

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015045518901**

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

RE: Larry M. Boggs, Respondent
General Securities Representative
CRD No. 1582741

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

Boggs first became associated with a FINRA member firm as a general securities representative in December 1986. During the course of his career in the securities industry, Boggs has also obtained his Series 63 and 65 licenses. Boggs was associated with five FINRA member firms over the course of his career, including an association with Ameriprise Financial Inc. ("Ameriprise" or the "Firm") from July 2009 until May 2015.¹ Boggs is not currently associated with a FINRA member firm, and his most recent association with a FINRA member firm terminated on July 1, 2016.

Although Boggs is not currently associated with a FINRA member firm or registered with FINRA, he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

¹ On October 5, 2009, Boggs' registration was transferred (in a mass transfer) from Ameriprise Advisor Services, Inc. (CRD No. 5979) to Ameriprise Financial Services Inc. (CRD No. 6363).

OVERVIEW

Between January 2014 and May 2015, Boggs engaged in excessive and unsuitable trading in the accounts of five customer households. Boggs also improperly exercised discretion in these accounts without written authorization to do so. Finally, Boggs changed the investment objectives and risk tolerance for several of the above-referenced customers in order that they would conform to his high-frequency trading strategy, even though the customers' investment objectives and risk tolerance had not actually changed. By doing so, Boggs caused the Firm's books and records to be incorrect. As a result of such conduct, Boggs violated NASD Conduct Rule 2510(b), and FINRA Rules 2111, 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

Excessive and Unsuitable Trading

Excessive trading occurs when: (i) a registered representative exercises control over a customer's account; and (ii) the level of activity in that account is inconsistent with the customer's investment objectives, financial situation, and needs. Excessive trading violates FINRA's suitability standards under FINRA Rule 2111.

FINRA Rule 2111(a) provides that "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." Trading in an account can become quantitatively unsuitable by unreasonably raising the costs associated with an investment strategy, thereby requiring additional risk to be incurred in order to generate the return necessary to offset those costs.

FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade. A violation of FINRA Rule 2111 also constitutes a violation of FINRA Rule 2010.

One of the primary measures of excessive trading is the commission-to-equity ratio, which represents the percentage of return on the customer's average net equity needed to pay commissions over a given period of time. Another measure of excessive trading is the turnover ratio, which calculates the number of times the assets in an account have been bought and sold on an annualized basis.

Between January 1, 2014 and May 1, 2015 (the "Relevant Time Period"), Boggs exercised control over the accounts of LH, RG, LR, two accounts belonging to WL and SL, and three accounts belonging to HB and RB. He used this control to excessively trade these accounts in a manner that was inconsistent with these investors' investment objectives, risk tolerance, and financial situation. Specifically, Boggs engaged in a strategy that was predicated on short-term trading

of primarily income-paying equity securities that were identified an Ameriprise list of recommended securities. Specifically, Boggs would typically buy or sell these securities based on whether they were added or removed from this list, and also would frequently liquidate positions that increased or decreased by more than 10%.

During the Relevant Time Period, Boggs exercised discretion in order to trade excessively in the accounts of the following customers:

- **HB and RB:** HB and RB have an investment objective of Growth, and a risk tolerance of Moderate/Aggressive. In HB's first IRA account, Boggs caused the execution of 49 transactions, which resulted in a turnover ratio of 8.19 and a commission-to-equity ratio of 29.88%. In HB's second IRA account, Boggs caused the execution of 57 transactions, which resulted in a turnover ratio of 8.01 and a commission-to-equity ratio of 28.36%. In RB's IRA account, Boggs caused the execution of 57 transactions, which resulted in a turnover ratio of 7.69 and a commission-to-equity ratio of 28.45%. The total commission charges in the three accounts were \$44,866, and the total losses were \$18,268.
- **LH:** LH is an 82-year old retired university professor who opened her account in 2007 with investment objectives of Growth and Income, and a risk tolerance of Moderate. Boggs caused the execution of 101 transactions in this customer's account. These transactions resulted in losses of \$19,391, a turnover ratio of 4.95, and an annualized commission-to-equity ratio of 15.42%. The total commission charges during the relevant time period were \$34,889.
- **RG:** RG is a 67-year old part-time store manager, who opened her account in 2009 with a Growth investment objective and a Moderate risk tolerance. Boggs caused the execution of 55 transactions in this customer's account. These transactions resulted in losses of \$5,350, a turnover ratio of 4.65, and an annualized commission-to-equity ratio of 15.08%. The total commission charges during the relevant time period were \$19,475.
- **WL and SL:** WL and SL, who are 82 and 85, opened accounts in 2009 with an investment objective of Income and a Conservative risk tolerance. In the couple's joint account, Boggs caused the execution of 37 transactions, which resulted in a turnover ratio of 6.23 and a commission-to-equity ratio of 25.09%. In WL's IRA account, Boggs caused the execution of 21 transactions, which resulted in a turnover ratio of 4.21 and a commission-to-equity ratio of 20.10%. The total commission charges in the two accounts were \$11,449, and the total losses were \$4,456.
- **LR:** LR is 59 years old. She opened her account in 2009 with investment objectives of Income and Growth, and a risk tolerance of Moderate. Boggs caused the execution of 53 transactions in this customer's account. These transactions resulted in losses of \$5,177, a turnover ratio of 5.65, and an

annualized commission-to-equity ratio of 23.5%. The total commission charges during the relevant time period were \$11,771.

Each of the foregoing accounts was opened with a designation of a “conservative” or “moderate” risk tolerance. Boggs’ high-frequency trading strategy was unsuitable for these accounts, in part because they would have required the customers to earn an annual return of more than 15% merely to break even.

Accordingly, Boggs engaged in excessive and unsuitable trading and violated FINRA Rules 2111 and 2010.

Improper Exercise of Discretion

NASD Conduct Rule 2510(b) provides that “[n]o member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member, in accordance with Rule 3010.”

During the Relevant Time Period, however, Boggs routinely exercised discretion in ten accounts belonging to customers HB, RB, LH, RG, WL, SL, and LR. Boggs did not have the customers’ written authorization to execute discretionary trades in any of these customers’ non-discretionary accounts. Moreover, Boggs failed to disclose his exercise of discretion to anyone at Ameriprise, and the accounts were not accepted by the firm as discretionary.

By using discretion to execute trades without first obtaining written authorization by the customer and the Firm, Boggs violated NASD Conduct Rule 2510(b) and FINRA Rule 2010.

Causing the Firm to Maintain False Books and Records

Rule 4511 requires each member to make and preserve books and records in conformity with Rules 17a-3 and 17a-4 of the Securities Exchange Act of 1934. SEC Rule 17a-3(a)(17) requires that member firms maintain account records that include, among other things, the account’s investment objectives. An associated person causes his member firm to have inaccurate books and records by changing a customer’s investment objectives or risk tolerance when, in fact, the customer has not actually made or requested such changes.

In June 2010, Boggs updated the risk tolerance for WL, SL, RG, and LR from Moderate to Moderate/Aggressive. He also changed WL and SL’s investment objective from Income to Growth/Income. In January 2011, Boggs changed the risk tolerance for RG and LR to Aggressive, and changed RG’s investment objective from Growth to Growth/Income. None of these modifications represented actual changes in the customers’ investment objectives or risk

tolerance. Rather, Boggs made these changes in order to conform his customers' recorded information to the high level of risk associated with the high-frequency trading strategy in income-producing securities that Boggs was employing in each of their accounts.

By causing Ameriprise to have inaccurate books and records pertaining to his customers' investment objectives and risk tolerance, Boggs violated FINRA Rules 4511 and 2010.

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

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

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

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

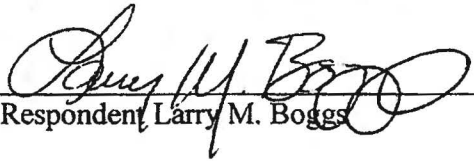
I understand that:

- 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.

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.


Dec. 28, 2017
Date


Respondent, Larry M. Boggs

Accepted by FINRA:

Apr 5, 2018
Date

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


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