

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012032960401**

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

**RE: Robert James Batchen, Respondent
General Securities Representative
CRD No. 2106288**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Robert James Batchen ("Batchen"), 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 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

Batchen entered the securities industry in September 1990 when he became associated with a FINRA member. In November 1990, Batchen became registered with FINRA as a General Securities Representative ("GSR") through an association with that FINRA member, where he remained until August 1995. At that time, Batchen became associated as a GSR with Wells Fargo Advisors, LLC and its predecessor firms ("WFA"), a FINRA member, where he remained until August 2012. In September 2012, Batchen joined Uhlmann Price Securities, LLC ("Uhlmann") as a GSR and remained associated with Uhlmann until September 2015. Batchen is not currently associated in any capacity with any FINRA member.

RELEVANT DISCIPLINARY HISTORY

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

OVERVIEW

During the period of January 2008 through June 2012 (“Relevant Period”) Batchen effected discretionary trades in a customer’s securities accounts without obtaining prior written authorization from the customer or written acceptance of the account as discretionary from his employing member firm. This conduct violated NASD Rules 2510(b) and 2110 and FINRA Rule 2010.¹ Batchen’s discretionary trading activity included unsuitable purchases of leveraged and inverse Exchange-Traded Funds (“Non-Traditional ETFs”), in violation of NASD Rules 2310 and 2110 and IM-2310-2 and FINRA Rule 2010. In addition, between February 2013 and April 2014, Batchen failed to timely amend his Uniform Application for Securities Industry Registration or Transfer (“Form U4”) to disclose a federal tax lien. This conduct violated Article V, Section 2(c) of the FINRA By-Laws and FINRA Rules 1122 and 2010.

FACTS AND VIOLATIVE CONDUCT

Batchen’s Discretionary Trading in a Customer’s Accounts

NASD Rule 2510(b) prohibits registered representatives from exercising discretion in a customer’s securities account unless such customer has given prior written authorization to the registered representative to exercise discretionary power in the account and the registered representative’s member firm has provided prior written acceptance of the account as discretionary.

During the Relevant Period, Batchen while associated with WFA, effected approximately 929 discretionary trades in two accounts of a customer (the “Customer”). Batchen’s discretionary trading activity included transactions in equities, Exchange-Traded Funds, Non-Traditional ETFs, and options. Although the Customer was aware of the trading, Batchen did not obtain prior written authorization from the Customer to exercise discretionary power in her accounts and WFA did not accept the accounts for discretionary trading.

Through this conduct, Batchen violated NASD Rules 2510(b) and 2110 and FINRA Rule 2010.

Batchen’s Unsuitable Trading in the Customer’s Accounts

NASD Rule 2310 requires registered representatives to have reasonable grounds for believing that investment recommendations are suitable for a customer based on the facts disclosed by the customer as to his or her other security holdings and as to his or her financial situation and needs. IM-2310-2 provides that “[i]mplicit

¹ Effective December 15, 2008, NASD Rule 2110 was replaced by FINRA Rule 2010. Accordingly, for violations that occurred prior to December 15, 2008, NASD Rule 2110 applies, whereas, for violations that occurred on or after December 15, 2008, FINRA Rule 2010 applies.

in all member and registered representative relationships with customers is the fundamental responsibility of fair dealing.”

Between January 2008 and May 2012, Batchen effected 58 unsuitable purchases of Non-Traditional ETFs for the Customer’s accounts. The transactions did not comport with the Customer’s financial situation, conservative investment objectives and moderate tolerance for risk. In addition, Batchen effected the transactions without fully understanding each product, including that holding such products for extended periods could cause a customer to experience significant losses.

Batchen held these Non-Traditional ETFs in the Customer’s accounts for an average of approximately 222 days, despite the fact that these Non-Traditional ETFs were designed to achieve their stated objectives within a single trading day. The Customer lost approximately \$56,246 because of the investments in Non-Traditional ETFs. In January 2013, WFA provided restitution to the Customer for the losses.

Through this conduct, Batchen violated NASD Rules 2310 and 2110, IM-2310-2, and FINRA Rule 2010.

Batchen’s Failure to Make Timely Disclosure of a Tax Lien

Article V, Section 2(c) of the FINRA By-Laws requires associated persons to keep their Form U4 “current at all times,” and file any amendments to the Form U4 “not later than 30 days after learning of the facts or circumstances giving rise to the amendment.” FINRA Rule 1122 states that “[n]o ... person associated with a member shall file with FINRA information with respect to ... registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.”

Question 14M of the Form U4 asks: “Do you have any unsatisfied judgments or liens against you?” At all relevant times, Batchen was required to keep his Form U4 current by filing amendments within 30 days of learning of facts that are required to be disclosed.

On February 13, 2013, the Internal Revenue Service (“IRS”) filed a federal tax lien (“IRS Tax Lien”) against Batchen in the amount of \$1.2 million. Batchen became aware of the IRS Tax Lien during February 2013, while Batchen was in the process of disputing that he owed the amount of the lien. Batchen was required to amend his Form U4 within 30 days of receiving notice that the IRS Tax Lien had been filed against him to disclose it in response to Question 14M. Therefore, Batchen should have updated his Form U4 on or before March 30, 2013 at the latest. However, Batchen did not update his Form U4 to disclose the IRS Tax Lien until April 29, 2014. The IRS Tax Lien was satisfied by October 2,

2013, after Batchen was released from the lien after paying approximately \$12,000 to the IRS.

By failing to timely disclose the 2013 Federal Tax Lien, Batchen violated Article V, Section 2(c) of FINRA's By-Laws, and FINRA Rules 1122 and 2010.

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

- a five-month suspension from association with any FINRA member in any and all capacities; and
- a \$15,000 fine.

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 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.

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.

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

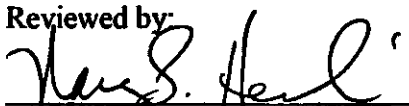
inconsistent with any part of this AWC. Nothing in this provision affects my: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- 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.

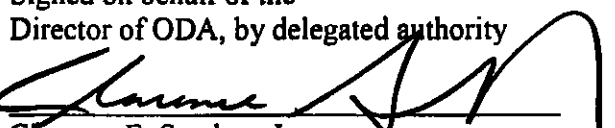
10-13-16
Date


Robert James Batchen - Respondent

Reviewed by:

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Accepted by FINRA:

10-31-16
Date

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

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