UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86522 / July 31, 2019

INVESTMENT ADVISERS ACT OF 1940
Release No. 5312 / July 31, 2019

INVESTMENT COMPANY ACT OF 1940
Release No. 33581 / July 31, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19294

In the Matter of **JONATHAN BROSK** **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, 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 21C of the Securities Exchange Act of 1934 ("Exchange Act"), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act") against Jonathan Brosk ("Respondent").

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 him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, 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[1] that

Summary

These proceedings arise out of the Respondent's unauthorized securities allocations to the accounts of his advisory clients while he was employed at an Illinois state registered investment advisory firm ("Firm A"). In 2016, Respondent engaged in potentially risky uncovered call options trading and improperly allocated to clients activity involving sales and subsequent purchases of these potentially risky uncovered call options, which the clients had not authorized Firm A to allocate to their accounts. Brosk continued these improper allocations for approximately four months until they were discovered by Firm A's account custodian ("Custodian").

Respondent

1. Respondent, age 36, resides in Inverness, Illinois. Respondent was registered as an investment adviser representative with and was an employee and associated person of Firm A from January 2016 through September 2016 (the "relevant period"). From September 2012 through January 2016, Respondent was employed as a Team Analyst with a firm dually registered with the Commission as a broker-dealer and an investment adviser. From February 2008 to August 2012, Brosk worked as an Equity Analyst at a firm registered with the Commission as an investment adviser.

Background

2. During the relevant period, Respondent had discretionary authority over, and access to trade securities in, Firm A's client accounts—including clients' Individual Retirement Accounts ("IRAs")—and Firm A's block account, all of which were held at Custodian. Firm A's block account was used to aggregate bulk trades for Firm A's clients that would then be allocated to individual client accounts.

3. Options were among the securities that Respondent traded for Firm A's clients. Custodian required that Firm A's clients sign an Options Account Agreement ("Options Agreement"), in which clients indicated, among other things, the types of options that they would permit Firm A to trade on their behalf. Writing, i.e., selling, covered option calls was among the

---

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

choices for clients. An investor writing a covered call owns the underlying securities corresponding to that option, so that the investor will be able to readily deliver the underlying securities if a buyer exercises the option. Hence, the call option is "covered" by the securities held by the investor, and the risk of loss is limited. The majority of Firm A's clients authorized the firm to write covered calls on their behalf.

4. Writing uncovered call options was also among the options trading choices that clients could permit Firm A to engage in on their behalf. Writing uncovered call options is much riskier than writing covered calls, because an investor writing an uncovered call does not have the underlying securities in their account and therefore cannot "cover" the call if the option is exercised and assigned to the investor writing the uncovered call. Consequently, in the event that the call option is exercised, the investor has the obligation to sell the stock at the strike price. To avoid a short position in the stock, the investor would need to acquire the underlying securities at the then-current market value, which may result in significant losses to the investor depending on the price of the securities relative to the strike price. If the uncovered call option remains unexercised by the buyer, the investor writing the uncovered call will profit from the premium received when the uncovered call was sold.

5. The Options Agreements cautioned Firm A's clients that investing in uncovered call options was risky and that potential losses from trading such options could be substantial. The majority of Firm A's clients did not authorize the firm to trade uncovered call options in their accounts, although a few permitted trading uncovered calls. Moreover, Respondent knew that it was Custodian's policy to not permit trading uncovered call options in any clients' Individual Retirement Accounts ("IRAs").

6. Notwithstanding the lack of the clients' authorization, Respondent sold and purchased uncovered call options for their accounts, including clients' IRA accounts, from at least June 2016 through the end of his tenure at the firm in September 2016. Respondent would first "sell to open" the uncovered calls in the firm's block account, which did not have restrictions on uncovered call trading. Respondent would then "buy to close," i.e., close the positions in the block account, often within minutes or even seconds after selling to open. Respondent then allocated the sales and purchases of those uncovered call options to the firm's clients.

7. Respondent traded uncovered calls for clients who had not authorized such trades on at least ten different occasions across approximately 50 accounts, representing almost all of the firm's discretionary client accounts. Respondent was aware that the uncovered call options were not authorized by these clients. Respondent allocated most of the uncovered calls to his parents' accounts, yielding net profits to his parents of approximately $11,500. He also traded uncovered calls for other clients, yielding net profits to them of approximately $8,200. He neither informed his parents nor the other clients that he was trading uncovered calls for their accounts.

8. Respondent knew that clients would receive allocations of any profits or losses, which were potentially large, from the uncovered calls, thereby exposing clients to the high risks associated with trading uncovered calls. Respondent nevertheless traded the uncovered calls in an effort to improve the performance of clients' accounts. Because he closed out the positions before

the underlying stock price materially moved, he hoped that his clients would profit by retaining the (net) premiums that were received upon selling the uncovered calls.

9. Respondent traded uncovered calls on his clients' behalf without authorization. These trades carried potentially high financial losses without clients' knowledge or consent. Respondent also knew about Custodian's formal policy prohibiting the trading of uncovered call options in IRAs.

10. Custodian discovered Respondent's uncovered call trading in approximately September 2016. On September 23, 2016, Custodian terminated its relationship with Firm A. Respondent resigned from Firm A shortly thereafter.

VIOLATIONS

11. As a result of the conduct described above, Respondent willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

12. As a result of the conduct described above, Respondent willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser. Specifically, Section 206(1) of the Advisers Act prohibits any investment adviser from employing any device, scheme, or artifice to defraud any client or prospective client, and Section 206(2) of the Advisers Act prohibits any investment adviser from engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client.

IV.

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

Accordingly, pursuant to Section 21C of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Brosk cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) thereunder, and Sections 206(1) and 206(2) of the Advisers Act;

B. Respondent Brosk be, and hereby is:

> barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and
>
> prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter;

with the right to apply for reentry after three (3) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of $25,000 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 Jonathan Brosk as a 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 Robert J. Burson, Senior Associate Director, Division of Enforcement, Securities and Exchange Commission, Chicago Regional Office, 175 West Jackson Blvd., Suite 1450, Chicago, IL 60604.

E. 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, he shall not argue that he is entitled to, nor shall he 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 he 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.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary