

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2014040633301**

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

**RE:** Tyler Powell, Respondent  
General Securities Representative  
CRD No. 5397439

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Tyler Powell ("Respondent" or "Powell"), 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 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**

Powell first became registered with FINRA in July 2007 through his association with a member firm where he was registered as a General Securities Representative (GSR). From January 2008 to August 2014, he was associated with Wells Fargo Advisors, LLC (the "Firm") and registered with FINRA as a GSR and a General Securities Sales Supervisor ("SU"). Since August 2014, Powell has been associated with another member firm and is registered with FINRA as a GSR and an SU. Powell does not have any disciplinary history.

**OVERVIEW**

Powell exercised discretion in a customer's account without obtaining prior written authorization from the customer. This conduct violated NASD Conduct Rule 2510(b) and FINRA Rule 2010.

## **FACTS AND VIOLATIVE CONDUCT**

NASD Conduct Rule 2510(b) generally prohibits registered representatives from exercising discretion in a customer account unless the customer has provided written authorization to the registered representative to exercise discretion, and the account has been accepted as a discretionary account, in writing, by the registered representative's firm.

From February 2011 to June 2013, while associated with the Firm, Powell effected approximately 159 discretionary transactions in the fee-based securities account of customer MM without obtaining prior written authorization from MM and without his employer member firm having accepted the account in writing as discretionary. The customer's account was a non-discretionary fee-based account and the Firm did not permit discretion in these types of accounts. Although Powell did not speak to MM regarding every transaction, he relied on his discussions with MM to execute the trades. By exercising discretion in this account without written authority, Powell violated NASD Conduct Rule 2510(b) and FINRA Rule 2010.

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

- A fifteen (15) business-day suspension from associating with any FINRA member in any capacity; and
- A \$5,000 fine.

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 that he is unable to pay, now or at any time hereafter, 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, Respondent 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 herein shall be effective on a date set by FINRA staff.

## **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**

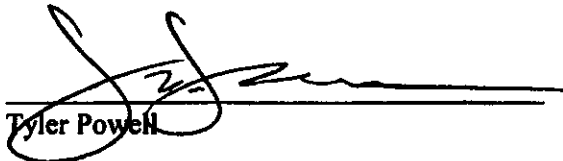
**Respondent understands that:**

- 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;**
- 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 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 or its staff.**

**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; that Respondent 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 Respondent to submit it.**

06/02/2015  
Date (mm/dd/yyyy)

  
Tyler Powell

Reviewed by:



William R. Lindsley, Esq.  
Law Offices of William R. Lindsley  
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(419) 255-1222 Ext. 202

Accepted by FINRA:

6/22/15

Date

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



Soo H. Im  
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