

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019062006601**

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

RE: Alan Scot Feigenbaum (Respondent)
Former General Securities Representative and Investment Company and Variable
Contracts Products Representative
CRD No. 3132230

Pursuant to FINRA Rule 9216, respondent Alan Scot Feigenbaum 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

Respondent was registered with FINRA through National Securities Corporation from November 2013 to March 2019. On March 19, 2019, National filed a Uniform Termination Notice for Securities Industry Registration (Form U5) stating that Respondent was permitted to resign for “Improper use of the Firm’s trading platform to execute trades in client accounts.” Respondent became registered in April 2019 through Newbridge Securities Corporation. On May 7, 2021, Newbridge filed a Form U5 stating that Respondent voluntarily resigned.

Although Respondent is no longer 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

At various points during 2017 to 2019, Respondent exercised discretion without written authority in dozens of customer accounts in violation of NASD Rule 2510 (before May 8, 2019), FINRA Rule 3260 (on and after May 8, 2019), and FINRA Rule 2010; and, sent

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

and received approximately 400 brokerage-related emails over an unauthorized email account in violation of FINRA Rules 4511 and 2010. In addition, in 2018, Respondent mismarked approximately 100 solicited trades as unsolicited in violation of FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from the March 19, 2019 Form U5 described above.

Respondent exercised discretion without written authorization.

NASD Rule 2510(b) prohibited and FINRA Rule 3260(b) prohibits registered representatives from “exercis[ing] any discretionary power in a customer’s account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member.”² Violations of NASD Rule 2510(b) and FINRA Rule 3260(b) are also violations of FINRA Rule 2010.

Between January 2017 and November 2019, while Respondent was registered through National and Newbridge, he entered orders on a discretionary basis for approximately 2,000 trades in 120 accounts, including those of senior customers. Although the customers permitted Respondent to exercise discretion, none had given him written authorization to do so and neither firm had approved the accounts as discretionary. None of the customers have complained. Respondent exercised discretion without written authorization despite having received informal discipline, in the form of a written letter of caution from his supervisor at National, in September 2015 for similar misconduct.

On compliance questionnaires dated July 17, 2017, August 20, 2018, and November 27, 2019, Respondent inaccurately stated that he had not exercised discretion in any customer account.

Therefore, Respondent violated NASD Rule 2510(b) (for misconduct prior to May 8, 2019), and FINRA Rules 3260(b) (for misconduct on and after May 8, 2019) and 2010.

Respondent caused National to violate its books and records obligations through his use of an unauthorized email account and by mismarking orders as unsolicited.

FINRA Rule 4511 requires members to “make and preserve books and records as required under the FINRA rules, the Securities Exchange Act of 1934 and the applicable Exchange Act rules.” Section 17(a) of the Exchange Act and Rule 17a-4 thereunder require firms to preserve, for a period of three years, a record of all communications sent and received relating to the member’s business. A registered representative who causes his member firm to fail to comply with its recordkeeping obligations under Exchange Act and FINRA rules violates FINRA Rule 4511.

² FINRA Rule 3260(b) superseded NASD Rule 2510(b) on May 8, 2019.

Separately, Exchange Act § 17(a) and Rule 17a-3 thereunder require firms to make and keep a memorandum of each brokerage order. A registered representative who mismarks an order as “unsolicited” causes a firm to create an inaccurate record, in violation of FINRA Rules 4511 and 2010.

Respondent had an approved outside business through which he provided accounting and tax services to clients. In addition to his firm email account, Respondent maintained a separate email account to communicate with his accounting and tax service clients. From January 2017 through February 2019, while registered through National, Respondent communicated approximately 400 times with certain of his brokerage customers, including seniors, regarding securities-related matters over the email account he used for his tax preparation business. The content of the communications included investment recommendations. Because the firm was unaware of and had not authorized use of the email account, it was unable to supervise, preserve, or retain the securities-related emails.

On two compliance questionnaires dated July 17, 2017 and August 20, 2018, Respondent inaccurately stated that he had conducted all business-related communication over his firm email account.

Moreover, from February 2018 through December 2018, Respondent marked approximately 100 trades in a particular exchange-traded product in 39 accounts as unsolicited, when in fact he had solicited the transactions. Respondent’s mismarking of these orders caused National to create and maintain inaccurate records.

Therefore, Respondent violated FINRA Rules 4511 and 2010.

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

- a five-month suspension from associating with any FINRA member in all capacities and
- a \$15,000 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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.

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 prejudice 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:

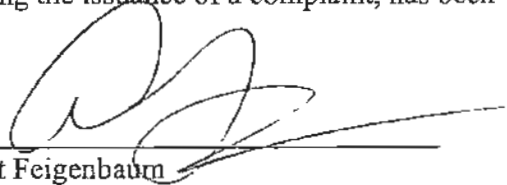
1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
3. FINRA may 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 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 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.

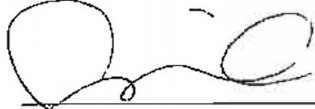
Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

Date

11-12-2021


Alan Scot Feigenbaum
Respondent

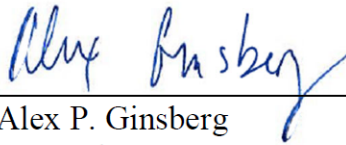
Reviewed by:



Gregory Tendrich
Counsel for Respondent
Gregory Tendrich, P.A.
3010 N. Military Trail
Boca Raton, FL 33431

Accepted by FINRA:

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



Alex P. Ginsberg
Counsel
FINRA
Department of Enforcement
200 Liberty Street, 11th floor
New York, New York 10281-1003

December 6, 2021

Date