

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012033568901**

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

RE: Wells Fargo Advisors LLC, Respondent
CRD No. 19616

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Wells Fargo Advisors LLC ("Wells Fargo Advisors," the "Firm" or "Respondent"), 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, 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

Wells Fargo Advisors has been a member of FINRA since 1987. The Firm, headquartered in St. Louis, Missouri, is the retail brokerage and wealth management affiliate of Wells Fargo & Company and an affiliate of Wells Fargo Bank N.A.

Wells Fargo Advisors maintains approximately 7,000 branch offices across the United States and employs approximately 25,000 registered representatives located in its headquarters and branch offices.

RELEVANT DISCIPLINARY HISTORY

Wells Fargo Advisors has the following relevant disciplinary history:

In Letter of Acceptance, Waiver and Consent No. 2008014350501 (May 2013), FINRA found that, between January 2007 and December 2008, Wells Fargo Advisors made unsuitable recommendations to customers to purchase certain floating rate loan funds resulting in significant losses to hundreds of customers, in violation of NASD Rules 2310 and 2110 and

FINRA Rule 2010. The Firm also failed to establish and maintain a system for supervising sales of floating rate funds that was reasonably designed to achieve compliance with FINRA suitability requirements, in violation of NASD Rules 3010 and 2110 and FINRA Rule 2010. FINRA censured and fined the Firm \$1.25 million and ordered restitution of \$1,981,561.70 to be paid to affected customers.

In Letter of Acceptance, Waiver and Consent No. 2009019113901 (April 2012), FINRA found that, between January 2008 through June 2009, Wells Fargo Advisors made unsuitable recommendations to customers to purchase certain leveraged, inverse and leveraged-inverse exchange-traded funds (“non-traditional ETFs”) resulting in significant losses to customers, in violation of NASD Rules 2310 and 2110 and FINRA Rule 2010. The Firm also failed to establish and maintain a supervisory system, including written procedures, for the sale of non-traditional ETFs that was reasonably designed to achieve compliance with FINRA suitability requirements, in violation of NASD Rules 3010 and 2110 and FINRA Rule 2010. FINRA censured and fined the Firm \$2.1 million and ordered restitution of \$641,489 to be paid to affected customers.

In Letter of Acceptance, Waiver and Consent No. 2008015651901 (November 2011), FINRA found that, between January 2006 and July 2008, Wells Fargo Advisors made unsuitable recommendations to customers to purchase reverse convertibles resulting in significant losses to customers, in violation of NASD Rules 2310 and 2110. The Firm also failed to establish and maintain a system for supervising the Firm’s sales of floating rate funds that was reasonably designed to achieve compliance with FINRA suitability requirements, in violation of NASD Rules 3010 and 2110. FINRA censured and fined the Firm \$2 million and ordered undertakings concerning its sales of reverse convertibles resulting in restitution of approximately \$2 million to be paid to affected customers.

OVERVIEW

From August 2005 to July 2012 (the “relevant period”), Wells Fargo Advisors made unsuitable recommendations to retail customers to purchase Structured Repackaged Asset-Backed Trust Securities (“STRATS”), a complex structured product that paid a floating rate of periodic income up to a minimum or maximum rate, based on the STRATS Trust’s interest in a capital security issued by JP Morgan Chase (“JP Morgan”) and the STRATS Trust’s interest in an interest rate swap contract.¹ The STRATS could be terminated by the issuing Trust under certain limited circumstances, one of which was the call or redemption of the underlying JP Morgan capital security.

In addition, upon termination, holders of the STRATS would receive the call or redemption proceeds of the underlying capital security and accrued interest minus the amount of the swap termination fee determined under the swap agreement. As a result of the swap termination fee,

¹ The STRATS were initially sold by Wachovia Securities LLC. On December 31, 2008, Wells Fargo & Company acquired Wachovia Corporation and its affiliated brokerage businesses, including Wachovia Securities LLC. Wachovia Securities LLC changed its name to Wells Fargo Advisors LLC in 2009 and Wells Fargo Investments LLC was integrated into Wells Fargo Advisors LLC in 2011. Wells Fargo Advisors is the legal successor to Wachovia Securities.

customers who purchased the STRATS could lose a significant percentage of their principal investment if certain events occurred, including the redemption of the underlying JP Morgan capital security.

Wells Fargo Advisors, however, failed to educate its registered representatives regarding these risks and its sales force therefore could not inform retail customers who purchased the STRATS that they could suffer significant losses. The Firm also failed to provide product specific training to its sales force and its internal-use only communications regarding the STRATS failed to adequately describe the risks of investing in these complex products.

Given its registered representatives' limited comprehension of the product termination provisions and its risks, the Firm lacked a reasonable basis for recommending the STRATS to its retail customers, in violation of NASD Rules 2310 and 2110 and FINRA Rule 2010.²

Moreover, the Firm's internal-use only brochures for the STRATS were not fair and balanced and failed to provide a sound basis for evaluating the risks of investing in the STRATS, in violation of NASD Rules 2211(d) and 2110 and FINRA Rule 2010. Finally, the Firm failed to establish and maintain a supervisory system reasonably designed to ensure compliance with FINRA rules relating to suitability, in violation of NASD Rules 3010(a) and 2110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

During the relevant period, Wells Fargo Advisors sold approximately \$12 million worth of the STRATS to its retail customers, in both primary and secondary markets. The STRATS cost \$25 per share at the initial offering and traded thereafter in the secondary market. The STRATS were structured to swap the yield of the underlying JP Morgan capital security at 5.85% for a variable interest rate paid to investors that was tied to a 90 day U.S. Treasury bill rate plus 1%, with a ceiling of 8% and a floor of 3%.

Although Wells Fargo Advisors provided its sales force training on structured products, none of this training related specifically to the unique features of the STRATS. Additionally, although the Firm's intranet page dedicated to fixed income products provided basic information concerning the STRATS, it did not provide any information concerning the risks of investing in these products, and specifically did not address the risks to customer principal in the event of a redemption of the underlying JP Morgan capital security.

Under the terms of the prospectus for the STRATS, the amount paid to a customer in the event of a termination was the proceeds of the redemption of underlying JP Morgan capital security plus accrued interest and less the swap termination fee. In certain circumstances, the customer would face a substantial risk of loss of principal upon termination of the STRATS due to the amount of the swap termination fee. The Firm's registered representatives generally were not familiar with such risks of investing in the STRATS and were consequently unable to explain such risks when recommending the product to the Firm's retail customers.

² FINRA Rule 2010 superseded NASD Rule 2110, effective December 15, 2008.

In July 2012, JP Morgan redeemed the underlying capital security, causing the STRATS to be terminated. JP Morgan redeemed the underlying capital security at par value plus accrued interest. Based on the terms of the underlying swap agreement, customers received the proceeds of the redemption after the swap termination fee was paid. As a result, at the time of the STRATS' termination, many customers holding the STRATS received less, and in some cases significantly less, than the amount they paid for the STRATS.

1. Wells Fargo Advisors Lacked a Reasonable Basis for Recommending the STRATS to Retail Customers

NASD Rule 2310(a) requires members, in "recommending to a customer the purchase, sale or exchange of any security" to have "reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs."

In Notices to Members 12-03 and 05-59, FINRA reminded members that sold complex products to perform a reasonable basis suitability determination, in accordance with NASD Rule 2310, before recommending such products to retail customers and to train associated persons on the unique features and risks of the structured products.³ For a member to discharge its reasonable basis suitability obligation, it must perform appropriate due diligence to ensure an understanding of the product's potential risks and rewards and must educate its registered representatives, and their supervisors, about the characteristics and risks of each structured product before it allows registered persons to sell the product to investors.

During the relevant period, Wells Fargo Advisors failed to educate its registered representatives regarding the unique features and risks of the STRATS. The Firm did not adequately inform its sales force, either through product-specific documents or training, that the STRATS were based on an underlying derivatives transaction involving a swap, a feature which had the effect of placing a customer's principal investment at risk if the STRATS' underlying bonds were redeemed. The Firm's sales force did not know under what circumstances a customer's principal would be at risk, including what would happen if the underlying capital security was redeemed, nor did the sales force know that customers could suffer significant losses in that eventuality. As a result, Wells Fargo Advisors' registered representatives did not comprehend the risks to customers of investing in the STRATS and thus lacked a reasonable basis for recommending these products to the Firm's retail customers.

Based on the foregoing, Wells Fargo Advisors violated NASD Rules 2310(a) and 2110 and FINRA Rule 2010

2. Wells Fargo Advisors' Institutional Sales Literature Concerning the STRATS Did Not Disclose the Risks of Investing in these Products

NASD Rule 2211(d) requires that "institutional sales material," which includes internal-use only material, meets the content standards applicable to communications with the public under NASD Rule 2210(d). NASD Rule 2210(d)(1), in turn, provides that subject communications "shall be

³ Notice to Members 12-03 (January 2012); Notice to Members 05-59 (September 2005).

based on principles of fair dealing and good faith, must be fair and balanced and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry or service.”

Wells Fargo Advisors made available to its sales force certain internal-use only documents regarding the STRATS. These documents did not contain adequate descriptions of the product, nor did they disclose the degree to which STRATS customers could lose principal if the underlying capital security was redeemed. For example, although an internal-use only brochure for the STRATS listed several risk factors, none of these explained that a customer investing in the STRATS could lose a significant percentage of their principal investment. Accordingly, the Firm’s internal-use only communications were not fair and balanced and did not provide a sound basis for evaluating the facts surrounding the STRATS or its risks.

Based on the foregoing, Wells Fargo Advisors violated NASD Rules 2211(d) and 2110 and FINRA Rule 2010.

3. *Wells Fargo Advisors Failed to Educate its Sales Force on the Risks to Customers of Investing in the STRATS*

NASD Rule 3010(a) requires members to “establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules.”

Wells Fargo Advisors failed to establish and maintain supervisory procedures, including training of its registered representatives, reasonably designed to achieve compliance with FINRA suitability standards. Wells Fargo Advisors’ supervisory system for the sale of STRATS was not reasonably designed because it failed to include adequate training for the Firm’s sales force regarding the risks of investing in the product. Wells Fargo Advisors did not provide product specific training to its registered representatives, and the internal-use only materials made available to its registered representatives did not adequately inform its representatives about the risks of investing in the STRATS.

Based on the foregoing, Wells Fargo Advisors violated NASD Rules 3010(a) and 2110 and FINRA Rule 2010.

- B. Wells Fargo Advisors also consents to the imposition of the following sanctions:
1. A censure; and
 2. A Fine in the amount of \$500,000.

Wells Fargo Advisors further agrees to pay restitution to customers listed on Attachment A hereto, who purchased STRATS in a Wachovia Securities or Wells Fargo Advisors account and were still holding STRATS at the time of termination, in the total amount of \$241,974.34, plus pre-judgment interest at the

rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from July 16, 2012 until the date this AWC is accepted by the NAC.

A registered principal on behalf of Respondent shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to C. Anthony Trambley, Senior Counsel, FINRA Enforcement, 15200 Omega Drive, Third Floor, Rockville, MD 20850 either by letter that identifies the Respondent and the case number or by e-mail from a work-related account of the registered principal of Respondent to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 120 days after acceptance of the AWC.

If for any reason Respondent cannot locate any customer identified in Attachment A after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by a FINRA staff member in writing, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. Respondent shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

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

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

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

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

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 Respondent;
- 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 acceptance or rejection of this AWC.

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 actions 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 the subject matter thereof in accordance with FINRA Rule 8313; and

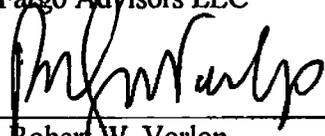
4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding 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: (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. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understand that it 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.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has 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 the Firm to submit it.

10/9/2015
Date (mm/dd/yyyy)

Respondent
Wells Fargo Advisors LLC

By: 

Robert W. Vorlop
Managing Director

Reviewed by:

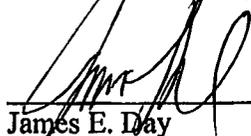


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Wells Fargo & Company Law Department
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One North Jefferson Avenue
St. Louis, MO 63103
Phone: 314-875-3566
Fax: 336-796-8674

Accepted by FINRA:

8/31/15
Date

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



James E. Day
Vice President & Chief Counsel
FINRA Department of Enforcement
15200 Omega Drive, Third Floor
Rockville, MD 20850
Phone: 301-258-8520
Fax: 202-720-8303

Attachment A
AWC No. 2012033568901

Account No. Ending	Restitution Amount	Account No. Ending	Restitution Amount
9056	\$4,875.88	8516	\$2,906.54
7237	\$1,803.64	7712	\$1,082.17
5311	\$1,803.64	4588	\$7,214.68
4623	\$1,442.95	8264	\$17,628.53
0892	\$1,082.17	7347	\$17,003.53
3133	\$1,778.18	6809	\$2,557.51
6822	\$4,689.51	1319	\$1,442.95
8815	\$2,210.87	9629	\$721.64
3496	\$4,290.06	0916	\$5,056.06
1482	\$4,455.51	0918	\$4,002.70
0103	\$3,214.42	4137	\$3,369.08
5962	\$1,675.36	0700	\$1,934.59
3014	\$3,363.81	7146	\$3,607.32
2086	\$2,469.81	1360	\$7,651.41
5527	\$3,967.18	6642	\$21,644.00
2241	\$1,442.95	1174	\$3,569.11
2449	\$7,015.19	3324	\$2,910.24
6384	\$721.46	0219	\$1,803.64
6293	\$1,442.95	3328	\$3,736.40
5885	\$1,442.95	9681	\$1,442.95
2889	\$721.46	2453	\$3,018.32
7262	\$2,437.26	2453	\$3,018.32
5775	\$3,800.70	8957	\$1,284.19
0202	\$8,101.41	0498	\$1,005.18
4250	\$1,519.20	4464	\$1,803.64
0041	\$15,307.85	5232	\$985.18
1671	\$1,249.43	5232	\$985.18
8652	\$7,051.41	9092	\$2,234.49
8710	\$3,607.32	7092	\$3,968.04
9015	\$721.46	3418	\$721.46
8003	\$2,885.87	2630	\$1,437.86
5939	\$360.73	4772	\$6,493.20
7264	\$3,342.39	3319	\$1,442.95
		Total	\$241,974.34