

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020066298801**

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

RE: Michael McDermott (Respondent)
Former General Securities Representative
CRD No. 2745406

Pursuant to FINRA Rule 9216, Respondent Michael McDermott 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

From May 1996 until January 2014, McDermott was registered with FINRA through consecutive associations with different member firms as a General Securities Representative (GSR) and, from October 2002 until January 2014, as a General Securities Sales Supervisor (SU). In January 2014, McDermott became registered with FINRA through Wells Fargo Clearing Services, LLC (BD No. 19616) as a GSR and, in April 2014, as an SU. On April 8, 2020, Wells Fargo terminated McDermott's registration by filing a Uniform Termination Notice for Securities Industry Registration (Form U5), which stated that McDermott "was discharged by the Firm after internal review revealed that advisor entered stop loss orders in account of deceased customer, per prior discussion, not knowing client was deceased."¹

Although McDermott is no longer registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

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

OVERVIEW

From January 2019 to April 2019, while registered with FINRA through Wells Fargo, McDermott traded without authorization in the account of a firm customer, both before and after the customer's death, in violation of FINRA Rule 2010. In addition, McDermott falsified notes of contact with the customer, causing Wells Fargo to maintain inaccurate books and records, in violation of FINRA Rules 2010 and 4511.

FACTS AND VIOLATIVE CONDUCT

Unauthorized Trading

FINRA Rule 2010 requires associated persons, in the conduct of business, to "observe high standards of commercial honor and just and equitable principles of trade." Unauthorized trading is a violation of Rule 2010.

In January 2019, McDermott placed a trade in the account of one of his customers without first obtaining the customer's authorization. The account was fee-based and thus McDermott earned no commission. In March 2019, the customer passed away. Unaware that the customer had died, in April 2019, McDermott placed multiple stop loss orders in the customer's account, several of which were later cancelled and three of which were later executed.

Therefore, McDermott violated FINRA Rule 2010.

Falsification of Documents

FINRA Rule 2010 also prohibits alteration and falsification of documents. Furthermore, FINRA Rule 4511 requires member firms and associated persons to "make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." Inherent in that obligation is the requirement that the books and records be accurate. A registered representative who falsifies firm records causes the firm to maintain inaccurate books and records in violation of FINRA Rules 4511 and 2010.

On April 8, 2019, McDermott entered a note in the firm's electronic customer note system falsely indicating that he had spoken with the customer in connection with the stop loss orders referenced above. This was not possible as the customer had died in March. On May 15, 2019, after learning of the customer's death, McDermott edited the original note to inaccurately state that McDermott's conversation had occurred in January 2019.

Therefore, McDermott violated FINRA Rules 2010 and 4511.

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

- a three-month suspension from associating with any FINRA member in all capacities.²

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.

² On June 29, 2021, Respondent was granted a discharge in bankruptcy under 11 U.S.C. § 727. Accordingly, no monetary sanctions are being imposed in this matter.

III.

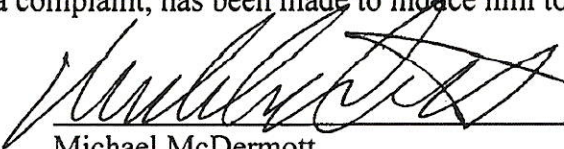
OTHER MATTERS

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 understands and acknowledges that FINRA does not represent or advise him and Respondent cannot rely on FINRA for legal advice. 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.

3/24/22
Date


Michael McDermott
Respondent

Accepted by FINRA:

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

3/28/2022
Date

Julia A. Derish p.p. Fannie Page
Julia A. Derish
Counsel
FINRA
Department of Enforcement
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