

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E0220040098-03

TO: Department of Enforcement
NASD

RE: Kevin W. Quinn, Respondent
General Securities Representative
CRD No. 2254895

Pursuant to Rule 9216 of NASD Code of Procedure, I, Kevin W. Quinn (“Quinn”), submit this Letter of Acceptance, Waiver and Consent (“AWC”) for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any further actions against me alleging violations based on the same factual findings.

I understand that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD’s Department of Enforcement and National Adjudicatory Council (“NAC”) Review Subcommittee or Office of Disciplinary Affairs (“ODA”), pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
3. If accepted:
 - a. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against me;
 - b. this AWC will be made available through NASD’s public disclosure program in response to public inquiries about my disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and

- d. 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. Nothing in this provision affects my testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

I also understand that my experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

From September 3, 2002 to October 11, 2004, Quinn was associated with NASD member Jefferies & Company, Inc. ("Jefferies") as a General Securities Representative. Quinn is not currently associated with a NASD member and has not been the subject of prior disciplinary action by NASD, other self-regulatory organizations, the Securities and Exchange Commission, or any state regulator.

I.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against me;
- B. To be notified of the Formal 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 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 General Counsel, 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 Rule 9143 or the separation of functions prohibitions of 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.

II.

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 NASD, or to which NASD 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 NASD:

I. Summary

1. While employed at Jefferies from September 3, 2002 through October 11, 2004 (the "Relevant Period"), Quinn engaged in a pattern of prohibited conduct, repeatedly and routinely violating NASD Rules 3060¹ and 2110 by (a) providing, on Jefferies behalf, more than \$600,000 in gifts, consisting of free goods and services, to equity traders employed by a registered investment advisor, FMR Co., Inc. an investment adviser to the Fidelity Investments family of mutual funds ("Fidelity"), a Jefferies customer, well beyond the Rule's \$100 per person, per year limitation, and (b) entertaining, on Jefferies' behalf, Fidelity traders, at a cost of more than \$1.5 million, where the manner, cost and/or frequency were such that the entertainment was excessive and/or too frequent, and raised an appearance of impropriety.

The improper gifts and gratuities, valued at more than \$600,000, included:

- private chartered jet travel, where Quinn did not accompany the recipients;
- non-promotional sports-related merchandise and prizes of greater than de minimus value;

¹ NASD Rule 3060 restricts the extent to which associated persons may confer gifts and gratuities and, otherwise entertain for business purposes. Specifically, the Rule prohibits "any member or person associated with a member" from "directly or indirectly giv[ing] or permit[ting] to be given anything of value, including gratuities, in excess of one hundred dollars per individual per year to any person, principal, proprietor, employee, agent or representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity" ("Rule 3060"). Under the Rule 3060, "[a] gift of any kind is considered a gratuity." Rule 3060 further prohibits entertainment that is so frequent or so extensive as to raise any question of propriety. *See*, Letter to Henry Hopkins and Sara McCafferty, T Rowe Price Investment Services, Inc., from R. Clark Hooper, NASD, dated June 10, 1999. NASD Rule 2110 prohibits conduct that is inconsistent with just and equitable principles of trade.

- valuable electronic entertainment equipment and expensive bottles of wine; and
- expensive tickets to sporting and theatrical events, where Quinn did not accompany the recipients of the tickets.

The improper entertainment, valued at more than \$1.5 million, mostly comprised of trips to various locations both within and outside of the United States coupled with extravagant lodging for his Fidelity clients. The trips often included private chartered flights. Quinn provided the extravagant entertainment with the expectation and belief that the recipients would direct Fidelity trading business to Quinn's employer in exchange.

II. Quinn's Business at Jefferies was Almost Completely Dependent Upon the Business he Generated From Fidelity Traders.

2. During the Relevant Period, Quinn was an institutional sales trader with Jefferies in the firm's highly profitable Equity Division. In this position, he solicited business from traders at Fidelity in an effort to obtain order flow for Jefferies traders.

3. The business of Quinn and his associates was entirely dedicated to trading revenue that they generated by conducting business with Fidelity.

4. Fidelity, based in Boston, Massachusetts, is one of the largest registered investment adviser in the United States and one of the largest in the world. Fidelity serves as the investment adviser to approximately 200 Fidelity funds, has assets totaling approximately \$1.1 trillion under management, and annually spends approximately \$1.4 billion in commissions to execute trades for those assets.

5. Fidelity executes trades for each of its mutual funds and other advisory clients through its "buy side" desks. The Fidelity Equity Trading desk traders are authorized to determine where to execute trades for the purchase and sale of equity securities for the Fidelity mutual funds and other Fidelity clients. Choice of execution includes the use of the services of many brokerage firms across the United States.

6. Under Jefferies' employment contract with Quinn, Quinn was entitled to a grant of approximately \$1.1 million in restricted company stock,

which was to vest over three years, and an annual “guaranteed” base salary in 2002 and 2003 of \$4.0 million, and \$4.75 in 2004.²

7. Jefferies’ board of directors and management approved an annual travel and entertainment budget of \$1.5 million for Quinn, which Jefferies expected Quinn to use exclusively with Fidelity.

8. During the period in 2002 when Jefferies employed Quinn, the firm’s commission revenue from Fidelity increased to approximately \$11.5 million. For the full calendar year 2003, during which the firm employed Quinn, gross commission revenue from Fidelity increased to approximately \$30.0 million. For 2004, through Quinn’s departure date in early October, Jefferies earned approximately \$27.0 million in gross commissions. In sum, during the Relevant Period, Jefferies’ gross commission revenue from Fidelity totaled approximately \$65.0 million.

III. Quinn Engaged in Prohibited Conduct by Giving Impermissible Gifts to, and Engaging in Excessive Entertainment Of, Fidelity Traders in an Effort to Generate Business From Fidelity.

9. With Jefferies’ knowledge and approval, Quinn used his expense account at Jefferies to provide extravagant gifts to Fidelity traders that were prohibited by Rules 3060 and 2110. He also provided entertainment that was, under the particular circumstances, inappropriate, excessive and raised an issue of impropriety in violation of Rules 3060 and 2110. In return, and as expected, these traders directed commission-generated trades for the Fidelity mutual funds to Jefferies.

Quinn Routinely Conferred Gifts Upon Fidelity Traders that Exceeded the Gift Limitations of NASD Conduct Rule 3060.

10. For example, Quinn paid for, and on most occasions sought and received reimbursement from Jefferies for, among others, the following gifts:

For Fidelity Trader TB:

In 2002

- A private chartered flight from Bedford, MA to Bermuda, for which Quinn paid more than \$17,000. Quinn did not accompany the Fidelity trader.

² Quinn’s salary was prorated in 2002. Jefferies withheld at least one-third of Quinn’s restricted stock due to his departure in 2004.

In 2003

- A private air chartered flight between Boston and Los Angeles, for which Quinn paid more than \$70,000, which TB and his wife used for their honeymoon. Quinn did not accompany the Fidelity trader; and
- Approximately five more private chartered flights, between various locations, for which Quinn paid more than \$59,000. Quinn did not accompany the Fidelity trader.

In 2004

- A car service for travel between Boston, MA and Biddleford, ME, for which Quinn paid more than \$600. Quinn did not accompany the trader;
- Golf clubs for TB, for which Quinn paid approximately \$500; and
- A private chartered flight from Bedford, MA to Puerto Rico, for which Quinn paid more than \$23,000. Quinn did not accompany the Fidelity trader.

For Fidelity trader RB:

In 2002

- Tickets to the Wimbledon tennis tournament, for which Quinn paid more than \$19,000. Quinn did not attend the event with RB;
- Tickets to the theatrical performance of the Lion King, for which Quinn paid \$675. Quinn did not attend the event with RB; and
- Eight bottles of wine, for which Quinn paid more than \$5,900.

In 2003

- Tickets to a professional dance performance, for which Quinn paid \$700. Quinn did not attend the event with RB;
- Tickets to the men's and women's Wimbledon tennis finals, for which Quinn paid more than \$31,000. Quinn did not attend the event with RB;
- Tickets to a Santana concert, for which Quinn paid \$200. Quinn did not attend the event with RB;

- Tickets to a Justin Timberlake/Christina Aguilera concert, for which Quinn paid \$1,200. Quinn did not attend the event with RB;
- Tickets to the US Open Tennis Tournament, for which Quinn paid more than \$7,000. Quinn did not attend the event with RB; and
- Twelve bottles of 1993 Chateau Petrus (Pomerol) wine, for which Quinn paid more than \$7,500.

In 2004

- Tickets to Wimbledon, for which Quinn paid more than \$38,000. Quinn did not attend the event with RB;
- Lodging in connection with the Wimbledon event at the Lanesborough Hotel, London, for which Quinn paid more than \$12,000;
- Tickets to Erika Radu, for which Quinn paid more than \$1,000. Quinn did not attend the event with RB; and
- Tickets to a Boston Red Sox game, for which Quinn paid \$700. Quinn did not attend the event with RB.

For *Fidelity trader SD*:

In 2002

- A portable DVD player, for which Quinn paid approximately \$1,000.

In 2003

- Boston Celtic tickets, for which Quinn paid \$1,100. Quinn did not attend the event with SD; and
- Approximately four private chartered flights between various locations, for which Quinn paid more than \$92,000. Quinn did not accompany the trader on either of the flights.

For *Fidelity trader DD*:

In 2003

- Boston Red Sox tickets, for which Quinn paid \$450. Quinn did not attend the event with DD;

- Tickets to the circus, for which Quinn paid \$400. Quinn did not attend the event with DD;
- A private chartered flight from Las Vegas to Boston, for which Quinn paid more than \$15,000. Quinn did not accompany the Fidelity trader; and
- Approximately two more private chartered flights between various locations, for which Quinn paid more than \$30,000. Quinn did not accompany the trader on either of the flights.

In 2004

- Tickets to the theatrical performance of the Lion King, for which Quinn paid \$1,000. Quinn did not attend the event with DD; and
- A private chartered flight from Beverly, MA to Nantucket, MA, for which Quinn paid more than \$4,500. Quinn did not accompany the Fidelity trader.

For *Fidelity trader CH*:

In 2003

- Tickets to a concert, for which Quinn paid \$800 Quinn did not attend the event with CH; and
- A private air chartered flight with fellow trader JH, from Nantucket, MA to Bedford, MA, for which Quinn paid more than \$10,000. Quinn did not accompany the Fidelity trader.

For *Fidelity trader JH*:

In 2002

- A portable DVD player, for which Quinn paid approximately \$1,000.

In 2003

- Six bottles of 1998 Opus One wine, for which Quinn paid more than \$2,600;

In 2004

- A private chartered flight from Bedford, MA to Providenciales, Turks and Caicos Islands, for which Quinn

paid more than \$47,000. Quinn did not accompany the Fidelity trader; and

- A private chartered flight, with fellow trader CH, from Nantucket, MA to Boston, MA, for which Quinn paid more than \$4,000. Quinn did not accompany the Fidelity trader.

For *Fidelity trader ED*:

In 2002

- A private chartered flight from Boston, MA to Orlando, FL, for which Quinn paid more than \$24,000. Quinn did not accompany the Fidelity trader.

For *Fidelity Principal PL*,

In 2002

- Tickets to the theatrical performance of *Hairspray*, for which Quinn paid more than \$3,600. Quinn did not attend the event with PL.

For Various Fidelity traders:

During the Relevant Period

- Non-promotional golf-related merchandise and “prizes” to approximately five Fidelity traders, including SD, totaling more than \$10,000 annually, which well-exceeded the gift limitations of Rule 3060.

The Nature and Extent of Quinn’s Entertainment of Fidelity Employees also Violated NASD Conduct Rules 3060 and 2110.

11. Quinn also paid for and, on most occasions sought and received reimbursement from Jefferies totaling more than \$1.5 million, for expenses relating to his entertainment of various Fidelity traders who had the authority to direct brokerage business to Jefferies. Quinn’s entertainment of the Fidelity traders was excessive, inappropriate and raised an issue of impropriety. Quinn’s entertainment generally targeted a core group of approximately 10 Fidelity traders. Most of these entertainment expenses, in which Quinn personally participated, included private chartered flights to various destinations including but not limited to Palm Beach and Miami Beach, Florida, Nantucket, and Massachusetts, for

overnight and weekend golf outings; a bachelor party for one of the Fidelity traders; and the 2004 Super Bowl. The golf outings included an annual, multiple day golf trip that Quinn sponsored for various Fidelity traders, which included venues such as Las Vegas, Nevada, Cabo San Lucas, Mexico and Arizona. Quinn and the Fidelity traders referred to this annual event as the "Fall Classic." These events included extravagant private accommodations for the Fidelity traders he was entertaining.

12. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 3060 and 2110 by Quinn.

IV. Quinn Also Violated NASD Procedural Rule 8210.

13. Further, in connection with an open investigation, NASD requested that Quinn produce information and documents and appear for an on-the-record interview before NASD staff. The request was made pursuant to, and in accordance with NASD Procedural Rule 8210. Quinn did not comply with NASD's requests.

14. The aforementioned act, practice and conduct constitute a separate and distinct violation of Procedural Rule 8210 and Conduct Rule 2110 by Quinn.

B. I also consent to the imposition, at a maximum, of the following sanctions:

A bar from associating with any NASD member, in any capacity

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this AWC by the NAC.

III.

OTHER MATTERS

A. I understand that if I am barred or suspended from associating with any NASD member, I become subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, I may not be associated with any NASD member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See NASD Rule 8310 and IM-8310-1.)

FROM :QUINNS

FAX NO. :7814556267

Oct. 05 2006 09:48AM P1R

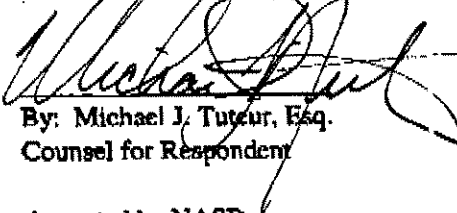
I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce me to submit it.

10 / 05 / 06
Date


Kevin W. Quinn

Reviewed by:

FOLEY & KARDNER, LLP


By: Michael J. Tuteur, Esq.
Counsel for Respondent

Accepted by NASD:

10/6/06
Date

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



David A. Greene,
Deputy Regional Chief Counsel
NASD Department of Enforcement
300 South Grand Ave., Suite 1600
Los Angeles, CA 90071
(213) 613-2634

NASD District Director
Joseph M. McCarthy, Associate Vice
President and Acting District Director,
NASD District 2
300 South Grand Avenue, Suite 1600
Los Angeles, CA 90071
(303) 446-3190