

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2019063631802**

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

RE: Michael Leahy, Respondent
General Securities Representative and General Securities Principal
CRD No. 1899498

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Michael Leahy 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

Leahy first became registered with FINRA as a General Securities Representative in July 1998. Since July 2017, Leahy has been registered through First Standard Financial Company LLC (CRD No. 168340) ("First Standard" or the "Firm")¹ as a General Securities Representative and General Securities Principal.

¹ On October 31, 2019, the New Jersey Bureau of Securities issued a Summary Revocation Order against First Standard, revoking the Firm's registration in the State of New Jersey for, among other things, engaging in "a fraudulent course of business that consisted of excessive, unsuitable, and frequently unauthorized short-term trading in customer accounts that generated commissions for First Standard and its agents at its customers' expense."

First Standard filed a Uniform Request Withdrawal from Broker-Dealer Registration ("Form BDW") on or around November 5, 2019.

RELEVANT DISCIPLINARY HISTORY

Respondent does not have any disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

OVERVIEW

From September 18, 2019 through October 8, 2019 (the “Relevant Period”), Leahy failed to reasonably supervise PS, a former registered representative, who, while registered through First Standard, engaged in a pattern of unauthorized trading, using margin without authorization, recommending excessive and otherwise unsuitable transactions, and charging excessive commissions in dozens of customer accounts. Leahy, the sole principal at the Firm and the only individual responsible for supervising PS during the Relevant Period, was aware of multiple red flags of PS’s misconduct. The red flags included: daily trade blotters that showed frequent in-and-out trading and commissions often exceeding 5%; numerous customer complaints alleging unauthorized trading, unauthorized use of margin, and excessive commissions; and notification from the Firm’s clearing firm of potential unauthorized trading by PS. Leahy did not investigate those red flags or otherwise take reasonable action to curtail PS’s pattern of misconduct. As a result of Leahy’s failure to reasonably respond to those red flags, PS’s misconduct continued unabated until the New Jersey Bureau of Securities summarily revoked PS’s registration in the State of New Jersey on October 8, 2019.

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

FACTS AND VIOLATIVE CONDUCT

A. Applicable Law

FINRA Rule 3110 requires that a supervisor take reasonable steps to achieve compliance with applicable FINRA rules and federal securities laws and regulations, and that he or she reasonably investigate red flags of potential misconduct and take reasonable action when misconduct has occurred. A violation of FINRA Rule 3110 also constitutes a violation of FINRA Rule 2010.

FINRA Rule 2010 requires an associated person to observe high standards of commercial honor and just and equitable principles of trade in the conduct of his or her business. Unauthorized trading, that is, trading without the customer’s permission or authorization, or the unauthorized use of margin, violates FINRA Rule 2010.

FINRA Rule 2111 requires member firms or their associated persons to have a reasonable basis to believe that a recommended securities transaction is suitable for the customer, based on 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.

Recommended securities transactions may 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 finding that an associated person has violated FINRA's suitability rule.

FINRA Rule 2121 prohibits firms from charging "more than a fair commission or service charge" for a securities transaction. Whether a charge is fair depends on all of the relevant circumstances. Supplementary Material .01 to FINRA Rule 2121 describes a long-standing "5% Policy" that sets a guideline of 5% for determining whether a mark-up, mark-down, or commission is "unfair or unreasonable." Supplementary Material .01 also informs members that this "5% Policy" is a guide, but that mark-ups, mark-downs, or commissions "of 5% or even less may be considered unfair or unreasonable." Factors affecting the determination of whether a charge is unfair or unreasonable include the type of security, its availability in the market, its price, the amount of the transaction, disclosures to customers, whether the commission is part of a pattern, and the nature of the firm's business.

B. Leahy's Supervisory Responsibilities at First Standard

From January 2019 through August 11, 2019, Leahy was a Compliance Officer in the Firm's Compliance Department in Red Bank, New Jersey. At the time he started as a Compliance Officer, the Firm had approximately 58 registered persons and five branch offices. One of the registered representatives was PS, who had been registered with the Firm as a Corporate Securities Representative since July 2014 and worked at the Firm's Red Bank office with Leahy.²

On or about September 18, 2019, there was an exodus of registered representatives and principals from First Standard. This left the Firm with only one registered representative who traded customer accounts—PS. As registered representatives departed the Firm, PS inherited their customer accounts.

During the Relevant Period, Leahy was the sole person responsible for supervising PS and the trading conducted through the Firm.³ Leahy had become the Firm's Chief Compliance Officer on August 12, 2019. But after the exodus of registered persons from

² On October 8, 2019, the New Jersey Bureau of Securities issued a Summary Penalty and Revocation Order against PS, revoking his registration in the State of New Jersey and assessing \$250,000 in civil monetary penalties against him based on findings that he, among other things, "engaged in a pattern of unauthorized, excessive, unsuitable, and fraudulent trading activity in the accounts of customers of First Standard...."

On or around November 11, 2019, FINRA issued an AWC, in which PS agreed to a permanent bar from the securities industry based on his consent to the entry of FINRA's findings that he failed to cooperate with FINRA's investigation into allegations that PS engaged in unauthorized, excessive, and unsuitable trading while registered through First Standard.

³ On September 26, 2019, the Firm hired a second General Securities Principal, but that person did not supervise PS.

the Firm on or about September 18, 2019, Leahy was the Firm's sole remaining General Securities Principal and the sole person at the Firm acting in a supervisory capacity. Accordingly, Leahy received a copy of the Firm's daily trade blotter, which showed all of the Firm's transactions for the prior day. Every day from September 19, 2019 to October 8, 2019, every trade appearing on the daily trade blotter was entered by PS (or, occasionally, by Leahy, who placed trades for certain customers after they complained to Leahy about PS). And, every day from September 19, 2019 to October 8, 2019, Leahy reviewed and initialed the Firm's daily trade blotter. However, Leahy—who failed to even read the Firm's written supervisory procedures to confirm the scope of his supervisory responsibilities—failed in many ways to reasonably supervise PS.

C. Leahy Failed to Reasonably Supervise First Standard Registered Representative PS

Through, among other things, his review of the Firm's daily trade blotter and handling of numerous customer complaints, Leahy became aware of red flags that PS was engaging in potentially unsuitable and unauthorized trading and charging excessive commissions during the Relevant Period. However, even after becoming aware of red flags of misconduct by PS, Leahy failed to reasonably investigate the red flags or take other appropriate action, as discussed below. Indeed, prior to the New Jersey Bureau of Securities' summary revocation of PS's registration in the State of New Jersey, Leahy took no steps to prevent ongoing unauthorized trading and unsuitable recommendations by PS.

1. Leahy Learned of Red Flags Concerning PS before the Relevant Period

Prior to becoming registered through First Standard, Leahy worked with PS at another FINRA member firm. During that period, Leahy observed the trading activities of PS and considered PS to be aggressive with firm customers during his telephone conversations.

Further, while working as a Compliance Officer at First Standard from January 2019 through August 11, 2019, Leahy was aware of allegations that PS engaged in excessive trading and charged excessive commissions in multiple customer accounts. Specifically, in June 2019, several registered persons departed the Firm, and PS inherited their customer accounts. In April and May 2019—*i.e.*, for the two months prior to that initial departure of registered representatives from the Firm—PS generated a total of approximately \$24,594 in commissions and fees. By contrast, from June 1, 2019 to August 1, 2019—*i.e.*, for the three months after PS inherited the departed registered representatives' accounts—PS generated approximately \$755,491 in commissions and fees. As a result of PS's increased trading activity, even prior to the Relevant Period, Leahy became aware of numerous customer complaints that alleged that PS charged excessive commissions. Indeed, as a Compliance Officer, Leahy frequently spoke with customers of PS who called to complain about the commissions charged in their accounts, and, as a result, Leahy often reduced commissions for many of PS's customers

during the time preceding the Relevant Period.

2. Leahy, While PS's Supervisor, Failed to Reasonably Respond to Numerous Red Flags that PS Was Engaging in Misconduct During the Relevant Period

Before the Relevant Period, PS was servicing approximately 230 customer accounts. By October 2019—after the second wave of registered representatives departed the Firm on or about September 18, 2019—PS's customer accounts had ballooned to over 850. It was Leahy who approved the reassignment of the approximately 620 additional customer accounts to PS during the Relevant Period. As a result, PS's commissions increased dramatically—even considering that they had already increased dramatically in the months following the initial departure of registered representatives from the Firm. Indeed, following the exodus of registered representatives and principals from the Firm on or about September 18, 2019, PS's monthly gross commissions increased to more than \$500,000 in September 2019 alone.

During the Relevant Period, Leahy became aware of numerous red flags through a multitude of sources that PS was engaging in: (a) unauthorized trading and unauthorized use of margin; (b) excessive and otherwise unsuitable trading; and (c) the charging of excessive commissions. But Leahy failed to respond reasonably.

a. Red Flags of Unauthorized Trading and Unauthorized Use of Margin

Leahy learned of numerous red flags during the Relevant Period that PS was placing unauthorized trades in customer accounts and using margin without customer authorization. First, numerous customers complained about PS to Leahy directly. During the Relevant Period, Leahy spoke to at least eight customers, each of whom alleged that PS was placing unauthorized trades and/or using margin in their accounts without authorization. Following both verbal and written complaints from customers during Relevant Period, Leahy reversed or cancelled commissions for at least 63 trades placed by PS. Leahy spoke about these allegations with PS, and PS denied the allegations. In each instance, notwithstanding the fact that he reversed or cancelled the commissions in question, Leahy believed PS's claims that he spoke with the customers prior to every trade, and disbelieved the customers' complaints that the trades were unauthorized. Leahy failed to further investigate the red flags of PS's misconduct or take any other appropriate action to address PS's misconduct.

Additionally, on September 30, 2019, First Standard's clearing firm alerted Leahy that it had received complaints from four customers alleging that PS had placed unauthorized trades in their accounts. The clearing firm specifically alerted Leahy that one customer had called the clearing firm to ask that it prevent PS from liquidating a particular security that was in the customer's account at the time of the phone call; according to the clearing firm, the customer was concerned that PS was going to sell the security despite his specific instruction to PS not to do so. Later that same day, the clearing firm noticed that

PS placed an order to sell that security in the customer's account. In response, Leahy reduced some of the commissions that PS had charged the customer, but he failed to take any other appropriate action to address PS's misconduct or to investigate red flags that PS was engaging in unauthorized trading in his customers' accounts.

In addition, the daily trade blotter during the Relevant Period presented red flags of potentially unauthorized trading. For example, on one day alone (September 24, 2019), PS entered 47 trades across 18 distinct customer accounts. On another day (September 26, 2019), PS entered 68 trades across 39 distinct customer accounts. Despite having been alerted by this time by customers and the Firm's clearing firm of potentially unauthorized trading by PS, and despite reviewing this activity on the Firm's daily trade blotters, Leahy failed to further investigate potential unauthorized trading by PS or to take any steps to ensure that PS was making trades or using margin only after speaking with customers and securing their authorization. For example, Leahy failed to put PS on heightened supervision and failed to contact customers to ensure that they authorized the trades in their accounts.

b. Red Flags of Excessive and Otherwise Unsuitable Trading

During the Relevant Period, Leahy also learned of numerous red flags that PS was recommending that customers engage in unsuitably excessive trading, and was making other facially unsuitable recommendations.

For example, during the Relevant Period, PS frequently made inconsistent recommendations regarding the same stocks on the same day. For example, on September 19, 2019, PS recommended and effected the purchase of a technology stock in seven customer accounts, but recommended the sale of the same stock on the same day to another customer. On September 23, 2019, PS recommended that five customers purchase that technology stock; however, on the same day, PS recommended that seven other customers sell the same security. PS further recommended that customers hold this stock for a very short time, with most customers selling the stock only one day after buying it (often selling it on a day when PS was recommending that other customers buy it) even though the stock's price had not moved appreciably. In total, PS charged approximately \$131,546 in commissions for his trading activity of this technology stock in 27 customer accounts from September 18, 2019 to September 26, 2019. From September 23, 2019 to September 26, 2019, PS repeated this pattern—recommending some customers buy and others sell the same security on the same day with short, often one-day, holding periods—in another security, this time across 16 customer accounts.

The Firm's trade blotter also showed PS engaging in frequent in-and-out trading, often with one-day holding periods for large-cap stocks and with commissions exceeding 4% on both buy and sell transactions. For example, over the course of two trading days during the Relevant Period, PS placed 19 solicited trades in the account of a 92-year-old widow. The trading included holding three large-cap stocks for only a single trading day, which resulted in trading losses of approximately \$3,373. In total, in two days, PS charged his elderly customer more than \$22,733 in commissions, which significantly

reduced the equity value of her account.

Leahy failed to reasonably respond to these red flags. Leahy never questioned PS about why he was recommending that some customers buy, and other customers sell, the same security on the same day. Leahy never placed PS on heightened supervision or contacted the affected customers. Nor did Leahy take any steps to reduce the frequency with which PS was recommending in-and-out trading, usually combined with commissions exceeding 4%.

c. Red Flags of Excessive Commissions

During the Relevant Period, Leahy also learned of red flags that PS was charging excessive commissions. First Standard's daily trade blotter frequently showed that PS was charging commissions that exceeded 5%. For example, on September 20, 2019, PS charged a commission exceeding 11.8%, and September 26, 2019, PS charged commissions exceeding 5% on three separate transactions. Even for those commissions that did not exceed 5%, the Firm's daily trade blotter raised red flags that the commissions charged were unfair or unreasonable in light of the type of security being traded, its availability in the market, its price, and the amount of the transaction, among other factors. For example, on September 25, 2019, PS charged commissions exceeding 4.7%, totaling more than \$6,380, on three unsolicited sell transactions in listed securities for a senior customer who was closing his account and for whom PS never placed another trade. Leahy also talked to multiple customers who complained that PS charged them excessive commissions.

Leahy failed to reasonably respond to these red flags. While, as discussed, Leahy reduced or cancelled commissions for some complaining customers, Leahy did not contact other customers who were charged similar commissions by PS. Leahy never questioned PS about whether his commissions were excessive or how PS determined what commissions to charge. Nor did Leahy take other appropriate action, such as limiting the commissions that PS could charge or requiring preapproval before charging certain commissions.

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

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

- A bar from association with any FINRA member firm in all principal capacities; 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 an inability 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 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, Respondent 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 Respondent is subject to a statutory disqualification during the bar, if he remains associated with a Member Firm in a non-barred capacity, an application to continue that association may be required.

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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 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.

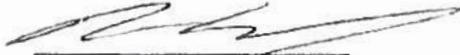
Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit this AWC.

1-3-20
Date



Michael Leahy
Respondent

Reviewed by:

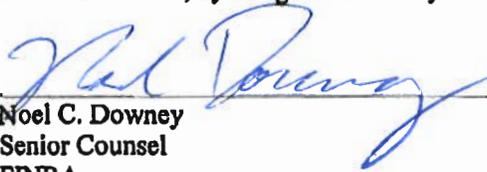


Ross David Carmel, Esq.
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Accepted by FINRA:

1-22-20
Date

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



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