

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020066847301**

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

RE: Bennett Robert Zamani (Respondent)
Former General Securities Representative
CRD No. 6198730

Pursuant to FINRA Rule 9216, Respondent Bennett Robert Zamani 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

In August 2016, Zamani first associated with a FINRA member, Morgan Stanley. On January 18, 2017, he became registered as a General Securities Representative through his association with Morgan Stanley. On May 29, 2020, Morgan Stanley filed a Form U5 disclosing it had discharged Zamani due to “[c]oncerns regarding whether employee (i) executed trades in a client account without client’s oral pre-approval, (ii) communicated with same client on a non-firm communication platform, and (iii) participated in an unapproved, investment-related, outside business activity.” Although Zamani is not currently registered or associated with a FINRA member, he remains subject to FINRA’s jurisdiction pursuant to Article V, Section 4 of FINRA’s By-Laws.¹

OVERVIEW

Between January 2017 and April 2020, while registered through Morgan Stanley, Zamani participated in an outside business activity, by owning and operating a company that offered a subscription-based, investment content, and earned over \$360,000 from this activity. Zamani failed to provide notice to Morgan Stanley that he was engaging in this outside business activity. As a result, Zamani violated FINRA Rules 3270 and 2010.

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

During the period of August 2016 to April 2020, in connection with his outside business activity, Zamani disseminated investment-related communications to the public, including Morgan Stanley customers. These communications failed to comply with the content standards of FINRA Rule 2210 because, among other things, they contained misleading and promissory statements and made recommendations without providing a sound basis for evaluating the facts. As a result, Zamani violated FINRA Rules 2210 and 2010.

In addition, between June 2018 and April 2020, Zamani used a personal text messaging application, which was not approved by Morgan Stanley, to engage in business-related communications with two firm customers. He thereby caused Morgan Stanley to maintain incomplete books and records in violation of Section 17(a) of the Securities Exchange Act and Rule 17a-4, thereunder. As a result, Zamani violated FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA opened this investigation based upon the allegations in the Form U5 filed by Morgan Stanley for Zamani on May 29, 2020.

Zamani engaged in an unapproved outside business activity.

FINRA Rule 3270 provides, in relevant part:

No registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member.

A violation of FINRA Rule 3270 also constitutes a violation of FINRA Rule 2010, which requires associated persons to observe “high standards of commercial honor and just and equitable principles of trade” in the conduct of their business.

Between January 2017 and April 2020, while registered through Morgan Stanley, Zamani owned and operated a company that offered subscription-based investment content. Zamani, along with his business associate, formed the company in 2015, and the company’s incorporation filings listed Zamani’s residential address as the company’s business address. On its website, which was established and operated by Zamani, the company touted itself as a subscription-based platform providing investment content for aspiring day traders to “learn from professionally licensed stock traders the skills needed to become a profitable trader.” The company maintained a blog on its website, containing investment-related content, and maintained a publicly-available YouTube channel, with investment-related videos. Zamani published content to the blog under his name or an alias and appeared in videos, in which he made investment-related communications, on

the company's YouTube channel. In addition, Zamani authored newsletters, containing investment-related content, which he periodically distributed to the company's subscribers. While registered through Morgan Stanley, Zamani earned approximately \$360,000 from his activity with the company.

During the relevant period, Morgan Stanley's written supervisory procedures (WSPs) required employees to obtain written approval from the Firm prior to engaging in any outside business activity. Zamani's activity with the company fell outside the scope of his relationship with Morgan Stanley, and Zamani failed to provide prior written notice to Morgan Stanley of this outside business activity upon becoming registered through the firm or at any other time. In addition, during the relevant period, Zamani submitted three separate compliance questionnaires to Morgan Stanley in which he falsely stated that he had fully disclosed his outside business activities.

Therefore, Zamani violated FINRA Rules 3270 and 2010.

Zamani violated FINRA's standards for communications with the public.

FINRA Rule 2210 contains, among other things, approval requirements and content standards applicable to communications with the public by FINRA members or their associated persons.

A violation of FINRA Rule 2210 also constitutes a violation of FINRA Rule 2010.

Between August 2016 and April 2020, Zamani violated approval requirements and content standards of FINRA Rule 2210 in connection with hundreds of investment-related communications disseminated to the public through his outside business activity.

Zamani failed to obtain firm approval for retail communications.

FINRA Rule 2210(b)(1)(A) requires "an appropriately qualified registered principal of the member to approve each retail communication before the earlier of its use or filing with the Advertising Regulation Department." FINRA Rule 2210(a)(5) defines a retail communication as "any written (including electronic) communication that is distributed or made available to more than 25 retail investors within any 30 calendar-day period." During the relevant period, Morgan Stanley's WSPs required employees to submit all investment-related communications created by the employee for public dissemination to the firm for review and approval prior to use. Here, in connection with his outside business activity, Zamani disseminated investment-related communications to more than 25 retail investors, including firm customers, within multiple 30 calendar-day periods but failed to submit any of the communications to the firm for review or approval prior to use. In addition, during the relevant period, Zamani submitted four separate compliance questionnaires to Morgan Stanley in which he falsely stated he did not offer any investment opinions online or via blogs.

Zamani disseminated communications to investors that were neither fair nor balanced.

FINRA Rule 2210(d)(1)(A) provides that all “communications must be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service. No member may omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communications to be misleading.” Here, Zamani disseminated investment-related communications through his outside business activity that did not provide a fair or balanced discussion or a sound basis for evaluating the facts regarding the particular securities discussed in the communications. His communications also omitted any explanation of the risks associated with investing. For example, in a January 2018 newsletter, Zamani used terms such as “Triggered,” “bear flag,” and “puts” in describing investment ideas but failed to explain the meaning of those terms or otherwise provide a sound basis for evaluating the investment ideas.

Zamani made promissory and unwarranted statements.

FINRA Rule 2210(d)(1)(B) provides that, “[n]o member may make any false, exaggerated, unwarranted, promissory or misleading statement or claim in any communication. No member may publish, circulate or distribute any communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.” Here, Zamani made promissory and unwarranted statements in investment-related communications disseminated to the public, including firm customers, through his outside business activity. For example, in a January 2017 newsletter, Zamani claimed membership in his business would help subscribers “make \$1,400+ within an hour of the open” and would show subscribers “simple steps to get [them] to [their] first million.”

Zamani made projections of investment performance.

FINRA Rule 2210(d)(1)(F) provides in pertinent part that “[c]ommunications may not predict or project performance, imply that past performance will recur, or make any exaggerated or unwarranted claim, opinion or forecast.” Here, Zamani disseminated investment related communications to the public, including firm customers, through his outside business activity, containing price targets for specific securities and other projections and forecasts. For example, in a YouTube video posted in December 2019, Zamani stated a publicly-traded energy company “reminds me” of a publicly-traded fast-food company because “it just has been basing since 2016 . . . under \$56 . . . and . . . by the end of the year you get it back up to retest that \$80.” This statement was also promissory and unwarranted because it compared stocks in entirely different industries to suggest that the energy company’s stock price would rise from \$56 to \$80. Similarly, in a January 2020 newsletter, Zamani wrote that a publicly-traded engineering company was “flagging back under this \$71 level that could be a spot to start a feeler position and look to add through \$72” . . . Target \$100” . . . “Entry \$71” . . . “Stop \$68.”

Zamani failed to disclose his relationship with Morgan Stanley.

FINRA Rule 2210(d)(3) requires each retail communication to “prominently disclose the name of the member; reflect any relationship between the member and any non-member or individual who is also named; and if it includes other names, reflect which products or services are being offered by the member.” Here, Zamani disseminated hundreds of retail communications through his outside business activity, which failed to reflect Zamani’s relationship with Morgan Stanley.

Zamani’s communications included testimonials without required disclosures.

FINRA Rule 2210(d)(6)(B) provides that retail communications containing any testimonial concerning investment advice must disclose the “fact that a testimony may not be representative of the experience of other customers” and the “fact that the testimonial is no guarantee of future performance or success.” Zamani routinely posted testimonials on the website for his outside business activity without these required disclosures. For example, in May 2019, Zamani posted a testimonial from a subscriber stating, “This week I’ve made the most profit I even [sic] made in one whole year,” but it did not disclose that the testimonial may not be representative of the experience of other subscribers or that the testimonial was no guarantee of future performance or success.

Zamani’s communications contained securities recommendations without required disclosures and information.

FINRA Rule 2210(d)(7)(A)(ii) provides that retail communications that include a recommendation of securities must disclose, if applicable, “that the member or any associated person that is directly or materially involved in the preparation of the content of the communication has a financial interest in any of the securities of the issuer whose securities are recommended, and the nature of the financial interest.” Under FINRA Rule 2210(d)(7)(B), retail communications that include a securities recommendation “must provide, or offer to furnish upon request, available investment information supporting the recommendation.” Here, Zamani disseminated retail communications, through his outside business activity, containing recommendations of securities without disclosing his financial interest in the securities or providing, or offering to furnish upon request, available investment information supporting the recommendation. During the relevant period, Zamani distributed newsletters recommending five different exchange traded funds (ETFs) that Zamani owned at the time he distributed the newsletters, but the newsletters failed to disclose Zamani’s ownership interests in the ETFs. In addition, these and other retail communications in which Zamani recommended securities did not provide, or offer to furnish upon request, available investment information supporting the recommendations.

Zamani’s communications contained performance data without required disclosures and information.

FINRA Rule 2210(g) provides that “[a]ny violation by a member of any rule of the SEC, the Securities Investor Protection Corporation or the Municipal Securities Rulemaking Board applicable to member communications will be deemed a violation of this Rule 2210.” Rule 482 under the Securities Act of 1933 “applies to an advertisement or other sales material . . . with respect to securities of an investment company,” such as an ETF, and requires that performance data for such securities include the average annual total returns for one, five and ten-year periods. Additionally, under Rule 482(b), performance data for ETFs must include an offer of a prospectus and a performance legend. Here, in communications distributed through his outside business activity, Zamani presented performance information and price charts on ETFs that failed to include the average annual total returns for one, five, or ten-year periods and that failed to include an offer of a prospectus or performance legend.

Under FINRA Rule 2210(d)(5), “[r]etail communications and correspondence that present non-money market fund open-end management investment company performance data,” such as performance data on ETFs, must include certain standardized performance information. This required performance information includes “the total annual fund operating expense ratio, gross of any fee waivers or expense reimbursements.” Here, Zamani’s communications containing ETF performance information did not include the total annual fund operating expenses ratio, gross of any fee waivers or expense reimbursements.

* * *

Therefore, Zamani violated FINRA Rules 2210(b), (d), and (g) and 2010.

Zamani caused Morgan Stanley to maintain incomplete books and records.

FINRA Rule 4511 requires that member firms “make and preserve books and records as required under the FINRA rules, the Exchange Act, and applicable Exchange Act rules.” Exchange Act Rule 17a-4(b)(4) requires member firms to maintain, for a period of three years, “[o]riginals of all communications received, and copies of all communications sent” relating to the member’s business. An associated person who causes a member firm to violate these recordkeeping obligations violates FINRA Rule 4511.

A violation of FINRA Rule 4511 also constitutes a violation of FINRA Rule 2010.

On 77 occasions between June 2018 and April 2020, Zamani exchanged business-related text messages with two firm customers using a text-messaging application on his personal cell phone that had not been approved by Morgan Stanley. During this period, Morgan Stanley prohibited employees from using unapproved, personal devices and text messaging applications to communicate with firm customers and did not retain communications to or from such unapproved devices or applications. Zamani’s communications on the unapproved device and application included text messages related to securities recommendations, account performance, account fees, and market events. In certain of these text messages, Zamani obtained personal confidential information from

firm customers, such as driver's license information, dates of birth, and social security numbers.

On two occasions between June 2018 and April 2020, Zamani submitted compliance questionnaires to Morgan Stanley in which he falsely stated that he did not use personal electronic equipment to conduct firm business.

Therefore, Zamani violated FINRA Rules 4511 and 2010.

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

- a 14-month suspension from associating with any FINRA member in all capacities and
- a \$27,500 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 fine 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 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.

May 16, 2022

Date



Bennett Robert Zamani
Respondent

Reviewed by:



Marc W. Garbar, Esq
Counsel for Respondent
Brandon J. Broderick, Attorney at Law
65 East Route 4, 2nd Floor
River Edge, NJ 07661

Accepted by FINRA:

May 16, 2022

Date

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

Jasmine L. Abraham

Jasmine L. Abraham
Counsel
FINRA
Department of Enforcement
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