

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019061563601**

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

RE: B.C. Ziegler and Company (Respondent)
Member Firm
CRD No. 61

Pursuant to FINRA Rule 9216, Respondent B.C. Ziegler and Company 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 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

B.C. Ziegler has been a FINRA member since 1948 and is a full-service brokerage firm headquartered in Chicago, Illinois. The firm employs 134 registered individuals and has 21 branch offices. B.C. Ziegler does not have any relevant disciplinary history.

OVERVIEW

Between September 1, 2018 and March 11, 2019, B.C. Ziegler failed to transmit 28,226 reportable order events (ROEs) to the Order Audit Trail System (OATS). Between May 1, 2019 and August 31, 2019, B.C. Ziegler reported late to OATS 661 ROEs. In addition, between March 17, 2018 and March 11, 2019, B.C. Ziegler failed to supervise OATS reporting. Furthermore, between March 17, 2018 and January 14, 2020, B.C. Ziegler failed to establish and maintain a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with FINRA rules concerning OATS reporting. As a result, B.C. Ziegler violated FINRA Rules 7450, 3110(a) and (b)(1), and 2010.

FACTS AND VIOLATIVE CONDUCT

1. B.C. Ziegler failed to comply with its OATS reporting obligations.

Rule 7450 requires member firms to transmit to OATS, in an electronic format prescribed by FINRA, a “report containing each applicable item of order information . . . whenever an order is originated, received, transmitted to another department within the member or to another member, modified, canceled, or executed.” Rule 7450 further provides that member firms “must transmit reports of all order events occurring on an OATS Business Day by 8:00 a.m. Eastern Time on the calendar day following the end of the OATS Business Day.” Rule 2010 states, “A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” A violation of FINRA Rule 7450 is a violation of FINRA Rule 2010.

Between September 1, 2018 and March 11, 2019, B.C. Ziegler failed to transmit to OATS 28,226 ROEs. These ROEs represented 100% of all ROEs the firm was required to transmit to OATS during this period. Nearly all of these ROEs were associated with a specific trading desk at the firm. B.C. Ziegler failed to report those ROEs because the firm was not aware that its vendor stopped reporting to OATS when it was sold to a third party in September 2018.

The remaining ROEs were associated with a different trading desk at the firm. The firm failed to report the ROEs associated with this desk because B.C. Ziegler’s OATS trade reporting agreements did not cover the desk’s reportable trades, which were limited in volume. Beginning in March 2019, the desk began manually reporting trades. In May 2019, the desk’s volume of OATS reportable trade increased substantially which led to some ROEs being reported late. Between May 1, 2019 and August 31, 2019, the firm failed to timely report 661 of the ROEs associated with this desk.

Therefore, B.C. Ziegler violated Rules 7450 and 2010.

2. B.C. Ziegler failed to supervise OATS reporting.

Rule 3110(a) states, “Each member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.” Rule 3110(a)(2) requires “[t]he designation, where applicable, of an appropriately registered principal(s) with authority to carry out the supervisory responsibilities of the member for each type of business in which it engages for which registration as a broker-dealer is required.” A violation of Rule 3110(a) also violates Rule 2010.

Between March 17, 2018 and March 11, 2019, B.C. Ziegler failed to designate an OATS supervisor, and no one supervised OATS reporting. Prior to March 2018, the supervisor of B.C. Ziegler’s retail trading desk had been the firm’s OATS supervisor. The supervisor retired when the firm sold the retail trading desk that month, and his supervisory duties were not transferred until nearly a year later. Therefore, B.C. Ziegler violated Rules 3110(a) and 2010.

3. B.C. Ziegler failed to establish and maintain a reasonable supervisory system and WSPs regarding OATS reporting.

FINRA Rule 3110(b)(1) states, “Each member shall establish, maintain, and enforce written procedures 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.” A violation of Rule 3110(b)(1) also violates Rule 2010.

Between March 17, 2018 and January 14, 2020, B.C Ziegler failed to establish and maintain a supervisory system and WSPs reasonably designed to achieve compliance with OATS reporting requirements. Throughout this time period, B.C. Ziegler’s supervisory system and WSPs failed to provide for a periodic comparison of OATS data to the firm’s underlying books and records to verify the accuracy and completeness of OATS reports. In addition, between March 17, 2018 and October 18, 2019, the firm’s WSPs were not reasonably tailored to its business. For example, the WSPs included two proposed alternative procedures for trade reporting reviews with no indication which (if either) was the operative procedure.¹ Therefore, B.C. Ziegler violated Rules 3110(a) and (b)(1) and 2010.

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

A censure and a \$30,000 fine (\$10,000 for OATS violations and \$20,000 for supervisory violations).

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 after the execution of this AWC, the monetary sanction imposed in this matter.

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:

¹ B.C. Ziegler subsequently amended its supervisory system and WSPs, as reflected in its WSPs dated October 19, 2019 and January 15, 2020.

- 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 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;

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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 testimonial obligations or 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

December 16, 2020

Date

James Bushman

B.C. Ziegler and Company
Respondent

Print Name: James Bushman

Title: Director / CCO

Reviewed by:

Alan Wolper

Alan M. Wolper
Counsel for Respondent
Ulmer & Berne LLP
500 W. Madison Street, Suite 3600
Chicago, IL 60601

Accepted by FINRA:

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

December 24, 2020

Date

Alfred B. Jensen

Alfred B. Jensen
Counsel
FINRA
Department of Enforcement
200 Liberty Street
New York, NY 10281