

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016049183301**

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

RE: Omer Ozeren, Respondent
General Securities Representative
CRD No. 6171522

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

Omer Ozeren entered the securities industry in 2013. From March 2013 through May 2016, he was associated with ACE Diversified Capital, Inc. and, for most of this period, was registered with FINRA as a General Securities Representative. Ozeren is not currently registered or associated with a FINRA member. However, he remains subject to FINRA’s jurisdiction pursuant to Article V, Section 4 of FINRA’s By-Laws. Ozeren does not have any relevant disciplinary history.

OVERVIEW

From August 2013 to August 2015, Ozeren effected 606 discretionary transactions, some of which were options transactions, in three customer accounts without written authorization from the customers or written acceptance from the firm in violation of NASD Rules 2510(b) and 2860(b) and FINRA Rules 2360(b) and 2010. In addition, from December 2013 to August 2015, Ozeren recommended 72 transactions in inverse and inverse leveraged Exchange Traded Funds (“non-traditional ETFs”) in the same three customer accounts without a

reasonable basis for the recommendations, in violation of FINRA Rules 2111 and 2010.

FACTS AND VIOLATIVE CONDUCT

Exercising Discretion Without Written Authorization

NASD 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.

Similarly, NASD Rule 2860(b)(18)(A) and its successor, FINRA Rule 2360(b)(18)(A),¹ prohibit registered representatives from exercising any discretionary power with respect to trading in option contracts in a customer's account except in compliance with the provisions of NASD Rule 2510 and unless (i) the written authorization of the customer required by NASD Rule 2510 specifically authorizes options trading in the account and (ii) the account is accepted in writing by a Registered Options Principal or Limited Principal—General Securities Sales Supervisor.

A violation of NASD Rule 2510(b), NASD Rule 2860(b), or FINRA Rule 2360(b) is also a violation of FINRA Rule 2010.

From August 2013 to August 2015, Ozeren effected 606 discretionary transactions, some of which were options transactions, in three customer accounts. Ozeren did not obtain prior written authorization from these customers to use discretion in their accounts or prior written acceptance of their accounts as discretionary by the firm and a Registered Options Principal or Limited Principal—General Securities Sales Supervisor.

By virtue of the foregoing, Ozeren violated NASD Rules 2510(b) and 2860(b)(18) (for conduct prior to December 11, 2014) and FINRA Rules 2360(b)(18) (for conduct after December 11, 2014) and 2010.

Unsuitable Recommendations of Non-Traditional ETFs

FINRA Rule 2111 requires registered representatives to have reasonable grounds for believing that a recommendation is suitable for a customer based upon the customer's disclosed security holdings and financial situation and needs. A violation of this rule also constitutes a violation of FINRA Rule 2010.

In June 2009, FINRA advised its membership through Regulatory Notice 09-31 concerning non-traditional ETFs that “[d]ue to the effect of compounding, their

¹ FINRA Rule 2360 replaced NASD Rule 2860 effective December 11, 2014. Both of these rules apply here because the misconduct occurred before and after the effective date of the rule change.

performance over longer periods of time can differ significantly from the performance ... of their underlying index or benchmark during the same period of time.” Because of these risks and the inherent complexity of the products, FINRA Regulatory Notice 09-31 advised broker-dealers and their representatives that non-traditional ETFs “are typically not suitable for retail investors who plan to hold them for more than one trading session, particularly in volatile markets.”

From December 2013 to August 2015, Ozeren recommended 72 non-traditional ETF transactions in three customer accounts without understanding the risks and features of the non-traditional ETFs. These investments were not meant to be held for long periods of time. In fact, the prospectuses for the non-traditional ETFs recommended by Ozeren warned that the ETFs were intended to be used as short-term trading vehicles, and were not designed to be long-term investments. Despite this warning and Regulatory Notice 09-31, Ozeren recommended that non-traditional ETF positions be held in customer accounts for periods ranging from approximately five days to two months. He did not have reasonable grounds for believing these recommendations were suitable. As a result of these transactions, two of Ozeren’s customers suffered losses of \$9,388.

By virtue of the foregoing, Ozeren violated FINRA Rules 2111 and 2010.

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

- A three-month suspension from associating with any FINRA member in any capacity;
- A \$10,000 fine; and
- Restitution to the customers listed on Attachment A hereto in the total amount of \$9,388, plus interest.

The fine shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

An order to pay restitution is ordered to be paid to the customers listed on Attachment A hereto in the total amount of \$9,388, 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 December 6, 2013, until the date of payment. Restitution amounts ordered, pursuant to this disciplinary action, are due and payable immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier. 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. If for any reason Ozeren cannot locate any customer identified in Attachment A after reasonable and documented efforts within such period, or such additional period agreed to by the staff, Ozeren 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.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction 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 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.

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:

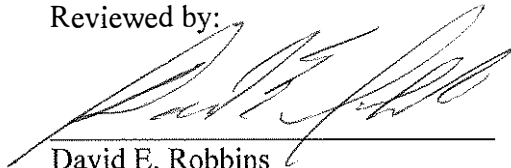
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will 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 understand and acknowledge that FINRA does not represent or advise me and I cannot rely on FINRA or FINRA staff members for legal advice; 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.

03/05/2018
Date (mm/dd/yyyy)


Omer Ozeren

Reviewed by:



David E. Robbins
Counsel for Respondent
Kaufmann Gildin & Robbins LLP
767 Third Avenue, 30th Floor
New York, NY 10017
(212) 755-3100

Accepted by FINRA:

03/09/2018
Date

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



Soo H. Im
Senior Regional Counsel
FINRA Department of Enforcement
300 South Grand Ave., Suite 1700
Los Angeles, CA 90071
Tel: (213) 229-2321; Fax: (213) 617-1570

Attachment A – Letter of Acceptance, Waiver and Consent
Omer Ozeren, No. 2016049183301

Customer	Restitution Amount
OG	\$7,506
EO	\$1,882