

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018056490308**

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

RE: Arthur B. McQuaide (Respondent)
Former General Securities Representative
CRD No. 4581876

Pursuant to FINRA Rule 9216, Respondent Arthur B. McQuaide 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 in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

McQuaide first registered with FINRA as a General Securities Representative (GS) in May 2003. From January 2016 to December 2022, McQuaide was registered with FINRA as a GS through Spartan Capital Securities, LLC (Spartan) (CRD 146251). On December 22, 2022, Spartan filed a Uniform Termination Notice for Securities Industry Registration terminating McQuaide's registration through the firm. Although McQuaide is no longer registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.¹

OVERVIEW

From March 2016 through January 2020, while registered with FINRA through Spartan, McQuaide excessively traded two customer accounts in violation of FINRA Rules 2111 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's 2018 cycle exam of Spartan.

¹ For more information about the respondent, visit BrokerCheck® at www.finra.org/brokercheck.

FINRA Rule 2111(a) provides in pertinent part that “[a] member or an associated person must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer’s investment profile.” As explained in the Supplementary Material found at 2111.05(c):

Quantitative suitability requires a member or associated person who has actual or de facto control over a customer account to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer’s investment profile, as delineated in Rule 2111(a). No single test defines excessive activity, but factors such as the turnover rate, the 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.²

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. An annualized turnover rate of six or an annualized cost-to-equity ratio above 20 percent generally indicates that excessive trading has occurred.

A violation of FINRA Rule 2111 also constitutes a violation of FINRA Rule 2010, which requires associated persons to act with high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

From March 2016 through January 2020, McQuaide engaged in quantitatively unsuitable trading in the accounts of two customers. McQuaide recommended high frequency trading in the two customer accounts. McQuaide’s customers relied on his advice and routinely followed his recommendations and, as a result, McQuaide exercised *de facto* control over the two customers’ accounts.

McQuaide’s trading resulted in high turnover rates and cost-to-equity ratios, as set forth below:

1. In March 2016, Customer A opened an account at Spartan with McQuaide. At that time, he was 73 years old. He passed away in May 2021. From March 2016 through January 2020, McQuaide effected 214 transactions in customer A’s account, resulting in an annualized turnover rate of 14.73 and an annualized cost-

² FINRA Rule 2111 was amended effective June 30, 2020. The quoted excerpt is from the pre-June 30, 2020 version which applies to the conduct at issue here.

to-equity ratio of 52%. McQuaide's trading in Customer A's account generated total trading costs of \$171,656, including \$137,250 in commissions, and caused \$169,260 in realized losses.

2. In March 2016, Customer B opened an account at Spartan with McQuaide. At the time he was 63 years old and worked as a farmer. The account was intended to grow his retirement savings, so Customer B's investment objective was growth with moderate risk. From April 2016 through November 2019, McQuaide effected 43 transactions in Customer B's account, resulting in an annualized turnover rate of 9.37 and an annualized cost-to-equity ratio of 42%. McQuaide's trading in Customer B's account generated total trading costs of \$30,028, including \$23,110 in commissions, and caused \$21,579 in realized losses.

McQuaide's trading in these two customers' accounts was excessive and unsuitable given the customers' investment profiles. As a result of McQuaide's excessive trading, the customers suffered collective realized losses of \$190,839, while paying total trading costs of \$201,684, including commissions of \$160,360.

Therefore, McQuaide violated FINRA Rules 2111 and 2010.

- B. Respondent also consents to the imposition of the following sanction:

- a six-month suspension from associating with any FINRA member in all capacities.

Respondent has submitted a statement of financial condition and demonstrated an inability to pay. In light of Respondent's financial status, no monetary sanctions have been imposed.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, he 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.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

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 him;

- 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 its acceptance or rejection.

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:

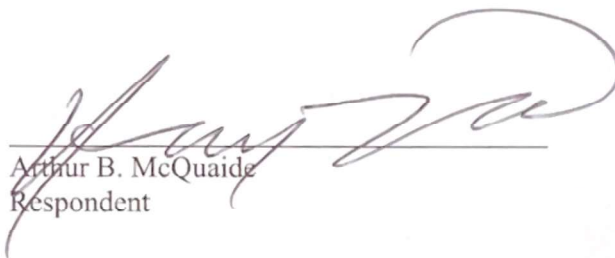
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not 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 its subject matter 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.

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 he 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.

Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and 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 him to submit this AWC.

11/21/2023
Date


Arthur B. McQuaide
Respondent

Reviewed by:


Liam O'Brien, Esq.
Counsel for Respondent
125 Park Avenue, 25th Floor
New York, NY 10017

Accepted by FINRA:

12/07/2023

Date

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

Vaishali Shetty

Vaishali Shetty
Senior Counsel
FINRA
Department of Enforcement
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