FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016052655301

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

RE: Summit Brokerage Services, Inc. (CRD No 34643)

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Summit Brokerage Services, Inc. ("Summit" or the "Firm") 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 the Firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. Summit 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

Summit has been a FINRA member firm since 1994. The Firm is headquartered in Boca Raton, Florida, has approximately 739 registered individuals, and approximately 311 branch offices.

RELEVANT DISCIPLINARY HISTORY

Summit does not have any relevant formal disciplinary history with the Securities and Exchange Commission, any self-regulatory organization, or any state securities regulator.

OVERVIEW

From January 2012 through March 2017, Summit failed to establish and maintain a supervisory system, and failed to enforce written supervisory procedures ("WSPs"), that were reasonably designed to achieve compliance with FINRA's suitability rule as it pertains to excessive trading.

In addition, from June 2015 through March 2018, Summit failed to establish and maintain a supervisory system, and failed to enforce WSPs, that were reasonably

designed to achieve compliance with FINRA's rules concerning registered representatives' creation and dissemination of consolidated reports.

As a result of the foregoing, Summit violated NASD Rule 3010 (for conduct before December 1, 2014), FINRA Rule 3110 (for conduct on or after December 1, 2014), and FINRA 2010.

FACTS AND VIOLATIVE CONDUCT

A. Summit Failed to Reasonably Supervise the Suitability of Its Representatives' Recommended Securities Transactions As They Pertained To Excessive Trading

FINRA Rule 3110 and its predecessor, NASD Rule 3010, require that each member firm establish and maintain a supervisory system, and establish, maintain, and enforce WSPs, that are reasonably designed to supervise the activities of each registered representative, registered principal, and other associated person of the firm and achieve compliance with applicable securities laws and regulations, and with applicable NASD and FINRA rules.

FINRA Rule 2111 and its predecessor, NASD Rule 2310, require member firms or their associated persons to have a reasonable basis to believe that a recommended securities transaction is suitable in light of the customer's investment profile. Recommended securities transactions may be unsuitable if, when taken together, they are excessive, the level of trading is inconsistent with the customer's investment profile, and the registered representative exercises control over the customer's account. No single test defines when trading is excessive, but factors such as the turnover rate and the cost-to-equity ratio are considered in determining whether a member firm or associated person has violated FINRA's suitability rule.

From January 2012 through March 2017, Summit failed to establish and maintain a supervisory system, and failed to enforce WSPs, that were reasonably designed to achieve compliance with FINRA's suitability rule, particularly as the rule pertains to excessive trading. During the relevant period, the Firm employed between three and six compliance principals who, according to the Firm's WSPs, were supposed to utilize trade alerts provided by Summit's clearing firms to review registered representatives' trading activity. However, as set forth below, the Firm failed to enforce those procedures. Specifically, during the relevant period, Summit received a number of trade alerts that were relevant to identifying excessive trading, including alerts related to turnover and cost-to-equity ratios in commission-based accounts. However, the Firm did not feed alerts provided by one clearing firm into the trade review blotter used by the compliance principals to review registered representatives' securities recommendations. As a result, during the relevant period, the Firm's compliance principals did not review alerts provided by one of Summit's two clearing firms that related to turnover and cost-to-equity ratios, relying instead on a strictly manual review of the blotter to

identify potential excessive trading.[1]

The Firm's manual review of the blotter did not identify that one registered representative in particular, CJ, excessively traded 14 customers' accounts.[2] For example, CJ recommended 267 trades over a three-year period in an account belonging customer JO, a retired woman with a net worth of less than $500,000. CJ's trading caused JO to pay more than $61,000 in commissions over the three-year period and resulted in annualized cost-to-equity ratios in excess of 27%. Likewise, CJ placed 533 trades over a three-year period in an account belonging to customer MP, a retired woman with a net worth of less than $1 million. CJ's trading caused MP to pay more than $171,000 in commissions over the three-year period and resulted in annualized cost-to-equity ratios in excess of 32%.

For the 14 customers whose accounts were excessively traded, CJ's trading generated more than 150 alerts for potentially excessive turnover rates and cost-to-equity ratios. The Firm received those alerts, but, as discussed above, no one at the Firm reviewed them. Collectively, CJ's excessive trading caused the 14 customers whose accounts he excessively traded to pay $651,405.23 in commissions during the relevant period. The customers suffered realized losses during that period of more than $300,000.[3]

As a result of the foregoing, Summit violated NASD Rule 3010 (for conduct before December 1, 2014), FINRA Rule 3110 (for conduct on and after December 1, 2014), and FINRA Rule 2010.

B. **Summit Failed to Reasonably Supervise Its Representatives' Creation and Use of Consolidated Reports**

As a service to their customers, some FINRA member firms provide documents, known as "consolidated reports," that present information about most or all of a customer's financial holdings, including assets held away from the firm. In April 2010, FINRA issued Regulatory Notice ("RN") 10-19, which reminded member firms that because consolidated reports are communications from a firm to its customers, they must be clear, accurate, and compliant with federal securities law and FINRA rules. RN 10-19 cautioned that consolidated reports, "[i]f not rigorously supervised ... can raise a number of regulatory concerns, including the potential for communicating inaccurate, confusing or misleading information to customers ...." Thus, RN 10-19 warned that "[a]ny firm that cannot properly supervise the dissemination of consolidated reports by its registered representatives must prohibit the dissemination of those reports and take the necessary steps to ensure that its registered representatives comply with this

[1] The compliance principals who reviewed the trade review blotter did not notice the missing alerts because the Firm fed alerts provided by other clearing firm into the trade review blotter.

[2] FINRA has barred CJ from associating with any FINRA member firm in any capacity.

[3] This AWC requires Summit to pay as restitution the commissions charged to the customers as a result of CJ's excessive trading.

prohibition."

From June 2015 through March 2018, Summit failed to establish and maintain a supervisory system, and failed to enforce WSPs, that were reasonably designed to achieve compliance with FINRA's rules concerning registered representatives' creation and dissemination of consolidated reports. Specifically, the Firm's WSPs prohibited registered representatives from sending customers consolidated reports unless they used a template that had been reviewed and approved by the Firm's compliance department. But, the Firm did not have a reasonable system to track whether its representatives complied with these procedures prior to sending consolidated reports to customers. Of the 103 Summit representatives who sent consolidated reports to their customers during this period, only 8 submitted templates to the Firm's compliance department for prior review and approval. Despite the Firm's prohibition of the use of unapproved third-party vendors to generate consolidated reports, 15 of the 95 registered representatives who disseminated consolidated reports without supervision by Summit used unapproved third-party vendors to do so. One consolidated report distributed by a registered representative of the Firm materially misstated the value of a customer's investment.

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

B. Summit consents to the imposition of the following sanctions:

- a censure;
- a fine of $325,000; and
- restitution to the customers listed on Attachment A in the total amount of $558,296.44,[4] plus interest as further described below.

Summit agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. The Firm has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Summit specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

Restitution is ordered to be paid to the customers listed on Attachment A hereto in the total amount of $558,296.44, 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 March 31, 2017, until the date this AWC is accepted by the NAC.

[4] The amount of restitution Summit is required to pay has been reduced by settlements that Summit previously paid to affected customers.

A registered principal on behalf of Summit shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Jeff Fauci, FINRA, 99 High Street, Boston, MA 02210, either by letter that identifies Summit and Matter No. 2016052655301 or by e-mail from a work-related account of the registered principal of Respondent firm to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 120 days after acceptance of the AWC.

If for any reason Summit cannot locate any customer identified in Attachment A after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by a FINRA staff member in writing, Summit 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. Summit shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

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.

Restitution payments to customers shall be preceded or accompanied by a letter, not unacceptable to FINRA staff, describing the reason for the payment and the fact that the payment is being made pursuant to a settlement with FINRA and as a term of this AWC.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

Summit specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

A. To have a Complaint issued specifying the allegations against it;

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, Summit 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.

Summit 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

Summit 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 it; and

C. If accepted:

1. this AWC will become part of Summit's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;

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. Summit 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. Summit 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 Summit'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.

C. Summit may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Summit understands that it 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.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has 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 the Firm to submit it.

Summit Brokerage Services, Inc.

June 14, 2019
Date (mm/dd/yyyy)

By: _____
Name: Steven L. Jacobs
Title: EVP

Reviewed by:

_____
Thomas Vays
Chief Counsel
Cetera Financial Group
100 William Street – Suite 301
New York, NY 10038
(212) 652-1082

Accepted by FINRA:

7-2- 2019
Date

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

Jeff Fauci
Karen Daly
FINRA Department of Enforcement
99 High Street
Boston, MA 02210
(Tel): 732-532-3428
(Fax): 202-721-6557

ATTACHMENT A
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
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Customer Initials	Restitution Amount[1]
MP	$179,541.80
MH	$28,259.43
SW	$6,816.64
AC	$24,079.21
JMo	$13,933.25
JMa	$77,210.58
JO	$64,975.22
DW	$30,405.65
RH	$54,516.97
KC	$42,809.75
CP	$13,216.61
JR	$22,531.33

[1] Restitution amounts do not include interest, which is to be calculated at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from March 31, 2017, until the date this AWC is accepted by the NAC.