

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2020065693301**

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

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**RE: M B Schreiber (Respondent)  
General Securities Representative  
CRD No. 1032600**

Pursuant to FINRA Rule 9216, Respondent M B Schreiber 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**

Schreiber entered the securities industry in 1982 through his association with a former FINRA member firm. Between June 1997 and August 2016, Schreiber was registered with FINRA through his associations with several current and former FINRA member firms. Schreiber registered as a General Securities Representative (GSR) in 1983, a General Securities Principal (GSP) in 1984, and a Municipal Securities Principal (MSP) in 1988.

From August 2016 to the present, Schreiber has been registered with FINRA as a municipal securities representative, GSR, GSP and MSP through his association with FINRA member Aegis Capital Corp. (Aegis or the Firm). Given his current association with Aegis, Schreiber remains subject to FINRA's jurisdiction.<sup>1</sup>

On March 10, 2010, under AWC No. 2007010982301, Schreiber consented to a 60-day suspension and a \$10,000 fine in connection with FINRA's findings that he violated NASD Rules 2370 and 2110 by borrowing money from a firm customer.

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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).

## **OVERVIEW**

Between September 2017 and September 2021, Schreiber exercised discretionary trading authority to effect at least 295 trades in the accounts of 27 Firm customers without first obtaining written authorization from the customers and Aegis to treat the accounts as discretionary in violation of NASD Rule 2510(b) and FINRA Rules 3260(b) and 2010.<sup>2</sup>

Schreiber also improperly marked 181 of the discretionary trades as “unsolicited” and used a personal e-mail address to communicate with customers concerning their firm accounts and securities transactions. By causing his member firm to make and preserve inaccurate and incomplete books and records, Schreiber violated FINRA Rules 4511 and 2010.

## **FACTS AND VIOLATIVE CONDUCT**

This matter originated from a customer complaint in connection with a FINRA arbitration filed in February 2020.

### ***Schreiber exercised discretion without written authorization***

NASD Rule 2510(b) and FINRA Rule 3260(b) prohibit registered representatives from exercising discretionary trading authority in a customer’s account unless the customer has given the representative prior written authorization and the account has been accepted in writing as a discretionary account by the representative’s member firm employer.

Violations of NASD Rule 2510(b) and FINRA Rule 3260(b) also violate 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.

Aegis’s written supervisory procedures (WSPs) prohibited registered representatives from exercising discretion in the accounts of Firm customers unless the customer provided the representative with prior written authorization and the Firm approved the account for discretionary trading.

Between September 2017 and September 2021, Schreiber exercised discretionary trading authority when he executed at least 295 securities transactions in 27 Aegis customer accounts. The 27 customers did not provide Schreiber with prior written authorization for his use of discretion, and Aegis did not approve the accounts as discretionary accounts.

Therefore, Schreiber violated NASD Rule 2510(b) and FINRA Rules 3260(b) and 2010.

### ***Schreiber caused Aegis to make and preserve inaccurate and incomplete books and records***

FINRA Rule 4511 requires members to make and preserve books and records in conformity with Exchange Act Section 17(a) and Rules 17a-3 and 17a-4 thereunder. Rule 17a-3 requires member firms to make and keep a record of “each brokerage order” showing “the terms and conditions of the order,” including whether the order was solicited. Rule 17a-4(b)(4) requires member firms to maintain, for a period of three

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<sup>2</sup> FINRA Rule 3260(b) superseded NASD Rule 2510(b) on May 8, 2019.

years, originals of all communications received and copies of all communications sent relating to the member firm's business, including electronic communications. A registered representative who causes his or her firm to fail to comply with these record keeping obligations violates FINRA Rule 4511.

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

Aegis's WSPs required all business communications to be transmitted through the firm's systems, and specifically prohibited the use of non-firm e-mail for firm business-related communications.

Between September 2017 and September 2021, Schreiber improperly marked 181 order tickets as "unsolicited" when in fact Schreiber had solicited them because he had recommended the transactions to the customers, causing Aegis to maintain inaccurate books and records with respect to these trades.

Additionally, between July 2019 and June 2020, Schreiber used his personal e-mail address to communicate with two firm customers about securities transactions in their Aegis accounts. Schreiber did not disclose his use of his personal e-mail to Aegis, or provide the firm with copies of his electronic correspondence with the customers, causing the firm to maintain incomplete records of his business-related communications.

Schreiber falsely stated on the Firm's 2017, 2018, 2019, 2020 and 2021 annual compliance questionnaires that he did not exercise discretionary authority in any customer accounts. Schreiber also falsely stated on the Firm's 2019, 2020 and 2021 annual compliance questionnaires that he did not use a personal e-mail address for business-related communications.

Therefore, Schreiber violated FINRA Rules 4511 and 2010.

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

A three-month suspension from association with any FINRA member in all capacities and a fine of \$5,000.

Respondent agrees to pay the monetary sanction 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.

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.

## 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.

10/21/22

Date



M B Schreiber  
Respondent

Reviewed by:

/s/ Gregg J. Breitbart, Esq.

Gregg Breitbart  
Counsel for Respondent  
Kaufman Dolowich & Voluck, LLP  
100 SE Third Avenue, Suite 1500  
Fort Lauderdale, FL 33394

Accepted by FINRA:

10/31/2022

Date

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

Elson Ho  
Counsel  
FINRA  
Department of Enforcement  
One Brookfield Place  
200 Liberty Street  
New York, NY 10281

Jason Mogel  
Jason Mogel  
Senior Counsel  
FINRA  
Department of Enforcement  
99 High Street, Suite 900  
Boston MA 02110