FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2018058266301

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

RE: Buckman, Buckman & Reid, Inc., Respondent
CRD No. 23407

Harry John ("Chip") Buckman, Jr., Respondent
CRD No. 2202467

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Buckman, Buckman & Reid, Inc. ("BBR" or the "Firm") and Harry John ("Chip") Buckman, Jr. ("Buckman") (together, "Respondents"), 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 the Respondents alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. Respondents 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

BBR has been a FINRA member firm since 1989. The Firm is headquartered in Little Silver, New Jersey, employs approximately 50 registered representatives, and has two branch offices.

Buckman first became registered with FINRA as a General Securities Representative in 1992. He became registered in that capacity through BBR in September 1994. Buckman subsequently became registered through BBR as a General Securities Principal in September 1995, a Registered Options Principal in March 2000, an Investment Banking Representative in April 2010, an Operations Professional in November 2011, and an Investment Banking Principal in October 2018. Buckman remains registered in those capacities through BBR.

RELEVANT DISCIPLINARY HISTORY

Neither the Firm nor Buckman has any relevant formal disciplinary history with the Securities and Exchange Commission, any self-regulatory organization, or any state securities regulator.

OVERVIEW

From January 2013 through April 2017, BBR failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce written supervisory procedures ("WSPs"), that were reasonably designed to achieve compliance with FINRA's suitability rule. In addition, BBR and Buckman—who was the Firm's designated supervisory principal responsible for conducting suitability reviews—failed to reasonably supervise two former registered representatives, GK and RI, who, while registered through BBR, recommended excessive and unsuitable trades in multiple customer accounts.

As a result of the foregoing, BBR and Buckman violated NASD Rule 3010 (for conduct before December 1, 2014), FINRA Rule 3110 (for conduct on or after December 1, 2014), and FINRA 2010.

FACTS AND VIOLATIVE CONDUCT

A. BBR Failed to Establish and Maintain a Supervisory System, and Failed to Establish, Maintain, and Enforce WSPs, That Were Reasonably Designed to Achieve Compliance with FINRA's Suitability Rule

FINRA Rule 3110 and its predecessor, NASD Rule 3010, require that each member firm establish and maintain a supervisory system, and establish, maintain and enforce WSPs, that are reasonably designed to supervise the activities of each registered representative, registered principal, and other associated person of the firm and achieve compliance with applicable securities laws and regulations, and with applicable NASD and FINRA rules.

FINRA Rule 2111 and its predecessor, NASD Rule 2310, require member firms or their associated persons to have a reasonable basis to believe that a recommended securities transaction or investment strategy is suitable for the customer, based on the information obtained through the reasonable diligence of the firm 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, investment objectives, investment experience, investment time horizon, liquidity needs, and risk tolerance.

A recommended securities transaction or investment strategy may be unsuitable if it results in a customer's account being unduly concentrated in a particular

security or category of securities that is inconsistent with the customer's investment profile. Recommended securities transactions may also be unsuitable if, when taken together, they are excessive and the level of trading is inconsistent with the customer's investment profile. No single test defines when trading is excessive, but factors such as the turnover rate and the cost-to-equity ratio may provide a basis for a finding that a member firm or associated person has violated FINRA's suitability rule.

From January 2013 through April 2017, BBR failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce WSPs, that were reasonably designed to achieve compliance with FINRA's suitability rule, particularly as the rule pertains to excessive trading and unduly concentrated positions in customer accounts. First, although the Firm's WSPs identified Buckman—a Senior Vice President and one of the owners of the Firm—as the principal responsible for reviewing the suitability of representatives' recommendations, Buckman did not perform suitability reviews, claiming instead that he relied on the Compliance Department to perform such reviews. However, BBR did not memorialize any purported delegation of supervisory responsibility in its WSPs or elsewhere.

Second, the WSPs did not identify who at the Firm had responsibility for reviewing exception reports and alerts. Through its monitoring service, BBR received a number of automated exception reports and alerts that were relevant to identifying excessive trading and unduly concentrated positions. Prior to May 2017, however, no one at the Firm reviewed those exception reports or alerts. For example, the Firm had access to monthly exception reports that flagged high turnover rates and commission amounts relative to the amount of equity in an account, both of which are relevant to detecting excessive trading. However, the WSPs did not mention those reports or provide any guidance about how to use them. Similarly, the Firm also received alerts that identified potentially unsuitable concentration levels in customer accounts but, again, the WSPs did not mention the alerts or provide any guidance about how to use them.

As a result, prior to May 2017, no one at BBR reviewed the monthly exception reports and alerts that could have helped the Firm detect excessive trading and unsuitable concentration levels in customer accounts. Buckman did not review the exception reports, notwithstanding the fact that the Firm's WSPs designated him as the supervisor responsible for conducting suitability reviews, nor did he take any actions to ensure that anyone else at the Firm reviewed the reports and alerts or otherwise conducted reasonable suitability reviews. In fact, no one at the Firm reviewed the exception reports or conducted reasonable suitability reviews.

In place of reviewing the monthly exception reports that identified high turnover rates and commission-to-equity ratios, the Firm relied on a report, referred to as the "Active Account Report," to detect excessive trading in customer accounts. But the Active Account Report—which was manually prepared by an

administrative assistant of the Firm—was not reasonably designed to detect excessive trading. For example, while the Active Account Report identified accounts that generated a certain level of commissions in the preceding month, it failed to calculate the commissions or costs relative to the amount of equity in each account. Moreover, because the Active Account Report only reflected information about the preceding month, it did not enable supervisors to identify patterns of potentially unsuitable levels of trading activity in accounts over time.

As a result of the foregoing, BBR violated NASD Rule 3010 (for conduct before December 1, 2014), FINRA Rule 3110 (for conduct on and after December 1, 2014), and FINRA Rule 2010.

B. BBR and Buckman Failed to Reasonably Supervise GK

From January 2013 through March 2015, BBR and Buckman failed to reasonably supervise GK, a former registered representative of the Firm.

BBR hired GK in January 2012 and he voluntarily resigned from the Firm in June 2015. Buckman was GK's direct supervisor throughout that time. When BBR hired GK, he had numerous reportable events disclosed on his Uniform Application for Securities Industry Registration or Transfer ("Form U4"), including several customer complaints alleging that he had made unsuitable recommendations in connection with the sale of Unit Investment Trusts ("UITs").[1] The Firm placed GK on heightened supervision for his entire period of employment at the Firm.

Nonetheless, Respondents failed to reasonably supervise GK. Indeed, Respondents did not identify that GK recommended excessive trades in at least four customers' accounts (some of which were retirement accounts), including frequent and short-term trades of UITs and other products that had significant up-front costs and were intended to be long-term investments.[2]

For example, GK recommended that customers LA and RA—a retired couple with an investment objective of "balance/conservative growth"—buy and then promptly sell UITs and other long-term investments on 15 separate occasions in 2014. The customers held these long-term securities for an average of only 69 days. GK's frequent and short-term trading of UITs and other long-term products in the customers' account resulted in an annualized cost-to-equity ratio of more than 16 percent. GK recommended that another customer—with an investment objective of "growth"—buy and sell UITs and other long-term investments on 17 occasions in 2014, with an average holding period for these securities of only 53

[1] UITs are investment companies that offer shares of a fixed portfolio of securities in a one-time public offering, and terminate on a specified maturity date. As such, they are not designed to be used as trading vehicles. In addition, UITs typically carry significant up-front charges, and as with mutual funds that carry front-end sales charges, short-term trading of UITs is generally improper.

[2] FINRA has barred GK from associating with any FINRA member firm in any capacity.

days. GK's frequent trading in that customer's account resulted in an annualized cost-to-equity ratio of more than 21 percent.

GK's trading raised numerous red flags. Indeed, GK's trading in those customers' accounts in one year alone generated 65 exceptions on the monthly excessive trading exception report, which, as discussed above, no one at the Firm reviewed. The four customers' accounts also frequently appeared on the Active Account Report, which, as noted above, Respondents relied on in an attempt to detect excessive trading in customer accounts.

Notwithstanding the appearance of the four customers' accounts on those reports, Respondents did not take any actions to restrict GK's trading. Buckman did not even contact the four customers to determine whether they were aware of the level of trading in their accounts.

Collectively, over a two-year span from 2013 to 2014, GK's excessive trading of UITs and other long-term products caused the four customers, who collectively held six accounts at BBR, to pay approximately $210,000 in commissions and resulted in losses of approximately $163,000.

As a result of the foregoing, BBR and Buckman violated NASD Rule 3010 (for conduct before December 1, 2014), FINRA Rule 3110 (for conduct on and after December 1, 2014), and FINRA Rule 2010.

C. BBR and Buckman Failed to Reasonably Supervise RI

From August 2015 through April 2017, BBR and Buckman failed to reasonably supervise RI, a former registered representative of the Firm.

BBR hired RI in January 2010, and he worked at the Firm until April 2018. Buckman was RI's direct supervisor from approximately October 2013 through April 2018. When RI joined BBR, he had one customer complaint disclosed on his Form U4. By the end of May 2010, an additional five complaints were disclosed on his Form U4.

During the relevant period, Respondents did not reasonably supervise RI in that they failed to identify that RI had excessively traded and had unsuitably concentrated positions in at least three customers' accounts and recommended unsuitably concentrated positions in at least four additional customers' accounts.[3]

First, RI recommended excessive and unsuitable trades in the accounts of three customers. For example, RI made more than 130 trades in the account of an 89 year-old retired customer during a single one-year period, resulting in an

[3] FINRA has barred RI from associating with any FINRA member firm in any capacity based on his refusal to provide on-the-record testimony in connection with FINRA's investigation into his potential unauthorized and unsuitable trading, in violation of FINRA Rules 8210 and 2010.

annualized cost-to-equity ratio of more than 32 percent and a turnover rate of more than six. RI's trading in the three customers' accounts raised numerous red flags. The accounts regularly appeared on the monthly excessive trading exception report, which no one at the Firm reviewed. For example, between August 2015 and July 2016, the account of the elderly customer mentioned above appeared on the monthly excessive trading exception report eight times and appeared on the commission velocity exception report nine times. That customer's account also appeared on the Active Account Report each month during that same period.

Notwithstanding the appearance of the three customers' accounts on those reports, neither the Firm nor Buckman took any actions to investigate or restrict RI's trading, nor did anyone contact the customers to determine whether they were aware of the level of trading in their accounts. Collectively, RI's trading of the three customers' accounts caused the customers to pay approximately $173,476 in commissions and resulted in losses of approximately $290,238.

Second, RI recommended that four other customers, each with accounts that had assets of less than $25,000 during the majority of the relevant period, unsuitably concentrate their account holdings in a single, speculative security—a clinical-stage biotechnology company with no commercial products. RI recommended that one customer, whose net worth was less than $200,000, invest 100 percent of her account holdings in the stock, thereby exposing the customer to a risk of loss in that account that was not suitable in light of her investment profile. RI recommended that the other customers concentrate at times as much as 99% percent of their account holdings in the stock, which again was unsuitable in light of the customers' investment profiles.

Respondents were aware that RI had recommended that some of his customers hold concentrated positions in the stock. But neither Buckman nor anyone at the Firm took any measures to determine the specific concentration levels, much less to determine whether the concentration levels were suitable for the customers in question. No one at the Firm contacted the customers to determine whether they were aware of the concentrated positions in their accounts.

Collectively, RI's recommendations that these customers concentrate their account holdings in a single, speculative security resulted in losses of approximately $32,078 for the four customers.

As a result of the foregoing, BBR and Buckman violated FINRA Rules 3110 and 2010.

B. Respondents consent to the imposition of the following sanctions:

For BBR[4]:

- a censure;
- restitution to the customers listed on Attachment A in the total amount of $205,554,[5] plus interest as further described below; and
- an undertaking, within 30 days of the issuance of the Notice of Acceptance of this AWC, to review and revise, as necessary, the Firm's supervisory system and WSPs, regarding supervision of excessive trading and unsuitable concentration levels and supervision of registered representatives with disciplinary histories. Within 90 days of the Notice of Acceptance of this AWC, a registered principal on behalf of the Firm shall certify in writing to Melissa Turitz, Senior Counsel, that: (i) the Firm has completed its review; and (ii) as of the date of the certification, the Firm has established systems and WSPs reasonably designed to achieve compliance with the applicable securities laws, regulations, and NASD and FINRA rules addressed in this AWC.

For Buckman:

- a three-month suspension from association with any FINRA member in any principal capacity;
- a fine of $20,000; and
- a requirement that within 90 days of the Notice of Acceptance of this AWC, Buckman will undertake to attend and satisfactorily complete 40 hours of continuing education concerning supervisory responsibilities by a provider not unacceptable to FINRA. Buckman will notify Melissa Turitz, Senior Counsel, of the name and contact information of the provider who is providing the continuing education at least 10 days prior to attending the training. Within 30 days following completion of such training, Buckman will submit written proof that the continuing education program has been satisfactorily completed to Melissa Turitz, FINRA's Department of Enforcement, 581 Main Street, Suite 710, Woodbridge, New Jersey 07095, and by email to Melissa.Turitz@finra.org. All correspondence must identify the respondent and matter number.

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[4] Pursuant to the General Principles Applicable to all Sanction Determinations contained in the *Sanction Guidelines*, FINRA imposed no fine against BBR in this case after it considered, among other things, the Firm's revenues and financial resources, as well as its agreement to pay full restitution to the affected customers. *See* Notice to Members 06-55.

[5] The amount of restitution BBR is required to pay has been reduced by amounts and settlements that BBR previously paid to customers.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Buckman has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Respondents specifically and voluntarily waive any right to claim that they are unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

Restitution is ordered to be paid to the customers listed on Attachment A hereto in the total amount of $205,554, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from May 1, 2017, until the date this AWC is accepted by the NAC.

A registered principal on behalf of BBR shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Melissa Turitz, FINRA, 581 Main Street, Suite 710, Woodbridge, NJ 07095, either by letter that identifies BBR and Matter No. 2018058266301 or by e-mail from a work-related account of the registered principal of Respondent firm 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 BBR 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, BBR 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. BBR 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.

Restitution payments to customers shall be preceded or accompanied by a letter, not unacceptable to FINRA staff, describing the reason for the payment and the fact that the payment is being made pursuant to a settlement with FINRA and as a term of this AWC.

As noted above, pursuant to the General Principles Applicable to all Sanction Determinations contained in the *Sanction Guidelines*, FINRA imposed no fine against BBR in this case after it considered, among other things, the firm's

revenues and financial resources. *See* Notice to Members 06-55.

Buckman understands that if he is barred or suspended from associating with any FINRA member in a principal capacity, 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, Buckman may not be associated with any FINRA member in a principal capacity during the period of the bar or suspension (see FINRA Rules 8310 and 8311). Furthermore, because Buckman is subject to a statutory disqualification during the suspension, if he remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

A. To have a Complaint issued specifying the allegations against them;

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, Respondents specifically and voluntarily waive 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.

Respondents 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

Respondents 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 them; and

C. If accepted:

1. this AWC will become part of Respondents' permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against them;

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. Respondents 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. Respondents 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 Respondents': (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. Respondents may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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.

On his own account, Buckman 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 he 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 him to submit it.

Buckman, Buckman & Reid, Inc.

4/8/2019
Date (mm/dd/yyyy)

By: _____
Name: Thomas P. Buckman
Title: Managing Director

04/08/2019
Date (mm/dd/yyyy)

_____
Respondent Harry John Buckman, Jr.

Reviewed by:

_____
John Murphy, Esq.
Counsel to Buckman, Buckman & Reid, Inc.
Counsel to Harry John Buckman, Jr.
John Murphy & Associates, P.C.
1450 Broadway, 39th Floor
New York, NY 10018
jmurphy@johnmurphylaw.com
(646) 862-2012

Accepted by FINRA:

4/25/19
Date

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

Michael Newman
Melissa Turitz
FINRA Department of Enforcement
581 Main Street, Suite 710
Woodbridge, NJ 07095
(Tel): 732-596-2030
(Fax): 202-721-6557

ATTACHMENT A
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
No. 2018058266301

Customer Initials	Restitution Amount
RP	$126,028
BJ	$43,275
JM	$4,173
KS	$12,109
CJ	$4,842
DP	$8,329
MM	$6,798