

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014040965001**

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

**RE: Mark F. Leone, Respondent
CRD No. 1873046**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Mark F. Leone ("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 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

Respondent was associated with Morgan Stanley (the "Firm") from June 1, 2009 through April 23, 2014, where he was registered as a general securities representative. Previously, Respondent was associated with the Firm's predecessors-in-interest, Morgan Stanley & Co. LLC from April 2, 2007 through June 1, 2009, and Morgan Stanley DW Inc. from December 1, 2005 through April 2, 2007, where he was registered in the same capacity. Respondent was terminated by the Firm for exercising discretion in client accounts without written authorization. Since May 1, 2014, Respondent has been associated with another member firm, where he is registered as a general securities representative.

RELEVANT DISCIPLINARY HISTORY

Respondent has no relevant disciplinary history.

FACTS AND VIOLATIVE CONDUCT

NASD Conduct Rule 2510(b) prohibits registered representatives from exercising any discretionary power in a customer's account unless such customer has given

prior written authorization to the registered representative and the registered representative's member firm has provided prior written acceptance of the account as discretionary.

On March 10, 2014, Respondent effected five discretionary transactions in five customer accounts without obtaining prior written authorization from the customers and without having the accounts accepted as discretionary accounts by his employing FINRA member firm, as required by NASD Conduct Rule 2510(b) and the Firm's procedures. With respect to one of the above-noted customers, Respondent had exercised discretion in her account since 2009 based on the customer's verbal authorization. Respondent, however, did not obtain written authorization from the customer to exercise discretion in her account and the Firm did not approve the account for discretionary trading.

As a result of the foregoing conduct, Respondent violated NASD Conduct Rule 2510(b) and FINRA Rule 2010.

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

A fifteen business-day suspension from association with any FINRA member firm 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 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 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 him;
- 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 him;
 - 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.

06/03/2015
Date (mm/dd/yyyy)



Mark F. Leone, Respondent

Accepted by FINRA:

6/29/15
Date

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



Heather Hawker
Senior Regional Counsel
FINRA Department of Enforcement
4600 S. Syracuse St., Suite 1400
Denver, Colorado 80237-2719
(303) 446-3110
Fax No. (303) 620-9450
heather.hawker@finra.org