

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2020065196801**

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

RE: David Gray Dalton, Respondent
General Securities Representative
CRD No. 2418235

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent David Gray Dalton ("Respondent" or "Dalton") 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

Dalton entered the securities industry in October 1993 and, since then, has been associated with several FINRA regulated broker-dealers. In February 2002, he became associated with Moors & Cabot, Inc. (the "Firm"), a FINRA regulated broker-dealer, as a General Securities Representative ("GSR").

In a Uniform Termination Notice for Securities Industry Registration ("Form U5") dated January 4, 2020, the Firm reported the voluntary termination of Dalton's association with the Firm.

Although Dalton is not currently associated with a FINRA regulated broker-dealer, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

Respondent does not have any disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

OVERVIEW

From June 2011 through December 2014 (the “Relevant Period”), Dalton violated NASD Rule 2510(b) and FINRA Rule 2010 when he exercised discretionary trading authority in 221 of his Firm customers’ accounts without having first obtained written authorization from the customers or the Firm to treat the accounts as discretionary.

Dalton also failed to indicate that he had exercised discretionary trading authority, which caused the Firm to create and maintain inaccurate order memoranda in violation of Section 17(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 17a-3 promulgated thereunder. By causing the Firm to maintain these inaccurate books and records, Dalton violated NASD Rule 3110 (for conduct occurring before December 5, 2011), FINRA Rule 4511 (for conduct occurring on or after December 5, 2011), and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

A. Dalton Engaged in Discretionary Trading

NASD Rule 2510(b) prohibits registered representatives from exercising discretionary trading authority in a customer’s account unless the customer has provided prior written authorization and the account has been accepted in writing as a discretionary account by the registered representative’s member-firm employer. A violation of NASD Rule 2510(b) is also a violation of FINRA Rule 2010, which requires associated persons to observe “high standards of commercial honor and just and equitable principles of trade.”

During the Relevant Period, the Firm’s written supervisory procedures (“WSPs”) prohibited registered representatives from trading in a customer’s account on a discretionary basis unless the registered representative received prior written approval from the customer and the Firm.

Dalton shared a joint representative code with his partner at the Firm, with whom he shared compensation equally. Dalton and his partner effected approximately 11,500 trades in 221 accounts of their Firm customers. In connection with most of these transactions, Dalton and his partner exercised discretionary authority without obtaining prior written authorization from their customers or the Firm. As a result, Dalton and his partner effected these trades without discussing or receiving approval from their customers for the trades.

Dalton also made false statements regarding his exercise of discretion in three Firm annual compliance questionnaires.

By exercising discretion in the accounts of his Firm customers, Dalton violated NASD Rule 2510(b) and FINRA Rule 2010.

B. Dalton Caused the Firm to Maintain Inaccurate Books and Records

NASD Rule 3110 and FINRA Rule 4511¹ require member firms to make and preserve books and records in conformity with Section 17(a) of the Exchange Act and Rule 17a-3 promulgated thereunder. Rule 17a-3 requires broker-dealers to make and keep current

¹ FINRA Rule 4511 superseded NASD Rule 3110 effective December 5, 2011.

certain books and records, including a memorandum of each brokerage buy or sell order indicating, among other things, where the order was entered pursuant to the exercise of discretionary authority. A registered representative who enters inaccurate information in a broker-dealer's books and records, or fails to disclose information required to be recorded, causes his member-firm employer to maintain inaccurate books and records and violates FINRA Rules 4511 and 2010.

During the Relevant Period, the Firm's WSPs required registered representatives to provide the Firm's trading desk with the order information required by Exchange Act Rule 17a-3. However, when transmitting the order information for the trades discussed above to the Firm's trading desk, Dalton did not disclose that he had used discretionary trading authority. As a result, the trading desk marked the trades as solicited and did not indicate that discretion had been used, causing the Firm to maintain inaccurate order memoranda in violation of Exchange Act Rule 17a-3.

By reason of this conduct, Dalton violated NASD Rule 3110 (for conduct occurring before December 5, 2011), FINRA Rule 4511 (for conduct occurring on or after December 5, 2011) and FINRA Rule 2010.

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

1. a three-month suspension from association with any FINRA member in any capacity; and
2. a fine of \$7,500.

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 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 hereafter, the monetary sanctions 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 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 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.

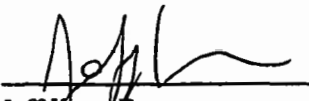
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

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 herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit this AWC.

2/10/2020
Date


David Gray Dalton
Respondent

Reviewed by:


Jeff Kern, Esq.
Counsel for Respondent
Sheppard Mullin
30 Rockefeller Plaza
New York, NY 10112

Accepted by FINRA:

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

2/12/2020
Date


Gerald W. Sawczyn, Senior Counsel
FINRA Department of Enforcement
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