

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND  
CONSENT NO. 2019064511204**

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

RE: Daniel M. King (Respondent)  
General Securities Representative  
CRD No. 5954543

Pursuant to FINRA Rule 9216, Respondent Daniel M. King 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**

King first became registered with FINRA in August 2011. From November 2016 to February 2019, King was registered as a General Securities Representative with FINRA through Newbridge Securities Corporation (CRD No. 104065). Since February 2019, King has been registered with FINRA through other FINRA member firms.<sup>1</sup>

**OVERVIEW**

Between December 2016 and February 2019, while he was associated with Newbridge, King recommended unsuitable use of margin to effect trades in the accounts of two customers. King's unsuitable recommendations caused the customers to pay more than \$46,000 in commissions, fees, and margin interest. By this conduct, King violated FINRA Rules 2111 and 2010.

**FACTS AND VIOLATIVE CONDUCT**

FINRA Rule 2111 requires that a member or an associated person have a reasonable basis to believe that a recommended transaction is suitable for the customer based on the

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<sup>1</sup> For more information about the respondent, including prior regulatory events, visit BrokerCheck® at [www.finra.org/brokercheck](http://www.finra.org/brokercheck).

customer's investment profile. A customer's investment profile includes, but is not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance and any other information the customer may disclose to the member or associated person in connection with a recommendation.

A violation of FINRA Rule 2111 also constitutes a violation of FINRA Rule 2010, which requires that member firms and associated persons "observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business.

A margin account is a type of brokerage account in which a broker-dealer lends an investor cash, using the account holdings as collateral, to purchase securities. Margin increases an investor's purchasing power, but also exposes the investor to certain risks involved in trading securities on margin, including the potential to lose more money than the customer invested. Buying on margin also carries a cost, which is the interest charged on the amount borrowed until it is repaid. When an investor buys securities on margin, the customer must repay the amount borrowed plus interest, even if the customer loses money on the securities the customer purchased on margin. The margin balance is the amount of money a customer trading on margin owes to the broker-dealer. The investor's equity in a margin account is the value of securities less the amount owed to the firm. FINRA has repeatedly cautioned that Rule 2111 imposes suitability requirements on "recommendations to customers generally to use a . . . margin strategy involving securities, irrespective of whether the recommendations mention particular securities."<sup>2</sup>

A firm may issue a margin call when the investor's equity in a margin account falls below the firm's required percentage. When a margin call occurs, the investor must either deposit additional funds or marginable securities in the account or sell some of the securities in their account.

**King recommended the unsuitable use of margin in two customers' accounts.**

During the relevant period, King recommended the unsuitable use of margin in the accounts of two customers who were not sophisticated investors. King recommended the use of margin in his customers' accounts to leverage additional buying power while also employing a short-term trading strategy. King frequently recommended that his customers buy securities on margin and, after holding the positions for a short time, then sell those securities, often incurring realized losses in addition to trading costs and margin interest. In addition, the margined positions often experienced price declines, causing the accounts to incur margin calls, which were often met by selling securities at a loss. King's recommendations to engage in unsuitable trading on margin exposed his customers to significant risk, increased costs, and sizeable losses in their accounts. King lacked a reasonable basis to believe that using margin in this way was suitable given the customers' investment objectives, financial situation, and needs.

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<sup>2</sup> Regulatory Notice 12-55 (emphasis in original); *see also* Regulatory Notices 12-25 and 11-25.

## **Customer A**

Customer A, a retired repairman, was 64 years old at the beginning of the relevant period. Customer A opened his account at Newbridge with King for the purpose of funding his retirement. His annual income was derived from a pension. Customer A's new account documentation indicated that he had no prior experience using margin. Customer A followed King's recommendations for trading in his account, including using margin, as he did not consider himself knowledgeable enough to make investment decisions. During the period from December 2016 through September 2018, the average account equity in Customer A's account was \$45,094.66. During the same period, the account had realized and unrealized trading losses of \$22,486.27.

From December 2016 to September 2018, King entered 41 trades in Customer A's account, and 39 trades were executed on margin. Customer A's month-end margin balance was 40% or more of the total gross portfolio value in his account for 17 months of the relevant period. In August 2017, King's supervisor contacted King about the margin balance in Customer A's account. Although the margin balance in Customer A's account decreased briefly after that, it increased again by February 2018. From March 2018 through September 2018, Customer A's month-end margin balance was over 50% of the total gross portfolio value. Customer A's account had 21 margin calls, 10 of which caused sellouts of securities at net losses which were collectively greater than \$27,400. Between December 2016 and September 2018, Customer A paid \$12,823.53 in costs, commissions, and margin interest for trades executed on margin in his account.

## **Customer B**

Customer B, an IT account manager, was 46 years old at the beginning of the relevant period. Customer B had limited investment knowledge, did not understand margin fees, and did not have prior margin experience. Customer B told King that he wanted to invest, in part, to pay for his children's college education. Customer B followed King's recommendations for trading in his account. During the period from January 2017 through February 2019, the average account equity in Customer B's account was \$61,263.99. During the same period, the annualized cost-to-equity<sup>3</sup> was 25.16%, the annualized turnover rate<sup>4</sup> was 6.81, and the account had realized and unrealized trading losses of \$58,050.27.

From January 2017 to February 2019, King entered 120 trades in Customer B's account, and 113 trades were executed on margin. Customer B's month-end margin balance was 40% or more of the total gross portfolio value in his account during 24 months of the relevant period. Between June 2018 and August 2018, the month-end margin balance reached as high as 61% of Customer B's total gross portfolio value. Customer B's

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<sup>3</sup> Cost-to-equity ratio measures the amount an account has to appreciate annually just to cover commissions and other expenses. A cost-to-equity ratio of more than 20% generally indicates that excessive trading has occurred.

<sup>4</sup> Turnover rate represents the number of times in one year that a portfolio of securities is exchanged for another portfolio of securities. A turnover rate above 6 generally indicates that excessive trading has occurred.

account had 60 margin calls, half of which caused sellouts of securities at net losses which were collectively greater than \$6,600. Customer B paid \$33,374.31 in costs, commissions, and margin interest for trades executed on margin in his account.

By recommending unsuitable use of margin in two customer accounts, King violated FINRA Rules 2111 and 2010.

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

- a two-month suspension from associating with any FINRA member in all capacities;
- a \$10,000 fine; and
- restitution of \$33,374.31 plus interest as described below.<sup>5</sup>

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Restitution is ordered to be paid to the customer listed on Attachment A to this AWC (Eligible Customer) in the total amount of \$33,374.31, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from January 4, 2017 until the date this AWC is accepted by the National Adjudicatory Council (NAC).

Respondent has submitted a statement of financial condition and demonstrated an inability to pay full restitution immediately upon issuance of the AWC. In light of the financial status of Respondent, restitution to the Eligible Customers shall be payable on the schedule and in the amounts listed on Attachment A, commencing with the first payment to be made on the 45th day from the last day of the two-month suspension.

Respondent shall submit satisfactory proof of payment of restitution and interest (separately specifying the date and amount of each paid to each Eligible Customer) or of reasonable and documented efforts undertaken to effect restitution after each payment due under the installment plan. Such proof shall be submitted by email to [EnforcementNotice@FINRA.org](mailto:EnforcementNotice@FINRA.org). The email must identify Respondent and the case number and include a copy of the check, money order, or other method of payment. This proof shall be provided by email to [EnforcementNotice@FINRA.org](mailto:EnforcementNotice@FINRA.org) no later than 15 days after each payment is due.

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<sup>5</sup> This AWC requires that King pay restitution only to Customer B. Customer A has separately settled an arbitration claim in which he was awarded restitution for King's unsuitable recommendations.

The restitution amount plus interest to be paid to each Eligible Customer shall be treated by the Respondent as the Eligible Customer's property for purposes of state escheatment, unclaimed property, abandoned property, and similar laws. If after reasonable and documented efforts undertaken to effect restitution Respondent is unable to pay all Eligible Customers within 15 days after each payment is due, Respondent shall submit to FINRA in the manner described above a list of the unpaid Eligible Customers and a description of Respondent's plan, not unacceptable to FINRA, to comply with the applicable escheatment, unclaimed property, abandoned property, or similar laws for each such Eligible Customer.

Respondent specifically and voluntarily waives any right to claim an inability to pay at any time after the execution of this AWC the monetary sanctions imposed in this matter.

The imposition of a restitution order or any other monetary sanctions in this AWC, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

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.

July 17, 2023

\_\_\_\_\_  
Date

*Daniel M. King*

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Daniel M. King  
Respondent

Reviewed by:

*Martin Kaplan, Esq.*

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Martin H. Kaplan, Esq.  
Counsel for Respondent  
Gusrae Kaplan Nusbaum PLLC  
120 Wall Street  
New York, NY 10005

Accepted by FINRA:

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

July 17, 2023

\_\_\_\_\_  
Date

*Michael Perkins*

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Michael Perkins  
Senior Counsel  
FINRA  
Department of Enforcement  
Brookfield Place, 200 Liberty Street  
New York, NY 10281

**ATTACHMENT A**

**To Letter of Acceptance, Waiver and Consent  
Daniel M. King, Matter No. 2019064511204**

**Restitution Installment Plan - Customer B - \$33,374.31**

*1<sup>st</sup> Installment*

Amount: \$3,374.31

Due: On the 15th day of the month following the notice of acceptance of the AWC.

*2<sup>nd</sup> Installment*

Amount: \$5,000.00

Due: Three months from when the 1<sup>st</sup> installment was due.

*3<sup>rd</sup> Installment*

Amount: \$5,000.00

Due: Three months from when the 2<sup>nd</sup> installment was due.

*4<sup>th</sup> Installment*

Amount: \$5,000.00

Due: Three months from when the 3<sup>rd</sup> installment was due.

*5<sup>th</sup> Installment*

Amount: \$5,000.00

Due: Three months from when the 4<sup>th</sup> installment was due.

*6<sup>th</sup> Installment*

Amount: \$5,000.00

Due: Three months from when the 5<sup>th</sup> installment was due.

*7<sup>th</sup> Installment*

Amount: \$5,000.00

Due: Three months from when the 6<sup>th</sup> installment was due.

*8<sup>th</sup> Installment*

Amount: \$11,386.11

(Interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from January 4, 2017 until the date this AWC was accepted by the National Adjudicatory Council (NAC)).

Due: Three months from when the 7<sup>th</sup> installment was due.