


Gregory T. Dean, Respondent

Reviewed by:


Liam O'Brien, Esq.
Counsel for Respondent
McCormick & O'Brien, LLP
9 East 40th Street, 4th Floor
New York, NY 10016
(212) 320-8972

Accepted by FINRA:

8/15/2019
Date

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


Michael Perkins, Senior Counsel
FINRA Department of Enforcement
Brookfield Place
200 Liberty Street
New York, NY 10281
(212) 416-1752
Michael.Perkins@finra.org