FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018056490309

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

RE: Tory A. Duggins (Respondent)
General Securities Representative
CRD No. 4556340

Pursuant to FINRA Rule 9216, Respondent Tory A. Duggins 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

Duggins first registered with FINRA as a General Securities Representative (GS) in September 2004. Between September 2004 and February 2016, Duggins was registered with FINRA as a GS through nine different member firms. From February 2016 to the present, Duggins has been registered with FINRA as a GS through Spartan Capital Securities, LLC (CRD No. 146251).

In November 2014, Duggins entered into an AWC with FINRA for exercising discretion in two customer accounts without written authorization and for making related false statements on a firm compliance questionnaire in violation of NASD Conduct Rule 2510(b) and FINRA Rule 2010. FINRA suspended Duggins for one month in all capacities and fined him $7,500.

In June 2017, a FINRA arbitration panel entered a judgment against Duggins for $26,127 in connection with a customer arbitration alleging unsuitable recommendations and the improper use of margin. FINRA subsequently suspended Duggins for approximately one month for failing to comply with the arbitration award pursuant to Article VI, Section 3 of FINRA By-Laws and FINRA Rule 9554.[1]

[1] For more information about the respondent, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

OVERVIEW

From December 2016 through April 2022, Duggins recommended a series of excessive trades to eight customers, three of whom were seniors. By this conduct, Duggins willfully violated the Best Interest Obligation under Rule 15*l*-1 of the Securities Exchange Act of 1934 (Regulation BI) (for the period June 30, 2020, through April 2022) and violated FINRA Rule 2111 (for the period December 2016 through June 29, 2020) and FINRA Rule 2010. In addition, Duggins willfully failed to report a written customer complaint alleging a sales practice violation on his Uniform Application for Securities Industry Registration or Transfer (Form U4) in violation of Article V, Section 2 of FINRA's By-Laws and FINRA Rules 1122 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's cycle exam of Spartan.

Duggins excessively traded eight customer accounts.

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Regulation BI under the Securities Exchange Act of 1934. Regulation BI's Best Interest Obligation requires a broker, dealer, or a natural person associated with a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, to act in the best interest of that retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or associated person ahead of the interest of the retail customer. Regulation BI's Care Obligation, set forth at Exchange Act Rule 15*l*-1(a)(2)(ii), requires broker-dealers and their associated persons to exercise reasonable diligence, care, and skill to, among other things, have a reasonable basis to believe that a series of recommended transactions, even if in the retail customer's best interest when viewed in isolation, is not excessive and is in the retail customer's best interest in light of the retail customer's investment profile. A violation of Regulation BI also is 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.

Prior to June 30, 2020, FINRA Rule 2111 required members and associated persons to have a reasonable basis to believe that a recommendation of a transaction or investment strategy involving a security or securities to any customer is suitable for the customer. FINRA Rule 2111 is still in effect, but as of June 30, 2020, it no longer applies to recommendations to retail customers that are subject to Regulation BI. Under Rule 2111.05(c), members and associated persons with actual or *de facto* control over an account were required to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer in light of the customer's investment profile. A violation of FINRA Rule 2111 is also a violation of FINRA Rule 2010.

No single test defines when trading is excessive, but factors such as the cost-to-equity ratio and turnover rate are relevant to determining whether an associated person has excessively traded a customer's account. The cost-to-equity ratio measures the amount an account has to appreciate just to cover commissions and other expenses. In other words, it is the break-even point where a customer may begin to see a return. The turnover rate represents the number of times that a portfolio of securities is exchanged for another portfolio of securities. An annualized cost-to-equity ratio above 20 percent or an annualized turnover rate of six or more generally indicates that a series of recommended transactions was excessive.

From December 2016 through April 2022, Duggins engaged in quantitatively unsuitable trading in the accounts of eight customers. His customers relied on his advice and routinely followed his recommendations and, as a result, Duggins exercised *de facto* control over the customers' accounts. Duggins' trading resulted in high cost-to-equity ratios and turnover rates that were well above the traditional guideposts of 20 percent and six, respectively, as well as significant losses, as set forth below. Specifically, Duggins' trading in the eight customer accounts resulted in annualized cost-to-equity ratios of 58 percent to 289 percent and annualized turnover rates of 14.36 to 63.24 while generating total trading costs of $444,176, including $343,416 in commissions, and causing $235,494 in total realized losses. For example:

- Customer A opened an account at Spartan with Duggins in January 2019. At the time, Customer A was a 76-year-old retiree. According to Customer A's new account documentation, his investment objective was growth. From January 2019 through March 2022, Duggins recommended 120 transactions in Customer A's account resulting in an annualized cost-to-equity ratio of 93 percent and an annualized turnover rate of 20.55. Duggins' trading in Customer A's account generated total trading costs of $32,331, including $23,395 in commissions, and caused $19,575 in realized losses.

- Customer B opened an individual retirement account (IRA) at Spartan with Duggins in October 2018. At the time, Customer B was a 68-year-old retiree. According to Customer B's new account documentation, his investment objective was aggressive growth. From October 2018 through October 2021, Duggins recommended 305 transactions in Customer B's IRA resulting in an annualized cost-to-equity ratio of 59 percent and an annualized turnover rate of 14.82. Duggins' trading in Customer B's IRA generated total trading costs of $123,953, including $101,024 in commissions, and caused $92,995 in realized losses.

- Customer C opened an account at Spartan with Duggins in September 2018. At that time, Customer C was 42 years old and self-employed in the real estate business. According to Customer C's new account documentation, his investment objective was speculation. From September 2018 through November 2021, Duggins recommended 151 transactions in Customer C's account resulting in an annualized cost-to-equity ratio of 101 percent and an annualized turnover rate of 24.88. Duggins' trading in Customer C's account generated total trading costs of

$71,213, including $55,195 in commissions, and caused $17,829 in realized losses.

Duggins' trading in the eight customer accounts was excessive, unsuitable, and not in the best interest of these customers given their investment profiles.

Therefore, Duggins willfully violated Exchange Act Rule 15*l*-1 (for the period June 30, 2020, through April 2022) and violated FINRA Rule 2111 (for the period December 2016 through June 29, 2020) and FINRA Rule 2010.

Duggins willfully failed to disclose a customer complaint on his Form U4.

To become registered with FINRA through a member firm, an associated person is required to complete, and the member firm must file with FINRA, a Form U4. Article V, Section 2(c) of FINRA's By-Laws requires associated persons applying for registration with FINRA to keep the Form U4 application "current at all times," and to file any necessary amendments to the Form U4 "not later than 30 days after learning of the facts or circumstances giving rise to the amendment." FINRA Rule 1122 provides that "[n]o member or person associated with a member shall file with FINRA information 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." Accurate Forms U4 are critical to FINRA's function in screening and monitoring registered representatives. Truthful and complete answers to Form U4 questions are critical because these responses may serve as an early warning mechanism and may identify individuals with troubled pasts or suspect financial histories.

An associated person who fails to amend or timely amend his Form U4 to disclose required information violates Article V, Section 2(c) of FINRA's By-Laws and FINRA Rule 1122. Violations of Article V, Section 2(c) of FINRA's By-Laws or FINRA Rule 1122 also constitute a violation of FINRA Rule 2010.

At all times relevant to this AWC, Question 14I(3)(a) of the Form U4 required registered persons to disclose investment-related written customer complaints alleging their involvement in a sales practice violation and that contain a claim for compensatory damages of $5,000 or more.

In October 2021, Customer C sent Duggins an email complaining that Duggins excessively traded Customer C's account and seeking $17,500 in compensatory damages. Duggins received and read the email but did not forward the customer complaint to Spartan's compliance department as required by the firm's policies. Duggins never amended his Form U4 to disclose Customer C's written customer complaint.

Therefore, Duggins willfully failed to disclose a material fact on his Form U4 in violation of Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.

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

- an eighteen-month suspension from associating with any FINRA member in all capacities.

Respondent has submitted a statement of financial condition and demonstrated an inability to pay. In light of Respondent's financial status, no monetary sanctions have been imposed.

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.

Respondent understands that this settlement includes a finding that he willfully violated Rule 15*l*-1 of the Securities Exchange Act of 1934 and that under Article III, Section 4 of FINRA's By-Laws, this makes him subject to a statutory disqualification with respect to association with a member.

Respondent understands that this settlement includes a finding that he 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 him subject to a statutory disqualification with respect to association with a member.

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.

1/8/24
Date

Tory A. Duggins
Respondent

Reviewed by:

Liam O'Brien, Esq.
Counsel for Respondent
McCormick & O'Brien, LLP
125 Park Avenue, 25th Floor
New York, NY 10017

Accepted by FINRA:

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

01/19/2024

Date

Jeffrey E. Baldwin
Senior Counsel
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