

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022076459307**

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

RE: Jack David Faller (Respondent)
Former General Securities Representative and Former General Securities Principal
CRD No. 1883661

Pursuant to FINRA Rule 9216, Respondent Jack David Faller 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

Faller first registered with FINRA in 1997 as a General Securities Representative (GS) through an association with a FINRA member firm. In 1999, Faller also registered with FINRA as a Financial and Operations Principal (FN) and Equity Trader Limited Representative (ET) through the same firm. Faller subsequently registered with FINRA as a GS, FN, ET, Government Securities Representative (RG), General Securities Principal (GP), Operations Professional (OS), and Securities Trader (TD) through associations with other member firms.

On July 25, 2018, Faller registered with FINRA as a FN through his association with Monmouth Capital Management LLC (CRD No. 290248). Between August and September 2018, he also registered with FINRA as a GP, GS, OS, and TD through his association with Monmouth. During the time that Faller was associated with Monmouth, he was also registered with FINRA in various capacities through associations with other member firms. On January 18, 2022, Monmouth filed a Uniform Termination Notice for Securities Industry Registration (Form U5) reflecting that Faller voluntarily terminated his registration through the firm.

Since leaving Monmouth in January 2022, Faller has been registered with FINRA through several member firms. As of November 1, 2024, Faller was registered with FINRA through six member firms in various capacities. Faller, however, has since voluntarily resigned from all six firms.

Faller is not currently registered or associated with any FINRA member firm. However, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.¹

OVERVIEW

Between March 2 and 6, 2023, Faller violated FINRA Rule 2010 by creating reports purporting to reflect branch inspections that he completed at Monmouth in 2020 and 2021 when he had not conducted any such branch inspections. Through this conduct, Faller also caused Monmouth to maintain inaccurate books and records, in violation of FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 3110(c) requires each member "to conduct a review, at least annually (on a calendar-year basis)" of its office of supervisory jurisdiction "reasonably designed to assist the member in detecting and preventing violations of, and achieving compliance with, applicable securities laws and regulations, and with applicable FINRA rules." The Rule also requires members to retain a written record of the dates of the reviews and to prepare a written report pertaining to such branch inspections. The report must be kept on file by the member for a minimum of three years.

FINRA Rule 2010 requires member firms and associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade." Falsifying documents occurs when a person creates a document or entry in a firm's system that creates a false appearance by including altered or untrue information. Falsifying documents is inconsistent with just and equitable principles of trade and violates FINRA Rule 2010.

FINRA Rule 4511 requires member firms to "make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." Inherent in the obligation to make and preserve books and records is the requirement that they be accurate. A violation of FINRA Rule 4511 also constitutes a violation of FINRA Rule 2010.

Between May 19, 2019, and January 16, 2022, Faller was the designated principal at Monmouth responsible for the firm's compliance with FINRA Rule 3110(c). During that period, Faller and Monmouth failed to prepare any branch office inspection reports for the firm's sole branch office.

On March 2, 2023, Monmouth's then Chief Compliance Officer (CCO) asked Faller if he had copies of Monmouth's branch inspection reports for 2020 and 2021. Faller responded that he did not complete the branch inspections for those years but offered to create the reports for the years in question. At the time Faller offered to create the reports, he had not been associated with Monmouth for over a year.

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

Between March 2 and March 6, 2023, Faller prepared branch inspection reports for 2020 and 2021. The 2020 branch inspection report reflected a review period from July 26, 2019 through July 25, 2020 and the 2021 branch inspection report reflected a review period from July 26, 2020 through July 25, 2021. Only the 2021 report was dated, and it contained the caption "Reviewed by Jack D. Faller, July 27, 2021," at the end of the report.

On March 7, 2023, Monmouth's CCO produced the 2020 and 2021 branch inspection reports to FINRA in response to a FINRA Rule 8210 request. Neither Faller nor the CCO disclosed to FINRA that the branch inspection reports were recently created in response to FINRA's Rule 8210 request until after FINRA discovered they were not contemporaneous records.²

By participating in the creation of two branch inspection reports, which created the appearance that Faller and Monmouth had timely complied with FINRA Rule 3110(c) when they had not, Faller engaged in conduct inconsistent with high standards of commercial honor and just and equitable principle of trade in violation of FINRA Rule 2010. Faller also violated FINRA Rules 4511 and 2010 by causing Monmouth to maintain inaccurate books and records.

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

- a nine-month suspension from associating with any FINRA member in all capacities; and
- a \$5,000 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.

² FINRA barred the CCO from associating with any FINRA member firm for failing to provide on-the-record testimony in response to FINRA Rule 8210 requests.

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.

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.

November 30, 2024

Date

Jack David Faller
Respondent

Reviewed by:

Michael P. Gilmore 12/4/2024

Michael Gilmore
Counsel for Respondent
Moss & Gilmore LLP
129 Third Street
Mineola, NY 11501

Accepted by FINRA:

December 11, 2024

Date

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

Abby Shechtman

Abby Shechtman
Senior Counsel
FINRA
Department of Enforcement
200 Liberty Street, 11th Floor
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