

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016050430201**

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

RE: Matthew C. Maczko, Respondent
Former Registered Representative
CRD No. 1888519

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent, Matthew C. Maczko ("Respondent" or "Maczko") 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

Maczko entered the securities industry in 1988 as a General Securities Representative at another FINRA member firm. Maczko obtained his Series 7 and 63 licenses in October 1988 and his Series 65 license in December 1997. In February 2008, he joined Wells Fargo Advisors, LLC ("WFA") and worked there until September 2, 2016. On September 20, 2016, WFA filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") indicating that Maczko had been terminated on September 2, 2016 "under internal review for adherence to industry standards of conduct based on concerns about the level of trading in a customer account."

Maczko is not currently associated with any FINRA-regulated broker-dealer; however, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of the Bylaws of the Corporation.

Maczko has no relevant disciplinary history.

OVERVIEW

Between January 2009 and April 2016, Maczko engaged in excessive trading in four accounts of a senior customer in violation of NASD Rule 2310 (before July 9, 2012), FINRA Rule 2111 (on and after July 9, 2012) and FINRA Rule 2010. Additionally, on September 28, 2016, Maczko provided inaccurate and misleading testimony to FINRA staff during on-the-record testimony in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

Maczko Traded Excessively in the Accounts of a Senior Customer

NASD Conduct Rule 2310(a) provided that “[i]n recommending to a customer the purchase, sale or exchange of any security, a member shall 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.”

FINRA Rule 2111, which superseded NASD Rule 2310 on July 9, 2012, provides in pertinent part that “[a] member or an associated person must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer’s investment profile. A customer’s investment profile includes, but is not limited to, the customer’s age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance . . .”

FINRA Rule 2111, supplementary materials section .05(c) includes that “[q]uantitative suitability requires a member or associated person who has actual or de facto control over a customer account to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer’s investment profile, as delineated in Rule 2111(a) . . .”

Between January 2009 and April 2016, Maczko effected excessive transactions in four brokerage accounts of Customer JZ, who is now 93 years old. Maczko effectively controlled these accounts, which had an average aggregate value of \$3 million. During this period, Maczko effected over 2800 transactions in these accounts that generated approximately \$581,650 in commissions, \$84,270 in other fees, and approximately \$397,000 in trading losses. This level of trading was unsuitable for Customer JZ given her investment profile; including her age, risk tolerance, and income needs. Accordingly, Maczko violated NASD Rule 2310 and FINRA Rules 2111 and 2010.

Maczko Provided Inaccurate and Misleading Testimony to FINRA

FINRA Rule 8210 provides, in relevant part, that “FINRA staff shall have the right to . . . require a member, person associated with a member, or person subject to FINRA’s jurisdiction to provide information orally, in writing, or electronically . . . with respect to any matter involved in the investigation, complaint, examination, or proceeding[.]” Rule 8210 requires a registered person to respond fully, completely, and truthfully to a request for information from FINRA. Providing untruthful or misleading testimony to FINRA violates Rules 8210 and 2010.

FINRA staff took Maczko’s investigative testimony pursuant to FINRA Rule 8210 on September 28, 2016. During that testimony, Maczko testified that he had not spoken with Customers KL and CL, also senior customers, since his termination earlier that month. However, a review of his telephone records revealed that he had in fact spoken with these customers by telephone several times after his termination. By providing inaccurate and misleading testimony, Maczko violated FINRA Rules 8210 and 2010.

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

- A bar from associating with any FINRA member in any capacity.

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. A bar or expulsion shall become effective upon approval or acceptance of this AWC.

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

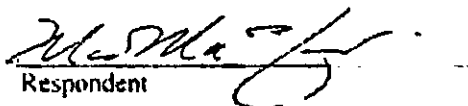
Respondent understands that:

- 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; 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 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.

Respondent's certifies that a person duly authorized to act on his 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 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.

1-27-2017
Date


Respondent

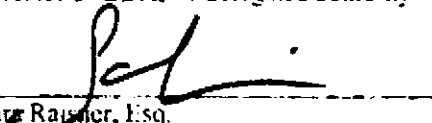
Reviewed by:


Daniel J. Donovan, Esq.
Counsel for Respondent
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Baltimore, MD 21202
(T) 410.685.8800

Accepted by FINRA:

2/9/17
Date

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


Sara Rausler, Esq.
Director
FINRA Department of Enforcement
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New York, New York 10281
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