

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 90783 / December 22, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-20187

In the Matter of

FIRST MIDSTATE INC.
AND PAUL D. BROWN,

Respondents.

ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS, PURSUANT TO
SECTIONS 15(b), 15B(c) AND 21C 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 Sections 15(b), 15B(c), and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against First Midstate Inc. and Paul D. Brown (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) 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 Respondents and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 15(b), 15B(c) and 21C 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 Respondents' Offers, the Commission finds¹ that:

Summary

1. This matter involves unfair conduct by First Midstate Inc. ("FMI"), an Illinois-based broker-dealer, in connection with underwriting municipal bonds for municipal issuers. As discussed below, FMI and its owner and president, Paul D. Brown ("Brown"), failed to provide to issuers certain material information about FMI's underwriting practices.

2. Between June 1, 2014 and October 1, 2018 (the "relevant period"), FMI and Brown represented, on FMI's website and in certain other communications, that FMI had an extensive customer list that would allow it to sell the bonds to investors at competitive interest rates. In fact, FMI had a very limited customer base and its regular practice was to sell many of the offerings it underwrote to other broker-dealers, not to investors. During the relevant period, the firm sold 76% (by par amount) of all bonds it underwrote to other broker-dealers, not to investors. In particular, during the relevant period, FMI acted as underwriter for 101 offerings totaling \$198 million in which FMI sold the entire offering to a single broker-dealer. These transactions represent 35% of the total par amount of all bonds, and 31% of all offerings, underwritten by FMI during that period. For those 101 offerings, the purchasing broker-dealer then marked up the bonds and resold them to investors at higher prices (and corresponding lower yields).

3. FMI did not disclose to issuers that its practice was to sell many of the bonds it underwrote to various broker-dealers during the public offering, if it did not receive orders from investors. FMI did not disclose that this practice presented a risk to competitive pricing for their bonds. Although investors were willing and agreed to pay the higher price and accept a lower yield for the bonds, the issuers did not benefit from those more advantageous prices and yields. If FMI had sold the bonds directly to investors, the issuers might have received more competitive pricing for their bonds. Certain representatives of some issuers of offerings underwritten by FMI testified that they would have wanted to know that FMI was selling their bonds to another broker-dealer and not to investors.

4. As a result of the conduct described herein, FMI willfully² violated Municipal Securities Rulemaking Board ("MSRB") Rules G-17 and G-21, and by reason of those violations,

¹ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

² A willful violation of the securities laws means merely "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." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

Section 15B(c)(1) of the Exchange Act. Brown willfully violated MSRB Rules G-17 and G-21 and caused FMI's violations of Section 15B(c)(1) of the Exchange Act.

Respondents

5. **First Midstate Inc. ("FMI")** was incorporated in Delaware in 1963 and is located in Bloomington, Illinois. FMI is registered with the Commission as a broker-dealer and municipal advisor.

6. **Paul D. Brown ("Brown")**, age 61, resides in Bloomington, Illinois and is a registered representative and the owner, president, and chief compliance officer of FMI. He holds Series 7, 24, 27, 50, and 53 securities licenses.

Background

7. Municipalities often raise capital by issuing bonds that are indirectly sold to the public through an underwriter. In what is known as a "negotiated" offering, the municipal issuer chooses a broker-dealer to act either as the sole underwriter or as the senior manager of an underwriting syndicate. A major goal of the issuer in a negotiated bond offering is to obtain the lowest possible borrowing cost. Municipal issuers therefore endeavor to select underwriters that have demonstrated both experience underwriting the type of municipal bonds being proposed, the services they render, and the strongest marketing and distribution capabilities. A significant portion of a municipal underwriter's effort involves finding potential investors, discussing their level of interest in the anticipated bond offering, pricing the issuer's bonds at a fair and reasonable price in light of market information and feedback from investors, and selling bonds to investors at a price negotiated with the issuer.

FMI's Underwriting Practices

8. FMI underwrites bonds for municipal issuers, primarily school districts in Illinois. It acts as sole underwriter, without a syndicate group. It does not have brokerage customers (*i.e.* customers holding brokerage or investment accounts with FMI) and does not buy or sell municipal bonds in the secondary market for any customers.

9. During the relevant period, FMI advertised its underwriting business through its public website and on some occasions solicited issuers through responses to requests for proposals ("RFPs"). Brown was responsible for reviewing, approving, and updating FMI's advertisements and RFPs. These materials represented that FMI had an extensive customer base which would allow it to locate suitable investors for the bonds and to sell the bonds at competitive interest rates. FMI's website and RFPs included representations that would lead issuers to believe that FMI would work to place their bonds with investors. For example, during the relevant period, FMI's public website stated:

[FMI] has developed an extensive list of municipal bond purchasers. This broad base affords us the ability to place each issue with the investors most suitable for that particular project or maturity at competitive interest rates.³

FMI made similar representations that it would offer and sell the bonds to investors in written RFPs to issuers, including stating that “[FMI] has an extensive client list of institutional and individual municipal bond purchasers.”

10. Contrary to the website and the RFPs, during the relevant period: (1) FMI’s investor base was primarily banks and did not include individuals; (2) if FMI did not receive offers from investors, FMI’s underwriting practice was to sell the bonds to other broker-dealers; and (3) the practice created the risk that issuers’ bonds would not be sold at competitive interest rates.

11. Of the 325 separate municipal offerings FMI underwrote during the relevant period (totaling \$572.47 million par amount), FMI sold 101 offerings (totaling \$198 million par amount) entirely to a single other broker-dealer. The 101 offerings sold entirely to another broker-dealer represented 31% of all offerings FMI underwrote and 35% of the par amount of all bonds underwritten by FMI. In addition to the 101 offerings in which FMI sold bonds to a single broker-dealer, FMI also sold some offerings to a mix of broker-dealers or to a combination of investors (typically commercial banks) and other broker-dealers. Including those additional sales to broker-dealers, FMI sold 76% of the par amount of bonds it underwrote to broker-dealers.

12. For each of the 101 offerings that FMI sold entirely to other broker-dealers, the broker-dealers that purchased the bonds immediately resold them to their own customers, at higher prices and lower yields.⁴ In aggregate, those selling broker-dealers made a profit of \$1.373 million reselling those bonds to their customers. Had FMI sold those bonds directly to investors at those more competitive prices, the \$1.373 million could have flowed back to issuers as an increase in bond proceeds.

13. For example, FMI underwrote a \$9.47 million offering by Issuer A, on May 23, 2018.⁵ FMI purchased the bonds from the issuer at a discount to the initial offering price, which

³ FMI removed and updated language on its website in 2018 after becoming aware of the Commission staff’s concern about the language.

⁴ It is not unusual for underwriters to sell a single maturity within an offering to another broker-dealer, typically because that maturity is unpopular with investors. This sale is typically done at a discount to the initial offering price, which provides the purchasing broker-dealer with the ability to make a profit on later sales to investors which are typically at or near the initial offering price. This common industry practice is often disclosed in official statements but is not applicable to the practice at issue because FMI’s sales of entire offerings to another broker-dealer were at the initial offering price (*i.e.*, not at a discount).

⁵ There were two concurrent offerings for Issuer A, these figures do not include a taxable Series B offering of \$2,530,000. The Series B offering was sold to other investors, not dealers.

resulted in FMI earning an underwriting fee equivalent to 2.98% of the par amount of the offering. FMI then immediately sold the entire offering to a broker-dealer at the following initial offering prices and yields:

CUSIP and par amount	Price	Yield
121158BV0 (\$540,000)	104.576	2.900
121158BW8 (\$1,100,000)	105.109	2.980
121158BX6 (\$1,065,000)	104.749	3.050
121158BY4 (\$1,125,000)	104.288	3.140
121158BZ1 (\$1,185,000)	103.778	3.240
121158CA5 (\$1,245,000)	103.271	3.340
121158CB3 (\$1,315,000)	105.802	3.330
121158CC1 (\$1,390,000)	105.444	3.400
121158CD9 (\$ 595,000)	104.935	3.500

The broker-dealer then resold the bonds to its customers at higher prices and lower yields, earning \$66,638 on those resales. All but two of those sales were recorded within 22 minutes of the broker-dealer's purchase from FMI:

CUSIP and par amount	Price	Yield
121158BV0 (\$300,000)	105.434	2.700
121158BV0 (\$240,000)	105.650	2.650 ⁶
121158BW8 (\$1,100,000)	105.782	2.850
121158BX6 (\$1,065,000)	105.523	2.900
121158BY4 (\$1,125,000)	105.006	3.000
121158BZ1 (\$1,185,000)	104.492	3.100
121158CA5 (\$1,245,000)	103.982	3.200
121158CB3 (\$1,315,000)	106.471	3.200
121158CC1 (\$1,390,000)	106.110	3.270
121158CD9 (\$ 595,000)	105.700	3.350

14. In another example, on March 11, 2016 FMI underwrote \$1.7 million of Taxable G.O. Bonds for Issuer B. FMI originally proposed selling the bonds to investors at a 5.20% yield, but agreed to sell the entire offering to another broker-dealer at a price of 107.664, resulting in a 5.30% yield. At that price, after subtracting expenses, FMI netted an underwriting fee equivalent to 4.99% of the par amount of the offering. The purchasing broker-dealer then resold the entire offering which was recorded within 21 minutes to investors at a price of 109.163, resulting in a yield of 5.05% and netting the purchasing broker-dealer \$25,483.

⁶ This CUSIP was re-sold by the interposed broker-dealer in two blocks; the broker-dealer reported the sale of the \$300,000 par amount to an investor at a 2.7% yield, and reported the sale of the \$240,000 par amount a week later to another broker at a 2.8% yield, who, in turn, sold the bonds to an investor at a 2.65% yield. Thus, the weighted average yield on resales to investors for this CUSIP was 2.678%.

15. In what is known in the industry as an “Underwriter’s Certificate,” FMI provided issuers with information about the sale of their bonds, including information from which, after the fact, an issuer was informed that the bonds were sold to broker-dealers. However, the Underwriter’s Certificate: (1) was provided to the issuers primarily for tax purposes; (2) although dated as of the closing date, was provided to the issuers weeks after the bond offering was completed; and (3) was included within a large set of electronic documents related to the offering. Under these circumstances, the Underwriter’s Certificate did not provide issuers with effective or timely disclosure of FMI’s practice. In addition, publicly-available data on the MSRB’s Electronic Municipal Market Access system (“EMMA”) showed that the bonds were sold to broker-dealers. But that data did not provide effective advance notice to issuers of FMI’s underwriting practices.

Violations

FMI and Brown Violated MSRB Rule G-17

16. MSRB Rule G-17 provides that, in the conduct of its municipal securities business, every broker, dealer, municipal securities dealer, and municipal advisor shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice. Subject to certain exceptions not relevant to this matter, MSRB Rule D-11 includes “associated persons” within the definitions of brokers, dealers, and municipal securities dealers for purposes of all other MSRB rules. See Wheat, First Securities, Inc., Exch. Act Release No. 48378, 2003 WL 21990950, at *8 n.29 (Aug. 20, 2003). Negligence is sufficient to establish a violation of MSRB Rule G-17. See id. at *10. MSRB Rule G-17 requires underwriters to deal fairly with municipal issuers, including making truthful and accurate representations about their capacity and resources to perform the underwriting and not to misrepresent or omit material facts. The MSRB has interpreted Rule G-17 to not only prohibit deceptive conduct by an underwriter, but also to establish a general duty of an underwriter to deal fairly with issuers of municipal securities, “even in the absence of fraud.” Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities, MSRB (August 2, 2012). Also, if the dealer knows the issuer is unsophisticated or otherwise depending on the dealer as its sole source of market information, the dealer’s duty under Rule G-17 is to ensure that the issuer is treated fairly, specifically in light of the relationship of reliance that exists between the issuer and the underwriter. Interpretive Letter, Purchase of New Issuer from Issuer, MSRB (December 1, 1997).

17. During the relevant period, FMI and Brown did not deal fairly with FMI’s municipal issuer customers. In light of the representations on FMI’s website and elsewhere, the failure to clearly disclose that FMI often did not sell bonds to investors, and often ended up selling entire offerings to other broker-dealers, was unfair to issuers. This was particularly unfair in the 101 offerings which FMI sold entirely to other broker-dealers and where, with one exception, none of the issuers were represented by a municipal advisor and none had outside counsel representing their interests. If FMI had sold the bonds directly to investors, the issuers

might have received more competitive pricing for their bonds. FMI and Brown did not act reasonably because they knew, or should have known, that some of their issuer customers did not understand FMI's practices and that these practices might result in the risk of issuers paying higher yields on their bonds than if FMI had sold the bonds to investors. Representatives of certain issuers testified that they would have wanted to know that FMI was selling their bonds to another broker-dealer and not to investors.

18. As a result of the conduct described above, FMI and Brown willfully violated MSRB Rule G-17.

FMI and Brown Violated MSRB Rule G-21

19. MSRB Rule G-21(b) prohibits brokers, dealers, and municipal securities dealers from publishing or disseminating, or causing to be published or disseminated, any professional advertisement that is materially false or misleading. A professional advertisement includes any advertisements concerning the facilities, services or skills with respect to municipal securities of such broker, dealer or municipal securities dealer. MSRB Rule G-21(b) does not require a showing of scienter or negligence.

20. During the relevant period, FMI's website included information which constituted a professional advertisement because it concerned FMI's services with respect to underwriting municipal securities. The advertisement was misleading because it did not disclose FMI's frequent practice of selling entire offerings to other broker-dealers who then resold those bonds to investors at higher prices. It also did not disclose any effect such practices might have on competitive pricing.

21. As a result of the conduct described above, FMI and Brown willfully violated MSRB Rule G-21.

FMI Violated Section 15B(c)(1) of the Exchange Act

22. Section 15B(c)(1) of the Exchange Act prohibits a broker, dealer or municipal securities dealer from effecting interstate transactions in, or inducing or attempting to induce the purchase or sale of, any municipal security in contravention of any rule of the MSRB.

23. As discussed above, FMI willfully violated MSRB Rules G-17 and G-21. As a result, FMI willfully violated Section 15B(c)(1) of the Exchange Act.

Brown Caused FMI's Violation of Section 15B(c)(1) of the Exchange Act

24. To establish causing liability, the Commission must find: (1) a primary violation; (2) the respondent's act or omission contributed to the violation; and (3) the respondent knew or should have known that its act or omission would contribute to the violation. See 15 U.S.C. § 78u-3(a); Robert M. Fuller, 80 SEC Docket 3539, 3545, Exch. Act Release No. 48406 (Aug. 25,

2003) (Commission Opinion). Negligence is sufficient to establish liability for causing a primary violation that does not require scienter, such as Section 15(a)(1) of the Exchange Act. See VanCook, Exch. Act Release No. 61039A, 2009 WL 4005083, at *14 n.65 (Nov. 20, 2009) (Commission Opinion) (quoting KPMG Peat Marwick LLP, 54 S.E.C. 1135, 1175 (2001)).

25. As discussed above, FMI violated Exchange Act 15B(c)(1). As the sole owner and the president of FMI, Brown was responsible for, and engaged in, the underwriting practices described herein. He knew or should have known that his actions would contribute to FMI's violation. As a result, Brown caused FMI's violations of Section 15B(c)(1) of the Exchange Act.

Undertakings

Respondent FMI has undertaken to:

26. Retain an independent consultant (the "Independent Consultant"), not unacceptable to the Commission staff, to conduct a review of FMI's policies and procedures as they relate to FMI's disclosures to issuers regarding its municipal securities underwriting practices and its professional advertisements. The Independent Consultant shall not have provided consulting, legal, auditing or other professional services to, or had any affiliation with, FMI during the two years prior to the institution of these proceedings. FMI shall cooperate fully with the Independent Consultant and the Independent Consultant's compensation and expenses shall be borne by FMI.

27. Require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondents, or any of FMI's present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with FMI, or any of FMI's present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement. The agreement will also provide that, within 180 days of the institution of these proceedings, the Independent Consultant shall submit a written report of its findings to FMI, which shall include the Independent Consultant's recommendations for improvements to FMI's policies and procedures.

28. Adopt all recommendations contained in the Independent Consultant's report within 90 days of the date of that report, provided, however, that within 30 days of the report, FMI shall advise in writing the Independent Consultant and the Commission staff of any recommendations that FMI considers to be unduly burdensome, impractical or inappropriate. With respect to any such recommendation, FMI need not adopt that recommendation at that time

but shall propose in writing an alternative policy, procedures or system designed to achieve the same objective or purpose. As to any recommendation on which FMI and the Independent Consultant do not agree, FMI and the Independent Consultant shall attempt in good faith to reach an agreement within 60 days after the date of the Report. Within 15 days after the conclusion of the discussion and evaluation by FMI and the Independent Consultant, FMI shall require that the Independent Consultant inform FMI and the Commission staff in writing of the Independent Consultant's final determination concerning any recommendation that FMI considers to be unduly burdensome, impractical, or inappropriate. Within 10 days of this written communication from the Independent Consultant, FMI may seek approval from the Commission staff to not adopt recommendations that the FMI can demonstrate to be unduly burdensome, impractical, or inappropriate. Should the Commission staff agree that any proposed recommendations are unduly burdensome, impractical, or inappropriate, FMI shall not be required to abide by, adopt, or implement those recommendations.

29. The report by the Independent Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the report could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the report and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) as otherwise required by law.

30. Certify, in writing, compliance with the undertaking(s) set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and FMI agrees to provide such evidence. The certification and supporting material shall be submitted to Brian D. Fagel, Assistant Director, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 1450, Chicago, IL 60604, with a copy to the Office of Chief Counsel of the Enforcement Division, 100 F Street, NE, Washington, DC 20549, no later than sixty (60) days from the date of the completion of the undertakings.

31. For good cause shown, the Commission staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

IV.

In view of the foregoing, the Commission deems it appropriate, and in the public interest, to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Sections 15(b), 15B(c), and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondents are censured.

B. Respondent FMI cease and desist from committing or causing any violations and any future violations of Section 15(B)(c)(1) of the Exchange Act, and MSRB Rules G-17 and G-21.

C. Respondent Brown cease and desist from committing or causing any violations and any future violations of Section 15(B)(c)(1) of the Exchange Act, and MSRB Rules G-17 and G-21.

D. Respondent FMI shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$175,000 to the Securities and Exchange Commission, of which \$58,333 shall be transferred to the Municipal Securities Rulemaking Board in accordance with Section 15B(c)(9)(A) of the Exchange Act. Payment shall be made within ten (10) days of the entry of this Order. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

E. Respondent Brown shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$25,000 to the Securities and Exchange Commission, of which \$8,333 shall be transferred to the Municipal Securities Rulemaking Board in accordance with Section 15B(c)(9)(A) of the Exchange Act. Payment shall be made within ten (10) days of the entry of this Order. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

F. Payment must be made in one of the following ways:

(1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondents 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) Respondents 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 FMI or Brown, respectively, 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 Brian D. Fagel, Assistant Director, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 1450, Chicago, IL 60604.

G. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they 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(s) 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.

H. Respondent FMI shall comply with the undertakings enumerated in Paragraphs 26 to 30 above.

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 Brown, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Brown 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 Brown 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