



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
MICHAEL MACLEAN,) Case No.: AP-24-04
CRD No. 5457640,)
)
Respondent.)

CONSENT ORDER

1. On November 27, 2023, the Financial Industry Regulatory Authority, Inc. (“**FINRA**”) issued a Letter of Acceptance, Waiver, and Consent (“**AWC**”) against Missouri-registered broker-dealer agent, Michael MacLean (“**Respondent**”), for causing his member firm to maintain inaccurate books and records by changing the production number for trades in his member firm's order entry system and causing the firm's trade confirmations to show an inaccurate production number, in violation of FINRA Rules 2010 and 4511.¹ Under the AWC, Respondent consented to a forty-five-day suspension from association with any FINRA member in any capacity and a \$5,000 fine. The Enforcement Section of the Missouri Securities Division of the Office of Secretary of State (“**Enforcement Section**”), through Enforcement Counsel William F.H. Dunker, alleges that these actions constitute sufficient grounds for the Missouri Commissioner of Securities (the “**Commissioner**”) to discipline Respondent in accordance with Section 409.4-412(c).²
2. Respondent and the Enforcement Section desire to settle the allegations and the matter raised by the Enforcement Section relating to Section 409.4-412.

CONSENT TO JURISDICTION

3. Respondent and the Enforcement Section stipulate and agree that the Commissioner has jurisdiction over Respondent and this matter pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*
4. Respondent and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), which provides:

¹ See FINRA AWC issued in Matter No. 2021069200301.

² Unless otherwise indicated, statutory citations refer to the 2016 edition of the Revised Statutes of Missouri, updated by the 2023 Cumulative Supplement.

“The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.”

WAIVER AND EXCEPTION

5. Respondent waives any rights to a hearing with respect to this matter.
6. Respondent waives any rights that he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent specifically forever releases and holds harmless the Missouri Office of the Secretary of State, Secretary of State, Commissioner, and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.
7. Respondent stipulates and agrees with the Enforcement Section that, should the facts contained herein prove to be false or incomplete, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER’S ORDER

8. Respondent and the Enforcement Section stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
9. Respondent agrees not to take any action or to make or permit to be made any public statement creating the impression that this Order is without factual basis. Nothing in this paragraph affects Respondent’s (a) testimonial obligations; (b) right to take legal or factual positions in defense of litigation or in defense of other legal proceedings in which the Commissioner is not a party; or (c) right to make public statements that are factual.
10. Respondent agrees that he is not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondent neither admits nor denies the allegations made by the Enforcement Section or the Findings of the Commissioner, but consents to the Commissioner’s Findings of Fact, Conclusions of Law, and Order as set forth below solely for the purposes of resolving this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

THE COMMISSIONER’S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

I. FINDINGS OF FACT

12. Respondent is a resident of Paxton, Massachusetts, and was a Missouri-registered broker-dealer agent from March 29, 2017 to January 8, 2023. Between October 2016 and April

2020 (“**Relevant Period**”) Respondent engaged in activities that violated FINRA Rules 2010 and 4511. During this period, Respondent was associated with Morgan Stanley & Company (“**Morgan Stanley**”) and worked from an office located in Worcester, Massachusetts. On or about January 4, 2021, Respondent was terminated by Morgan Stanley after an internal investigation. Respondent is currently employed by Grove Point Advisors, LLC at an office in Worcester, Massachusetts.

A. Allegations of Violative Conduct

13. In approximately June 2016, Respondent entered into an agreement through which he agreed to service certain customer accounts, including executing trades for those accounts, under a joint production number (“**JPN**”). The JPN was established by an agreement under the Firm’s Former Advisor Program (the “**FAP Agreement**”) and was shared with a representative who was retiring at the end of June 2016 (“**Representative #1**”) and another representative who was remaining at Morgan Stanley (“**Representative #2**”). The FAP Agreement set forth the proportion, in percentage terms, that each representative was entitled to earn from revenue in accounts under the JPN.
14. During the Relevant Period, Respondent changed the JPN on certain trades in accounts that were covered by the FAP Agreement. Although the Firm’s platform prepopulated the trades with the correct JPN, Respondent changed the production number for at least 366 trades to a JPN that Respondent shared with Representative #2 alone. Respondent received higher commissions from the 366 trades than what he was entitled to receive pursuant to the FAP Agreement with Representative #1 and Representative #2.
15. Representative #1 did not authorize, consent to, or otherwise allow Respondent’s changes of the JPNs on the subject trades, and Respondent did not indicate to Representative #1 that he was doing so. In his defense, Respondent claims he believed that the production number on trades in accounts could be changed because the trades were being executed after new assets were deposited into the accounts. However, Respondent placed many of the 366 trades in accounts that did not receive any new external deposits or in accounts that were historically clients of Representative #1. The firm’s trade confirmations for the 366 trades inaccurately reflected production numbers that gave Respondent higher commissions on the trades, rather than the commissions to which Respondent was entitled under the FAP Agreement JPNs that Respondent had agreed to use.
16. In November 2021, Morgan Stanley reimbursed Representative #1 for commissions Representative #1 should have received through the FAP Agreement.
17. By changing the representative code on the 366 trades, Respondent violated FINRA Rule 2010. In addition, Respondent caused Morgan Stanley to violate FINRA Rules 2010 and 4511 by causing it to maintain inaccurate trade confirmations.
18. On November 27, 2023, FINRA approved an AWC in Matter No. 2021069200301. According to the AWC, Respondent consented to a forty-five-day suspension from association with any FINRA member in any capacity and a \$5,000 fine for the conduct set forth above.

19. On December 18, 2023, FINRA provided notice to the Securities Division of the AWC in Matter No. 2021069200301 involving Respondent. The Enforcement Section subsequently initiated an investigation of Respondent.

20. Section 409.4-412(c) provides in relevant part,

If the [C]ommissioner finds that the order is in the public interest and subsection (d)(1) to (6), (8), (9), (10), or (12) and (13) authorizes the action, an order under this act may...impose a civil penalty in an amount not to exceed a maximum of twenty-five thousand dollars for each violation on a registrant...

21. Section 409.4-412(d)(5)(C) provides in relevant part,

A person may be disciplined under subsections (a) to (c) if the person:

...(5) Is the subject of an order, issued after notice and opportunity for hearing by:

...(C) ...a self-regulatory organization suspending...the registrant from membership in the self-regulatory organization[.]

II. CONCLUSIONS OF LAW

22. **THE COMMISSIONER CONCLUDES** that an order is in the public interest to discipline Respondent pursuant to Section 409.4-412(c) and such order is authorized by Section 409.4-412(d)(5)(C).

23. The Commissioner, after consideration of the stipulations set forth above and on consent of the Respondent and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over Respondent in this matter and that the following order is in the public interest, necessary for the protection of public investors, and consistent with the purposes intended by Chapter 409.

III. ORDER

NOW, THEREFORE, it is hereby Ordered that:

24. Respondent shall pay \$4,000 to the Missouri Secretary of State's Investor Education and Protection Fund. **This amount is due upon execution of this Order by Respondent and shall be made payable to the Missouri Secretary of State's Investor Education and Protection Fund** and sent to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101;

25. Respondent, his agents and employees, and all other persons participating in the above-described alleged violation with knowledge of this Order, are permanently enjoined and

restrained from engaging in conduct and/or activities subject to discipline under Section 409.4-412(d)(5)(C); and

26. Respondent shall pay his own costs and attorneys' fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 2nd DAY OF ~~MARCH~~ 2024.

APRIL



JOHN R. ASHCROFT
SECRETARY OF STATE

A handwritten signature in black ink, appearing to read "Douglas M. Jacoby", written over a horizontal line.

DOUGLAS M. JACOBY
COMMISSIONER OF SECURITIES

Consented to by:

THE MISSOURI SECURITIES DIVISION

A handwritten signature in black ink, appearing to read "William F.H. Duncker", written over a horizontal line.

William F.H. Duncker
Enforcement Counsel

RESPONDENT

A handwritten signature in black ink, appearing to read "Michael MacLean", written over a horizontal line.

Michael MacLean, CRD No. 5457640