

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017053655601**

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

RE: Cowen and Company LLC, Respondent
Broker-Dealer
CRD No. 7616

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Cowen and Company LLC (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 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

The firm became a member of FINRA in May 1978. It is a full-service investment banking and securities brokerage firm that publishes research and provides brokerage services to institutional customers. The firm employs approximately 600 registered individuals and maintains 12 branch offices. The firm has no relevant disciplinary history.

OVERVIEW

During the periods July 1, 2016 through December 31, 2016 (the "2016 review period") and January 1, 2018 through December 31, 2018 (the "2018 review period"), and continuing through February 2020, the firm published quotations in a quotation medium in reliance on an exception set forth in Rule 15c2-11(f)(2) of the Securities Exchange Act of 1934 (the "Exchange Act") without demonstrating its eligibility to rely on the exception by making contemporaneous records required by FINRA Rule 6432 (Supplementary Material .01), and failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with such recordkeeping requirements and the requirements set forth in Exchange Act Rule 15c2-11 and FINRA Rule 6432. As a result, the firm violated FINRA Rules 6432 (Supplementary Material .01), 3110, and 2010.

FACTS AND VIOLATIVE CONDUCT

These matters resulted from routine surveillance by the staff of the Department of Market Regulation.

Relevant Rules

1. Exchange Act Rule 15c2-11 governs the submission and publication of quotations by broker-dealers for OTC Equity securities and serves to prevent fraudulent, deceptive, or manipulative acts or practices by prohibiting broker-dealers from publishing quotes for securities in quotation mediums without: (i) having in its records certain documents and information¹ and (ii) having a reasonable basis under the circumstances for believing that the information is accurate in all material respects, and that the sources of the information are reliable.
2. Subsection (f) of Rule 15c2-11 sets forth exceptions where a firm is not required to have in its records the information specified in the rule, such as the unsolicited quotation exception that is set forth in subsection (f)(2). This particular exception allows a broker-dealer to publish or submit a quotation, solely on behalf of a customer, that represents the customer's order and does not involve the solicitation of the customer's interest.
3. FINRA Rule 6432 requires broker-dealers who are not relying on an exception to Exchange Act Rule 15c2-11 to "demonstrate compliance [with Exchange Act Rule 15c2-11] by making a filing with, and in the form required by, FINRA, which...must be received at least three business days before the member's quotation is published or displayed in the quotation medium." This filing is referred to as a Form 211 application.
4. FINRA Rule 6432 (Supplementary Material .01) requires broker-dealers that initiate or resume quotations in reliance on the exception set forth in Exchange Act Rule 15c2-11(f)(2) to demonstrate its eligibility for the exception by making a contemporaneous record of: (a) the identification of each associated person who receives the unsolicited customer order or indication of interest directly from the customer, if applicable; (b) the identity of the customer; (c) the date and time the unsolicited customer order or indication of interest was received; and (d) the terms of the unsolicited customer order or indication of interest that is the subject of the quotation.

¹ Information required by Paragraph (a) of the rule includes a copy of the prospectus per Section 10(a) of the Securities Act of 1933 for an issuer, a copy of the offering circular provided for under Regulation A of the Securities Act of 1933, a copy of the issuer's most recent annual report, information published by the issuer relating to requests for information in the proposed transactions, and various current information that shall be made available upon request (e.g., exact name of issuer, address of principal executive offices, state of incorporation, title and class of security, etc.). Information required by Paragraph (b) of the rule includes, among other things, a record of the circumstances involved in the submission of publication of such quote, including the identity of the person(s) for whom the quote is being submitted/published and any information regarding the transactions provided to the broker-dealer by such person(s).

5. FINRA Rule 3110 requires members to establish and maintain written procedures and a system to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable FINRA rules.
6. FINRA Rule 2010 requires members, in the conduct of their business, to “observe high standards of commercial honor and just and equitable principles of trade.”

Violative Conduct

7. During the 2016 review period, in 66 out of a sample of 66 quotations the firm placed in OTC Equity securities, the firm relied on the unsolicited quotation exception set forth in Exchange Act Rule 15c2-11(f)(2). These 66 quotations were unsolicited, but the firm did not demonstrate its eligibility for reliance on the exception by making a contemporaneous record of unsolicited customer orders. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rules 6432 (Supplementary Material .01) and 2010.
8. During the 2018 review period, in 70 out of a sample of 70 quotations the firm placed in OTC Equity securities, the firm relied on the unsolicited quotation exception set forth in Exchange Act Rule 15c2-11(f)(2). These 70 quotations were unsolicited, but the firm did not demonstrate its eligibility for reliance on the exception by making a contemporaneous record of unsolicited customer orders. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rules 6432 (Supplementary Material .01) and 2010.
9. In addition to the 2016 and 2018 review periods, the firm continues to engage in this conduct. For example, in February 2020, in 14 out of a sample of 15 quotations, the firm relied on the unsolicited quotation exception set forth in Exchange Act Rule 15c2-11(f)(2), but did not demonstrate its eligibility for reliance on the exception by making a contemporaneous record of unsolicited customer orders. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 6432 (Supplementary Material .01) and 2010.
10. During both the 2016 and 2018 review periods, the firm failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce written supervisory procedures that were reasonably designed to achieve compliance with FINRA Rule 6432 (Supplementary Material .01). The firm’s procedures included a daily review of an OTC Equity statistics sheet provided by a third-party “to ensure that orders in Bulletin Board and Pink Sheet securities have been handled in accordance with the applicable rules.” But while the OTC Equity statistics sheet includes a list of the unsolicited quotes that the firm maintained at market open and entered throughout the trading day, a supervisory review of that statistics sheet alone would not indicate to the firm whether it complied with FINRA Rule 6432 (Supplementary Material .01). Moreover, the firm’s procedures did not describe how

that review should be performed or identify any additional information that should be reviewed along with the OTC Equity statistics sheet, and did not set forth any other reviews of the firm's unsolicited quotes in order to achieve compliance with FINRA Rule 6432 (Supplementary Material .01). The conduct described in this paragraph constitutes a violation of FINRA Rules 3110 and 2010.

11. In addition, during both the 2016 and 2018 review periods, the firm failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce written supervisory procedures, that were reasonably designed to achieve compliance with Exchange Act Rule 15c2-11 and FINRA Rule 6432. The firm initiated quotations in OTC Equity securities for its own account and submitted Form 211 applications with FINRA. The firm's written supervisory procedures merely stated that "[s]hould the Firm post quotations it must do so pursuant to a 15c2-11 filing or an exemption from the rule." However, the firm had no supervisory system or written supervisory procedures or reviews in place to review for compliance with the requirements of Exchange Act Rule 15c2-11 or FINRA Rule 6432. The conduct described in this paragraph constitutes a violation of FINRA Rules 3110 and 2010.

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

1. A censure;
2. A fine of \$32,500 (comprised of \$17,500 for the FINRA Rule 6432 (Supplementary Material .01) violations and \$15,000 for the supervision violation); and
3. An undertaking to revise the Respondent's written supervisory procedures with respect to the areas of deficiencies in paragraphs I.A.10 and I.A.11, above. Within 30 business days of acceptance of this AWC by the National Adjudicatory Council ("NAC"), a registered principal of the firm shall submit to the COMPLIANCE ASSISTANT, MARKET REGULATION ENFORCEMENT, 15200 OMEGA DRIVE, SUITE 300, ROCKVILLE, MD 20850 a signed, dated letter, or an email from a work-related account of the registered principal to MarketRegulationComp@finra.org, providing the following information: (i) a reference to this matter; (ii) a representation that the firm has addressed and corrected the deficiencies described in paragraphs I.A.10 and I.A.11, above; and (iii) the date the deficient procedures were addressed and corrected by the firm.

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 it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time hereafter, the monetary sanction 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 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 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 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.

Date
6/29/2020

Cowen and Company LLC
Respondent

By: _____

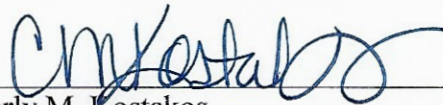
Print Name: Steven Cohen

Title: CCO

Accepted by FINRA:

7/9/20
Date

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

_____
Carly M. Kostakos
Senior Counsel
FINRA
Department of Enforcement
15200 Omega Drive
Suite 300
Rockville, MD 20850