

**NASDAQ PHLX LLC**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 2019.02.0025**

TO: Nasdaq PHLX LLC  
Phlx Enforcement Department

RE: William McCormack, Respondent  
Registered Options Principal  
CRD No. 2690069

Pursuant to Rule 9216 of Nasdaq PHLX LLC (“Phlx” or the “Exchange”) Code of Procedure, William McCormack (“McCormack” or “Respondent”) 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, Phlx will not bring any future actions against the Respondent alleging violations based on the same factual findings described herein.

**I.**

**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 Phlx, or to which Phlx 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 Phlx:

**BACKGROUND AND RELEVANT DISCIPLINARY HISTORY**

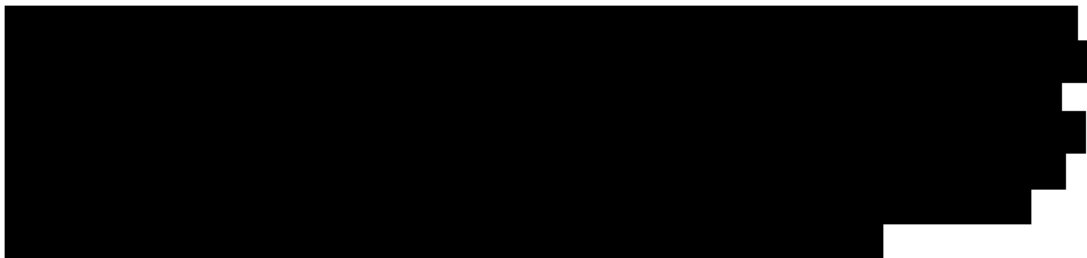
McCormack was employed in the securities industry from 1995 through 2019, having been associated with a total of twelve firms over the course of his career. Most recently, McCormack was registered at Entity A (“Entity A” or the “Firm”) from May 2011 through October 2019. Effective October 9, 2019, McCormack terminated his association with Entity A and is not presently associated with any other firms, but he remains subject to Phlx’s jurisdiction pursuant to Phlx Rule 9110(d).<sup>1</sup> While at Entity A, McCormack served as a floor trader on the Phlx engaging in the execution of purchases and sales of options, with the predominance of his trading activity involving the dividend trade.<sup>2</sup> On February

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<sup>1</sup> Following the Review Period, Phlx relocated Phlx Rule 9110(d) to General 5, Section 1(c). Exchange Act Release No. 34-88519 (Mar. 20, 2020), 85 Fed. Reg. 19203 (Apr. 6, 2020).

<sup>2</sup> “Dividend trade strategies are transacted by market makers who are trying to capture corporate dividend payments when individual customers leave deep-in-the-money call options unexercised on the day prior to a stock’s ex-dividend date. To capture as much of the dividend as possible, two market makers enter into an agreement to trade deep-in-the-money call options back and forth with each other on the day prior to the ex-dividend date. The market makers then exercise all of their long options positions, resulting in a long stock position. In most cases, their corresponding short options positions will be assigned and the market maker will immediately be required to deliver most of their long stock. . . . For every options position that remains short, the market maker does not have to deliver stock and is able to keep the dividend payment for the stock that they are long.” International Securities Exchange White Paper on Dividend Trade Strategies in the U.S. Options Industry (March 2010) (internal footnotes omitted).

20, 2013, McCormack became a Registered Options Principal<sup>3</sup> after obtaining an options principal's license, which allowed him to supervise the options business of Entity A conducted on the floor of the Phlx. McCormack supervised approximately eight individuals at Entity A, including four floor brokers and four floor clerks.



### **SUMMARY**

From February 1, 2016 through May 21, 2019 (the "Review Period"), McCormack served as the supervisor responsible for overseeing options trading activity at Entity A. McCormack also completed account opening materials for Entity B, which were then accepted by the clearing firm of Entity A to open Entity B's account. During the Review Period, Entity A effected transactions on the Phlx floor on behalf of Entity B, which are both entities that Associated Person ("A.P.") had an interest in and controlled. Specifically, A.P.'s wholly owned entity (Entity C) is a general partner of Entity B, and A.P.'s wholly owned entity (Entity D) owns Entity A. Accordingly, Entity A was effecting transactions on the Phlx floor for Entity B, which was the account of an associated person. Entity A thus violated the securities laws and Phlx rules prohibiting proprietary trading on the Phlx floor. As a result of the foregoing, McCormack violated Phlx Rules 748<sup>4</sup> and 707 by failing to reasonably discharge his supervisory duties and obligations to prevent and detect, insofar as practicable, Entity A's violations of the federal securities laws and Phlx rules prohibiting proprietary trading on the Phlx floor.

### **FACTS AND VIOLATIVE CONDUCT**

1. Phlx Rule 748 requires, inter alia, members to establish, maintain, and enforce WSPs, and a system for applying such WSPs, to supervise the types of businesses in which members engage in and to supervise the activities of all registered representatives, employees, and associated persons. The WSPs and the system for applying such procedures must be reasonably designed to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the Phlx By-Laws and rules. Phlx Rule 748 also requires that persons with supervisory control reasonably discharge their duties and obligations in connection with such supervision and control to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the Phlx By-Laws and rules.
2. Phlx Rule 707 prohibits an associated person from engaging in conduct inconsistent with

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<sup>3</sup> A Registered Options Principal is an individual who has registered as a "General Securities Representative and [has] pass[ed] the Registered Options Principal qualification examination (Series 4)." Phlx Rule General 4, Section 1, Rule 1.1220, Supplementary Material .07.

<sup>4</sup> Following the Review Period, Phlx relocated Phlx Rule 748 to Phlx Rule General 9, Section 20. Exchange Act Release No. 34-88213 (Feb. 14, 2020), 85 Fed. Reg. 9859 (Feb. 20, 2020).

just and equitable principles of trade.<sup>5</sup> A violation of Phlx Rule 748 also constitutes a violation of Phlx Rule 707.

3. As the Registered Options Principal for Entity A, the Firm's WSPs charged McCormack with the responsibility for ensuring that the Firm's WSPs with respect to options activity were implemented, for reviewing and proposing appropriate action to secure the Firm's compliance with the WSPs and the applicable regulations, and for regularly reporting to the chief compliance officer regarding the implementation of the WSPs.
4. During the Review Period, Entity A effected thousands of transactions on the Phlx floor on behalf of Entity B. However, Entity A and Entity B were apparently and legally under the common control of A.P. throughout the Review Period, and A.P. had an interest in Entity B.
5. Accordingly, Entity A was prohibited from effecting transactions on the Phlx floor for the account of an associated person—A.P.—by the securities laws and Phlx rules prohibiting proprietary trading on the Phlx floor.<sup>6</sup>
6. The Firm's WSPs charge McCormack, as the Firm's Registered Options Principal, with supervising the opening of new client accounts, supervising options trading for customer accounts, and supervising floor trading personnel. In particular, McCormack oversaw the opening of the customer account for Entity B, and McCormack was responsible for supervising the options trading conducted on the Phlx in this account and for supervising the floor trading personnel executing transactions on behalf of this account.
7. The Firm's WSPs also specifically designated McCormack as the supervisor conducting day-to-day oversight of A.P.'s account activity. In this role, McCormack was required to perform day-to-day supervision of A.P.'s customer account activity, including new account approval, daily transactions reviews, suitability reviews, and trading activity reviews. The Firm's WSPs also required McCormack to "have the authority to oversee, direct or correct the activities of [A.P.], and take all necessary remedial actions, including termination, if and when necessary."
8. Based on McCormack's role as the Registered Options Principal for Entity A, McCormack should have known of A.P.'s controlling interest in Entity B. While the evidence does not show that McCormack financially benefitted from the trades for Entity B, because Entity B was the account of an associated person of Entity A, McCormack should have known that Entity A was prohibited from effecting transactions on the Phlx

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<sup>5</sup> Following the Review Period, Phlx relocated Phlx Rule 707 to Options 9, Section 1. Exchange Act Release No. 34-88213 (Feb. 14, 2020), 85 Fed. Reg. 9859 (Feb. 20, 2020).

<sup>6</sup> Specifically, Section 11(a) of the 1934 Act provides that "[i]t shall be unlawful for any member of a national securities exchange to effect any transaction on such exchange for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion." 15 U.S.C.S. § 78k(a)(1). Rule 11a-1 provides that "[n]o member of a national securities exchange, while on the floor of such exchange, shall initiate, directly or indirectly, any transaction in any security admitted to trading on such exchange, for any account in which such member has an interest, or for any such account with respect to which such member has discretion as to the time of execution, the choice of security to be bought or sold, the total amount of any security to be bought or sold, or whether any such transaction shall be one of purchase or sale." 17 C.F.R. § 240.11a-1(a). Phlx Rules 772 (before April 16, 2019) and Options 8, Section 16 (on or after April 16, 2019), provides that "[n]o member, while on the Floor, shall, without the prior approval of the Exchange, initiate the purchase or sale on the Exchange of any security for any account in which he, his member organization or a participant therein, is directly or indirectly interested with any person other than such member organization or participant therein."

floor for that account.

9. Although A.P. apparently and legally exercised common control over both Entity A and Entity B, and A.P. had an interest in Entity B, McCormack did not take action to prevent Entity A from trading options on the floor of the Phlx on behalf of Entity B.
10. In failing to properly recognize A.P.'s apparent and common control status between Entity A and Entity B, McCormack failed to maintain and enforce the Firm's WSPs and McCormack failed to reasonably discharge his supervisory duties and obligations to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the Phlx By-Laws and rules, as described in paragraphs 4 and 5.
11. The aforementioned conduct constitutes violations of Phlx Rules 748 and 707.

B. Respondent consents to the imposition of the following sanction:

1. A censure, a permanent principal bar, and a fine of \$20,000.

The fine shall be due and payable either immediately upon reassociation with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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

Respondent understands that if he is barred or suspended from associating with any Phlx member in a principal capacity, he becomes 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, Respondent may not be associated with any Phlx member in a principal capacity, during the period of the bar or suspension. See Phlx Rule 8310 and IM-8310-1.

Furthermore, because Respondent is subject to a statutory disqualification during the bar, if Respondent remains associated with a member firm in a non-barred capacity, an application to continue that association may be required.

The sanctions imposed herein shall be effective on a date set by Phlx Enforcement Department staff. Pursuant to IM-8310-3(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

## II.

### **WAIVER OF PROCEDURAL RIGHTS**

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

- A. To have a Formal Complaint issued specifying the allegations against Respondent;
- 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 Phlx Exchange Review Council 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 Regulatory Officer, the Phlx Exchange Review Council, or any member of the Phlx Exchange Review Council, 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.

Respondent further specifically and voluntarily waives 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.

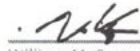
**III.**  
**OTHER MATTERS**

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 Phlx Enforcement Department and the Phlx Exchange Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs (“ODA”), pursuant to Phlx Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Respondent; and
- C. If accepted:
  - 1. This AWC will become part of the Respondent’s permanent disciplinary record and may be considered in any future actions brought by Phlx or any other regulator against the Respondent;
  - 2. Phlx may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Phlx Rule 8310 and IM-8310-3; and
  - 3. 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 Phlx, or to which Phlx is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Respondent’s right to take legal or factual positions in litigation or other legal proceedings in which Phlx is not a party.
- 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 Phlx, nor does it reflect the views of Phlx or its staff.

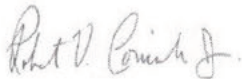
I certify that I have read and understand all the provisions of this AWC and have been given a full opportunity to ask questions about it; I have agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect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

William McCormack  
Respondent

  
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William McCormack (Apr 22, 2021 17:17 EDT)

\_\_\_\_\_  
Date

Reviewed by:

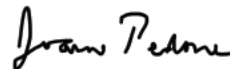


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Robert V. Cornish  
Counsel for Respondent  
Law Offices of Robert V. Cornish, Jr.  
680 South Cache Street  
Jackson, WY 83001

Accepted by Phlx:

4/23/2021  
\_\_\_\_\_  
Date

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



\_\_\_\_\_  
Joanne Pedone  
Senior Enforcement Counsel  
Phlx Enforcement Department

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