

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014042223301**

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

RE: Jack B. McBride, Respondent
Registered Representative
CRD No. 2517946

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I submit 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. I hereby accept and consent, 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

Jack B. McBride ("McBride") first became registered as a general securities representative in 1994 with Ameriprise Advisor Services, Inc. which was subsequently purchased by Ameriprise Financial Services, Inc. ("Ameriprise" or the "Firm") with whom he became registered in 2009. McBride's registration with Ameriprise was terminated in August 2014. McBride subsequently became registered with another FINRA member firm, where he is currently registered.

RELEVANT DISCIPLINARY HISTORY

McBride has no relevant disciplinary history.

OVERVIEW

While he was at his prior Firm, McBride committed several violations pertaining to customer accounts as follows: (1) he settled a customer complaint without notifying his Firm, in violation of FINRA Rule 2010; (2) he sent emails to two

customers (a husband and wife) containing account values that McBride inadvertently had inflated, in violation of NASD Rule 2210(d)(1) and FINRA Rules 2210(d)(1) and 2010; and (3) in connection with non-traditional Exchange Traded Products (“non-traditional ETFs”), which were prohibited by his Firm, he mismarked order tickets as unsolicited when the transactions were in fact solicited, in violation of FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. Improperly Settling Customer Complaint Without Notice to Firm

McBride had a client “K.A.” for over 15 years. K.A. and K.A.’s wife together had six accounts with Ameriprise, with McBride as their representative. Over the course of four days in July 2013, McBride executed \$320,000 in securities purchases on K.A.’s behalf. K.A. had instructed the purchases to be spread across he and his wife’s six accounts. But, due to a mistake in execution, all of the securities were purchased in only one of K.A.’s accounts, which did not have a sufficient balance to cover the purchases. Therefore, K.A. incurred a margin balance and was charged margin interest. In January 2014, K.A. noticed the margin balance and interest and demanded of McBride that the Firm reimburse him the interest. Rather than reporting K.A.’s complaint to the Firm, McBride wrote four checks to K.A. from his personal account, totaling \$12,845.86, to reimburse K.A. for the margin interest charges he complained about. McBride did not disclose K.A.’s complaint or the payments he made to K.A. to the Firm, until after K.A. complained directly to the Firm in June 2014.

It is a violation of FINRA Rule 2010 for a registered representative to settle a customer complaint without his firm's knowledge or approval. The Firm’s policies similarly prohibited representatives from engaging in settlements and refunding clients without the Firm’s knowledge.

By virtue of the foregoing, Respondent violated FINRA Rule 2010.

2. Misleading Communications

With respect to the six accounts of K.A. and his wife, K.A. requested that McBride send summaries of the account values to supplement the account statements K.A. received monthly from Ameriprise. McBride agreed, and provided account summaries via email that identified the account value for each account and the aggregate value for all six accounts, as of the date of the email. To do so, McBride created an excel spreadsheet that was supposed to reflect all activity in the accounts. McBride or his assistant maintained the spreadsheet themselves, inputting transactions as they occurred. At some point, the account values reflected on the spreadsheet became inflated due to inadvertent errors made by McBride or his assistant, including a failure to remove some positions after they were sold and a failure to account for certain reverse stock splits. In

addition, McBride did not account for the margin balance and interest charges discussed above. McBride did not detect the inflated values in the spreadsheet.

As a result of the above, from January 2013 through February 2014, McBride sent 14 emails to K.A. listing account balances that were overstated from approximately \$200,000, to as high as \$570,000 more than the actual value of the accounts, which averaged around \$3.9 million.

FINRA Rule 2210(d)(1)(B), effective February 4, 2013, states that “[n]o member may make any false, exaggerated, unwarranted, promissory or misleading statement or claim in any communication.” NASD Rule 2210(d)(1)(B), effective prior to February 4, 2013, contained virtually identical language. The emails containing inflated account summaries that McBride sent to K.A. fell under the purview of, and violated, NASD and FINRA Rule 2210(d)(1).¹

By virtue of the foregoing, Respondent violated NASD Rule 2210(d)(1) for the January 2013 email, and FINRA Rule 2210(d)(1) for the remaining 13 emails, as well as FINRA Rule 2010 for all of the emails.

3. Mismarking of Order Tickets

From January 2013 through December 2013, four of McBride’s customers made a total of 14 purchases in non-traditional ETFs. At that time, the Firm prohibited registered representatives from recommending these products. McBride introduced the four customers to the non-traditional ETFs and discussed the various features of the products with them before the customers agreed to purchase the products. McBride then improperly recorded these transactions as “unsolicited.”

FINRA Rule 4511 provides that each member shall make and preserve books and records in conformity with Securities Exchange Act of 1934 (“Exchange Act”) Rule 17a-3. Under Exchange Act Rule 17a-3, it is required that broker-dealers keep records of “all purchases, sales, receipts, and deliveries of securities” for each customer account. The obligation to make and keep records current embodies the requirement that such records be accurate. McBride violated FINRA Rule 4511 by causing the Firm to violate Exchange Act Rule 17a-3 through mismarking trades as “unsolicited” when they were actually solicited.

By virtue of the foregoing, Respondent violated FINRA Rules 4511 and 2010.

B. I also consent to the imposition of the following sanctions:

- a \$12,500 fine and 40 calendar day suspension from associating with any FINRA member firm in any capacity.

¹ One of the 14 emails was sent on January 8, 2013. That email is governed by NASD Rule 2210. The remaining 13 emails are governed by FINRA Rule 2210.

I agree to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become 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, I 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

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive any right to claim bias or prejudice 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.

I further specifically and voluntarily waive 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.

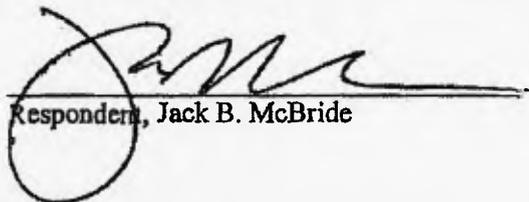
OTHER MATTERS

I understand that:

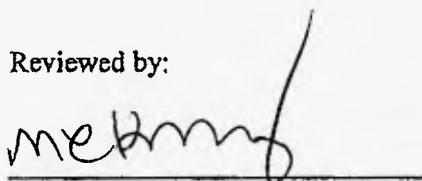
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (“ODA”), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
 - 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. I 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. I 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 my: (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. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have 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 me to submit it.

9/19/17
Date (mm/dd/yyyy)


Respondent, Jack B. McBride

Reviewed by:

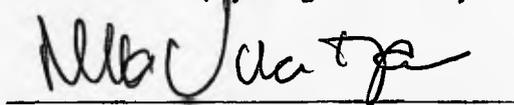


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Accepted by FINRA:

10/9/17
Date

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


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