

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017053310601**

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

RE: Donald Stark, Respondent
CRD No. 728228

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 in this AWC.

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

Stark has been registered with FINRA or its predecessor as a general securities representative since 1981 and as a registered options principal since 1985. He has associated with Stifel, Nicolaus & Company, Inc. since 2009.

RELEVANT DISCIPLINARY HISTORY

In 1987, FINRA's predecessor fined Stark \$5,000, censured him, and required him to pay restitution for trading without a customer's permission.

OVERVIEW

Stark exercised discretion without written authorization in a customer's accounts on twenty-four occasions over eighteen months. By doing so, Stark violated NASD Rule 2510(b) and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

From March 2015 to August 2016, Stark used discretion to purchase preferred stocks on sixteen occasions and sell preferred stocks on eight occasions for the accounts of EC, a senior investor. In early 2015, EC had verbally authorized Stark to manage his portfolio in accordance with certain general parameters, but EC never granted that authority in writing, nor did Stark's firm accept in writing EC's accounts for discretionary trading.

NASD Rule 2510(b) prohibits registered persons from "exercis[ing] any discretionary power in a customer's account unless such customer has given prior written authorization ... and the account has been accepted by the member, as evidenced in writing by the member...." Violating NASD Rule 2510(b) also constitutes a violation of FINRA Rule 2010.

By using discretion without his customer's prior written authorization and his firm's written acceptance of the customer's accounts for discretionary trading, Stark violated NASD Rule 2510(b) and consequently FINRA Rule 2010.

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

- Suspension of 10 business days
- Fine of \$5,000

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 bar or suspension (see FINRA Rules 8310 and 8311).

I agree to pay the fine imposed in this matter upon notice that this AWC has been accepted and that the fine is due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine. I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the fine.

The sanctions imposed in this AWC 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 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 testimonial obligations or 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 in this AWC and the prospect of avoiding the issuance of a Complaint, has been made to induce me to submit it.

5/30/2017
Date (mm/dd/yyyy)

Donald Stark
Donald Stark

Reviewed by:


Robert Herskovits
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Counsel for Donald Stark

Accepted by FINRA:

June 15, 2017
Date

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



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