

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10710 / September 27, 2019

SECURITIES EXCHANGE ACT OF 1934
Release No. 87152 / September 27, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19546

In the Matter of

GFI SECURITIES LLC,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933 AND SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against GFI Securities LLC (“Respondent” or “GFI”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

Summary

1. These proceedings concern material misstatements that GFI, a registered broker-dealer, made to its customers concerning how GFI's registered representatives handled customer identities in brokering securities transactions.

2. GFI publicly represented itself as an interdealer broker ("IDB") that generally maintained the anonymity of customer identities when brokering securities trades and communicating with potential counterparties. Notwithstanding these representations, from at least January 2014 to June 2016 (the "Relevant Period"), at least three registered representatives on GFI's equity derivatives desk regularly disclosed customer identities to potential counterparties and others did so occasionally.

3. The GFI registered representatives' actions were inconsistent with GFI's public statements concerning customer anonymity. Most GFI customers believed that GFI's equity derivatives desk generally kept their identities anonymous. Anonymity was important to many customers of GFI's equity derivatives desk because they were concerned that the disclosure of their identities could unfairly advantage other market participants. For example, some customers were concerned about the possibility that other market participants could use this information to front-run their trades.

Respondent

4. GFI is a New York limited liability company with its principal office located in New York, New York and is registered with the Commission as a broker-dealer. Through various entities, GFI is owned by BGC Partners L.P., which is, in turn, owned by Cantor Fitzgerald L.P. During the Relevant Period, GFI employed approximately 250 registered representatives on approximately 35 to 40 desks, including the equity derivatives desk, in the United States.

Facts

5. IDBs such as GFI act as intermediaries or arrangers of securities transactions for customers. General industry practice for IDBs in the equity derivatives marketplace includes preserving the anonymity of a customer's identity prior to execution of a trade.

6. GFI publicly represented that it generally maintained the anonymity and confidentiality of customer identities. For example, in a document entitled "Understanding GFI Brokering Services," which GFI published on its website and made available to customers starting in January 2016 through links in emails and instant messages, GFI (1) described its mission as

adding value to its customers by, among other things, “providing pre- and/or post-trade anonymity and/or confidentiality appropriate to the relevant marketplace,” (2) stated that “[a]s a general rule, GFI seeks to operate each of its different product marketplaces in an anonymous fashion,” and (3) stated that “GFI believes that liquidity and transparency in the marketplace are best served when it maintains its client’s confidentiality and anonymity.”

7. In addition, on at least three occasions during the Relevant Period, registered representatives on GFI’s equity derivatives desk sent to at least three potential customers marketing materials stating that GFI’s “team draws on its extensive global network to execute proficiently, while retaining anonymity.”

8. During the Relevant Period, GFI had written internal policies that generally required its registered representatives to maintain the confidentiality of customer information, including customer identities, but did not adequately inform and train its employees concerning these policies. At least three of the registered representatives on GFI’s equity derivatives desk regularly provided customer identities to potential counterparties, and other registered representatives on the desk did so on an occasional basis. The registered representatives who engaged in this practice regularly gave customer identifying information to certain customers who were among their own top revenue-generating customers. One such customer received counterparty identities on a near daily basis.

9. GFI failed to take reasonable steps to inform the registered representatives on its equity derivatives desk and their supervisors of the company’s confidentiality and anonymity policy. GFI distributed documents detailing its internal policy directly to the representatives on its equity derivatives desk and their supervisors on two occasions – once in a March 2006 memorandum and a second time in an April 2016 memorandum. While the March 2006 memorandum was available to employees on the firm’s intranet, GFI did not provide adequate substantive training concerning the anonymity policy. Annual compliance training materials that GFI used at meetings in 2012, 2013, and 2014 referenced the existence of a “Client Confidentiality Reminder” without referring to anonymity. GFI’s anonymity policy was not mentioned in training materials that were used in online annual compliance courses in 2015 or 2016.

10. In addition, GFI failed to alert its employees to the public statements that it had made concerning confidentiality and anonymity. For example, GFI never sent the registered representatives on its equity derivatives desk a copy of its “Understanding GFI Brokering Services” document, described in paragraph 6 above, which the firm had linked to its representatives’ communications with customers.

11. In addition to not adequately training its employees concerning confidentiality and anonymity policies, GFI failed to take reasonable steps to enforce these policies. The desk supervisors were not aware of their responsibility to enforce the policies or to monitor registered representatives for compliance with the policies. In or around May 2016, GFI learned that one of the registered representatives on GFI’s equity derivatives desk disclosed customer identities on a number of occasions. GFI informed the registered representative to stop disclosing customer names

in the future, however, this representative, along with other registered representatives on the desk, continued to disclose customer identities on a number of occasions.

12. During the Relevant Period, GFI received commissions based on the successful brokering of trades for customers who were not aware that the registered representatives on GFI's equity derivatives desk had disclosed their identities to other customers.

13. As a result of the conduct described above, GFI willfully¹ violated Section 17(a)(2) of the Securities Act, which makes it unlawful for "any person in the offer or sale of any securities . . . directly or indirectly . . . to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading."²

Remedial Efforts

14. GFI engaged in remedial efforts to improve training and enforcement of its anonymity policy. GFI now distributes its anonymity policy to its registered representatives on an annual basis to ensure that they are aware of the policy. GFI also requires its registered representatives to certify that they received and reviewed the policy, and addresses the policy during annual compliance trainings. In addition, for approximately the last year-and-a-half, GFI's compliance staff has reviewed a weekly sampling of recorded calls between equity derivatives desk registered representatives and their customers to confirm that its registered representatives are not disclosing customer identities.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 8A of the Securities Act and Section 15(b) of the Exchange Act, it is hereby ORDERED that:

A. GFI cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act.

¹ "Willfully," for purposes of imposing relief under Section 15(b) of the Exchange Act, "means no more than that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has "willfully omit[ed]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

² No finding of scienter is required to establish a violation of Section 17(a)(2); negligence is sufficient. *See Aaron v. SEC*, 446 U.S. 680, 696-97 (1980).

B. GFI is censured.

C. GFI shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$4,300,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying GFI as the Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Joseph G. Sansone, Chief, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, New York 10281.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa Countryman
Secretary