

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2019063821602**

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

RE: Sebastian Wyczawski (Respondent)  
General Securities Representative, General Securities Principal  
CRD No. 2835135

Pursuant to FINRA Rule 9216, Respondent Sebastian Wyczawski 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 Respondent alleging violations based on the same factual findings described in this AWC.

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**ACCEPTANCE AND CONSENT**

A. Respondent 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**

Wyczawski first became registered with FINRA in 1998. Since July 2015, Wyczawski has been registered as a General Securities Representative and a General Securities Principal through an association with Joseph Stone Capital L.L.C. (CRD No. 159744). In September 2021, Wyczawski became registered in those same categories through an association with another FINRA member.<sup>1</sup>

**OVERVIEW**

Between June 2016 and September 2017, Wyczawski excessively and unsuitably traded two customers' accounts, in violation of FINRA Rules 2111 and 2010.

**FACTS AND VIOLATIVE CONDUCT**

FINRA Rule 2111 requires, in pertinent part, that member firms or their associated persons "have a reasonable basis to believe that a recommended securities transaction or investment strategy involving a security or securities is suitable for the customer, based on information obtained through the reasonable diligence of the firm or associated person

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<sup>1</sup> For more information about the respondent, visit BrokerCheck® at [www.finra.org/brokercheck](http://www.finra.org/brokercheck).

to ascertain the customer's investment profile." The rule imposes a "quantitative suitability" obligation that requires a member or associated person who has actual or de facto control over a customer account to have a reasonable basis for believing that a series of recommended securities transactions are not excessive and unsuitable for the customer when taken together in light of the customer's investment profile.

The Supplementary Material to FINRA Rule 2111 at Rule 2111.05(c) also states that "[n]o single test defines excessive activity, but factors such as the turnover rate, the cost-to-equity ratio, and the use of in-and-out trading in a customer's account may provide a basis for a finding that a member or associated person has violated the quantitative suitability obligation." Turnover rate represents the number of times that a portfolio of securities is exchanged for another portfolio of securities. The cost-to-equity ratio is the percentage of return on the customer's average net equity needed to pay commissions and other expenses. A turnover rate above six or a cost-to-equity ratio above 20 percent generally indicates that an account has been excessively traded.

A violation of FINRA Rule 2111 also constitutes a violation of FINRA Rule 2010, which requires FINRA members and associated persons to "observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business.

Between June 2016 and January 2017, while he was registered through Joseph Stone, Wyczawski engaged in excessive and unsuitable trading, including the use of margin, in the account of Customer 1. During the relevant period, Wyczawski recommended that Customer 1 place 20 trades in his account, and Customer 1 accepted Wyczawski's recommendations. Although Customer 1's account had an average month-end equity of approximately \$51,340, Wyczawski recommended trades with a total principal value of more than \$528,759, which resulted in an annualized turnover rate of more than 17. Collectively, the trades that Wyczawski recommended caused Customer 1 to pay \$10,397 in commissions, trading costs and margin interest, which resulted in an annualized cost-to-equity ratio in excess of 34 percent—meaning that Customer 1's account would have had to grow by more than 34 percent annually just to break even.

Between September 2016 and September 2017, while he was registered through Joseph Stone, Wyczawski engaged in excessive and unsuitable trading, including the use of margin, in the account of Customer 2. During the relevant period, Wyczawski recommended that Customer 2 place 45 trades in his account, and Customer 2 accepted Wyczawski's recommendations. Although Customer 2's account had an average month-end equity of approximately \$14,831, Wyczawski recommended trades with a total principal value of more than \$300,524, which resulted in an annualized turnover rate of more than 17. Collectively, the trades that Wyczawski recommended caused Customer 2 to pay \$11,247 in commissions, trading costs and margin interest, which resulted in an annualized cost-to-equity ratio in excess of 65 percent—meaning that Customer 2's account would have had to grow by more than 65 percent annually just to break even.

Wyczawski's recommended securities transactions in the accounts of Customers 1 and 2 were excessive and unsuitable. Therefore, Wyczawski violated FINRA Rules 2111 and 2010.

B. Respondent also consents to the imposition of the following sanctions:

- a five-month suspension from associating with any FINRA member in all capacities;
- a \$5,000 fine;
- restitution of \$21,644 plus interest as described below; and
- a requirement that within 90 days of the Notice of Acceptance of this AWC, Wyczawski will undertake to attend and satisfactorily complete 20 hours of continuing education concerning representatives' suitability obligations by a provider not unacceptable to FINRA. Wyczawski will notify Kerry Land, Senior Counsel, Department of Enforcement, of the name and contact information of the provider who is providing the continuing education at least 10 days prior to attending the training. Within 30 days following completion of such training, Wyczawski will submit written proof that the continuing education program has been satisfactorily completed to Kerry Land. All correspondence must identify the respondent and matter number.

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanctions imposed in this matter.

Restitution is ordered to be paid to the customers listed on Attachment A to this AWC in the total amount of \$21,644, 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 January 31, 2017 for Customer 1, and from September 30, 2017 for Customer 2, until the date this AWC is accepted by the National Adjudicatory Council (NAC).

Respondent shall submit satisfactory proof of payment of restitution and prejudgment interest (separately specifying the date and amount of each paid to each customer listed on Attachment A) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org. The email must identify Respondent and the case number and include a copy of the check, money order, or other method of payment. This proof shall be provided by email

to EnforcementNotice@FINRA.org no later than 120 days after the date of the notice of acceptance of the AWC.

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

The imposition of a restitution order or any other monetary sanctions in this AWC, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes 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, he 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 in this AWC shall be effective on a date set by FINRA.

## II.

### WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a complaint issued specifying the allegations against him;
- 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 NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent 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 its acceptance or rejection.

Respondent 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


Respondent 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 Respondent; and
- C. If accepted:
  1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
  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 its subject matter in accordance with FINRA Rule 8313; and
  4. Respondent 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. Respondent 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.


- D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he 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.

Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

10/11/21  
\_\_\_\_\_  
Date

  
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Sebastian Wyczawski  
Respondent

Reviewed by:




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Michael Utilla, Esq.  
Counsel for Respondent  
Michael Utilla & Associates  
2225 East 74<sup>th</sup> St.  
Brooklyn, NY 11234

Accepted by FINRA:

11/3/2021  
Date

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



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Kerry J. Land  
Senior Counsel  
FINRA  
Department of Enforcement  
Brookfield Place  
200 Liberty Street, 11<sup>th</sup> Floor  
New York, NY 10281

Attachment A  
To Letter of Acceptance, Waiver and Consent  
Matter No. 2019063821602

Customer 1: J.B. ....	\$10,397 <sup>4</sup>
Customer 2: G.M. ....	\$11,247 <sup>5</sup>

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<sup>4</sup> Plus interest as described in the AWC.  
<sup>5</sup> Plus interest as described in the AWC.