

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20160524305**

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

RE: Evan Foehrkolb, Respondent
Registered Representative
CRD No. 5343517

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I submit 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, 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

Foehrkolb first became registered with FINRA as a General Securities Representative ("GSR") through an association with a member firm in August 2008, which is a position he held until October 2008. In February 2013, Foehrkolb became associated with another member firm, where he remained until September 2014. Foehrkolb subsequently became associated with Merrill Lynch Pierce Fenner & Smith Incorporated (the "Firm") in October 2014 as a GSR. He remains associated with the Firm in the same capacity.

RELEVANT DISCIPLINARY HISTORY

Foehrkolb has no disciplinary history with the Securities and Exchange Commission, FINRA, any other self-regulatory organization or any state securities regulator.

OVERVIEW

Foehrkolb willfully failed to timely disclose on his Uniform Application for Securities Industry Registration or Transfer ("Form U4") eight felony charges that had been filed against him, in violation of Article V, Section 2(c) of FINRA's By-Laws, and FINRA Rules 1122 and 2010. Further, he provided a false compliance certification to his employer member firm in violation of FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

A. Willful Failure to Timely Amend Form U4 to Disclose Felony Charges

Article V, Section 2(c) of the FINRA By-Laws requires associated persons to keep their Form U4 "current at all times by supplementary amendments" and that any such amendments be filed "not later than 30 days after learning of the facts or circumstances giving rise to the amendment." FINRA Rule 1122 provides that "[n]o . . . person associated with a member shall file with FINRA information with respect to . . . registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof." A violation of Article V, Section 2(c) of FINRA By-Laws and FINRA Rule 1122 constitutes a violation of FINRA Rule 2010, which requires a member to observe the high standards of commercial honor and just and equitable principles of trades.

Question 14A(1)(b) of Form U4 asks: "Have you ever been *charged* with any *felony*?" (Italics in original).

On March 19, 2015, Foehrkolb was charged in the District Court of Maryland with three felonies. Foehrkolb's case was transferred to the Circuit Court of Maryland and the District Court proceeding was closed. On April 16, 2015, Foehrkolb was indicted in Circuit Court on eight felony counts. On November 10, 2015, the felony charges against Foehrkolb were dismissed and he entered an Alford plea to second degree misdemeanor assault.

Foehrkolb was required to amend his response to Question 14A(1)(b) of Form U4 by April 20, 2015 to reflect the three felony charges filed against him on March 19, 2015. He was required to further amend his Form U4 by May 18, 2015 to reflect his indictment on eight felony counts on April 16, 2015. However, Foehrkolb did not amend his Form U4 to reflect any of the felony charges against him until November 25, 2016, or more than 20 months after he learned of the initial charges.

By virtue of the foregoing, Foehrkolb willfully violated Article V, Section 2(c) of FINRA's By-Laws, and FINRA Rules 1122 and 2010.

B. Falsification of Firm Compliance Certification

On February 12, 2016, Foehrkolb falsely answered on the Firm's annual compliance certification that he had not been charged with any felony since his last attestation on March 3, 2015.

By virtue of the foregoing, Foehrkolb violated FINRA Rule 2010.

B. I also consent to the imposition of the following sanctions:

- a suspension from association with any FINRA member in any and all capacities for a period of six months; 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.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become 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, I 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).

I understand that this settlement includes a finding that I willfully omitted to state a material fact on a Form U4, and that under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 and Article III, Section 4 of FINRA's By-Laws, this omission makes me subject to a statutory disqualification with respect to association with a member.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive 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.

I further specifically and voluntarily waive 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

I understand 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 me; and
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;

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. I 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. I 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 my: (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. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that 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 me to submit it.

08/25/2012

Date (mm/dd/yyyy)

Evan Foehrkolb
Evan Foehrkolb

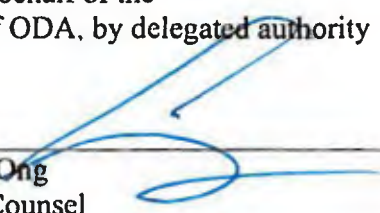
Reviewed by:

Jeff Kent
Jeff Kent
Counsel for Respondent
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Accepted by FINRA:

9/20/17
Date

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



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