

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11015 / December 15, 2021

SECURITIES EXCHANGE ACT OF 1934
Release No. 93794 / December 15, 2021

INVESTMENT ADVISERS ACT OF 1940
Release No. 5927 / December 15, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20679

In the Matter of

WEDBUSH SECURITIES INC.

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTIONS
15(b) AND 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, AND SECTION
203(e) OF THE INVESTMENT ADVISERS
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 8A of the Securities Act of 1933 (“Securities Act”), Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), and Section 203(e) of the Investment Advisers Act of 1940 (“Advisers Act”) against Wedbush Securities Inc. (“Wedbush” or “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 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, Sections 15(b) and 21C of the Securities Exchange Act of 1934, and Section 203(e) of the Investment Advisers 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 finds¹ that:

Summary

From January 2017 through September 2018 (the “Relevant Period”), Wedbush, a registered broker-dealer, engaged in unregistered offers and sales of large blocks of low-priced securities by an offshore customer. Sections 5(a) and 5(c) of the Securities Act make it unlawful for any person, directly or indirectly, to offer or sell securities by any means or instruments of transportation or communication in interstate commerce unless a registration statement has been filed with the Commission with respect to Section 5(c) and is in effect with respect to Section 5(a). No registration statement was in effect as to Wedbush’s offers and sales of the securities at issue, and no exemption from registration was applicable to them. Although brokers may rely on an exemption under Section 4(a)(4) of the Securities Act, this exemption would be available to Wedbush only if, after conducting a reasonable inquiry into the facts surrounding the sales at issue, Wedbush was not aware of facts indicating that its offshore customer was engaging in an unlawful distribution of securities. Wedbush failed to conduct a reasonable inquiry.

In addition, Wedbush failed to file suspicious activity reports (“SARs”) for certain suspicious transactions that it executed on behalf of its offshore customer during the Relevant Period, as required by Section 17(a) of the Exchange Act and Rule 17a-8 thereunder. Wedbush’s policies and procedures acknowledge a heightened risk of illegal unregistered offerings associated with the sale of low-priced securities in general, and specifically when a customer deposits large blocks of thinly traded or low-priced securities; engages in a pattern of depositing securities, selling the shares shortly thereafter, and wiring out the proceeds; deposits shares of a publicly-traded company (often referred to as an issuer of stock or simply an “issuer”) that has undergone a recent name change; or makes sales coinciding with a sudden spike in trading volume or stock price. Despite the presence of these red flags, Wedbush failed to file suspicious activity reports concerning the offshore customer.

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.

Respondent

Wedbush is a California corporation headquartered in Los Angeles, California. The firm was founded in 1955 and registered with the National Association of Securities Dealers (now known as the Financial Industry Regulatory Authority (“FINRA”)) as a broker-dealer in that year. The firm registered with the Commission as a broker-dealer in 1966, and registered with the Commission as an investment adviser in 1970. Wedbush is a wholly-owned subsidiary of Wedbush Financial Services, LLC, a privately-held company.

Facts

1. During the Relevant Period, Wedbush held a brokerage account for Silverton SA (“Silverton”), now known as Wintercap, SA, a purported Swiss asset manager, and acted as a custodian for that account. The activity in Silverton’s account reflected a pattern of: (i) depositing low-priced securities; (ii) selling a large quantity of the deposited shares soon after depositing them; and (iii) withdrawing the proceeds. Silverton routinely made serial deposits of stock of the same issuer, repeating the pattern of deposit, sale, and withdrawal multiple times.

2. From at least June 2015 through September 2018, Silverton enabled individuals or groups scheming to conceal their ownership of and control over public companies (known as control persons or control groups) to fraudulently sell stock to investors. Silverton provided a layer of disguise to control persons who intended to defraud investors by secretly dumping large quantities of restricted stock into the markets in circumvention of registration and disclosure requirements imposed by the federal securities laws. On October 2, 2018, the Commission filed an enforcement action in federal court in Massachusetts against Silverton, its principal, and others, charging that they engaged in a large international microcap fraud scheme. Silverton’s principal was also criminally charged by the Massachusetts U.S. Attorney’s Office.

3. During the Relevant Period, on behalf of Silverton’s undisclosed clients, Silverton deposited 97,269,346 shares of more than 50 separate issuers at Wedbush across 61 deposits, and Wedbush sold all or substantially all of those shares for approximately \$43,688,687. Silverton also deposited some shares that it purchased on the open market. Such shares, however, comprised less than 1% of Silverton’s total deposits (by the number of shares) and less than 2% of the total (by dollar value). Wedbush earned a net profit of \$173,508.40 from commissions on the Silverton transactions.

Silverton’s Violations of Section 5

4. Silverton’s business model was to assist control persons to conceal their beneficial ownership of stock by creating and maintaining accounts at Silverton held in the name of nominee entities that served to mask the identity of the true beneficial owners. Silverton also helped control persons to divide their holdings among multiple entities and/or accounts at multiple broker-dealers

to avoid making required beneficial ownership disclosures² or so that no one nominee entity appeared to be an affiliate³ of the company (which would have subjected them to limitations on their ability to resell the securities). Silverton acted as an underwriter⁴ by selling stock on behalf of control persons.

5. The offers and sales of stock held by the control persons who availed themselves of Silverton's services were neither registered nor exempt from registration.

6. Silverton sold stock on behalf of control persons by depositing the stock in accounts held in Silverton's name held at multiple brokers, including Wedbush, and then selling those shares to the public. Silverton falsely certified to Wedbush that it was the beneficial owner of the securities. Silverton sold stock of at least 50 publicly traded companies on behalf of multiple control persons and generated approximately \$165 million in fraudulent stock sale proceeds. More than \$43 million of these proceeds were obtained by Silverton by selling stock through its account at Wedbush. Silverton received, on average, around two percent of the sales proceeds. Thus Silverton, directly or indirectly, offered to sell or sold securities by means of the mails or interstate means for which no registration statement was filed, or in effect as to the security, and for which no exemption from registration applied.

Wedbush Did Not Conduct a Reasonable Inquiry

7. Section 4(a)(4) of the Securities Act exempts from the registration requirements of Section 5 "brokers' transactions executed upon customers' orders on any exchange or in the over-the-counter market but not the solicitation of such orders." 15 U.S.C. § 77d(4). Rule 144(g)(4) provides that for a transaction to qualify as a "brokers' transaction" under Section 4(a)(4), the broker must engage in a "reasonable inquiry" prior to the transaction, and after such inquiry, the broker must not be "aware of circumstances indicating that the person for whose account the

² Investors in entities with a class of equity securities registered pursuant to Section 12 of the Exchange Act are required to publicly disclose certain information if they are, directly or indirectly, the beneficial owner of more than 5% of such class of securities.

³ An "affiliate" of an issuer is a person or entity that, directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such issuer (i.e., a control person). "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the company in question, whether through the ownership of voting securities, by contract, or otherwise. Typically, affiliates include officers, directors, and controlling shareholders, but any person who is under "common control" with or has common control of an issuer is also an affiliate.

⁴ An "underwriter" is defined by Section 2(a)(11) of the Securities Act and includes "any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking." As used in Section 2(a)(11) of the Securities Act, the term "issuer" includes "any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer."

securities are sold is an underwriter with respect to the securities or that the transaction is a part of a distribution of securities of the issuer.” 15 U.S.C. § 77d(a)(4); 17 CFR § 230.144(g)(4).

8. A “reasonable inquiry” should include, but not necessarily be limited to, inquiry as to the following matters:

- (a) The length of time the securities have been held by the person for whose account they are to be sold. If practicable, the inquiry should include physical inspection of the securities;
- (b) The nature of the transaction in which the securities were acquired by such person;
- (c) The amount of securities of the same class sold during the past 3 months by all persons whose sales are required to be taken into consideration pursuant to Rule 144(e);
- (d) Whether such person intends to sell additional securities of the same class through any other means;
- (e) Whether such person has solicited or made any arrangement for the solicitation of buy orders in connection with the proposed sale of securities;
- (f) Whether such person has made any payment to any other person in connection with the proposed sale of the securities; and
- (g) The number of shares or other units of the class outstanding, or the relevant trading volume. Notes to 17 CFR § 230.144(g)(4).

9. Certain facts and circumstances surrounding the transaction might require additional inquiry in order for the broker to rely on the Section 4(a)(4) exemption. For example:

A dealer who is offered a modest amount of a widely traded security by a responsible customer, whose lack of relationship to the issuer is well known to him, may ordinarily proceed with considerable confidence. On the other hand, when a dealer is offered a substantial block of a little-known security, either by persons who appear reluctant to disclose exactly where the securities came from, or *where the surrounding circumstances raise a question* as to whether or not the ostensible sellers may be merely intermediaries for controlling persons or statutory underwriters, then *searching inquiry* is called for.⁵

10. It is not sufficient “for [the broker-dealer] merely to accept ‘self-serving statements of [its] sellers and their counsel without reasonably exploring the possibility of contradictory facts.’” *Distribution by Broker-Dealers of Unregistered Securities*, Securities Act Rel. No. 4445 (Feb. 2, 1962) (quoting *SEC v. Culpepper*, 270 F.2d 241, 251 (2d Cir. 1959)).

⁵ *Distribution by Broker-Dealers of Unregistered Securities*, Securities Act Rel. No. 4445 (Feb. 2, 1962) (emphasis added).

11. Wedbush's written supervisory procedures ("WSPs") pertaining to conducting a reasonable inquiry under Section 4(a)(4) of the Securities Act placed the initial obligation on the Wedbush registered representative assigned to the account "to determine whether shares of stock deposited for sale by clients are subject to the restrictions of Rule 144." Rule 144, among other things, provides guidance to broker-dealers on the registration requirements of the federal securities laws and certain circumstances under which an offer or sale is exempt from registration. Wedbush's WSPs defined restricted securities as those acquired directly or indirectly from the issuer or from an affiliate of the issuer in a transaction or series of transactions not involving a public offering. Wedbush's WSPs provided that if there was any reason to suspect that the customer was a seller of restricted stock, the registered representative should exercise great care in determining the manner in which the securities were acquired and the relationship of the shareholder to the issuer. The WSPs further stated that, if a proposed sale consisted of restricted securities, the registered representative should obtain documentation, including copies of a signed and completed SEC Form 144, a Seller's Representation Letter and a favorable legal opinion letter which may be obtained by calling the issuer. Finally, Wedbush's WSPs provided that the Wedbush Sales Office Manager overseeing the registered representative was to "follow practices intended to intercept unreported Rule 144 transactions. . . ."

12. During the Relevant Period, Wedbush had available for use a form entitled "Deposit Securities Request For Bulletin Board, Pink Sheet, and Unregistered Securities Form" ("Deposit Form") pertaining to the deposit of low-priced securities. The Deposit Form included questions designed by Wedbush to constitute a "reasonable inquiry," and included questions related to the security, the reason for the deposit, the number of shares held by the customer, and the customer's relationship with the issuer. However, from January 2017 through in or around April 2017, Wedbush accepted deposits of and sold large blocks of low-priced securities for Silverton without requiring Silverton to complete a Deposit Form.

13. Wedbush failed to follow its own WSPs that required its Sales Office Manager "regularly" to review with employees the requirements of Rule 144. Wedbush did not otherwise provide the employees it entrusted with the Silverton account with sufficient training as to how to identify and avoid participating in illegal unregistered offerings. As a result, for certain deposits, Wedbush employees lacked a sufficient understanding of the requirements for exemptions from registration and could not meaningfully assess information provided by Silverton about its deposits.

14. Starting in or around April 2017, Wedbush required Silverton to complete a Deposit Form for each of its deposits of low-priced securities. However, the employee responsible for reviewing these forms did not sufficiently inquire about the substantive responses to determine if the securities could be lawfully offered and sold.

15. Wedbush failed to take reasonable steps to verify whether shares deposited by Silverton were covered by an effective registration statement. Silverton routinely responded "Yes" to the question on the Deposit Form: "Was the Security covered by a current registration statement when acquired?" The Deposit Form also asked Silverton to "explain and include the type of

registration.” Silverton routinely responded to these inquiries with a non sequitur: “fully up to date on OTC Markets.com.” OTCMarkets.com is a website run by OTC Markets Group, which provides trading services, market data, public disclosures, Commission filings if available and other information concerning over-the-counter securities. Silverton’s assertion that something was “up to date on OTC Markets.com” did not pertain to or describe any type of offering or other registration. Wedbush could have readily determined that the securities deposited by Silverton were not covered by an effective registration statement by a simple query on the EDGAR system, an SEC system that contains various filings by registrants and which is accessible from the SEC’s public website.

16. Wedbush accepted Silverton’s deposits and executed stock sales at Silverton’s direction despite Silverton’s non sequitur responses described above and Silverton’s explicit responses to questions on the Deposit Forms indicating that the offers and sales of securities were not exempt from registration. On Deposit Forms submitted by Silverton, it responded “No” to the question: “Was the Security exempt from SEC registration when you acquired it?”

17. Wedbush failed to verify or corroborate the information provided by Silverton about its deposits. For example:

- a. The Deposit Form required Silverton to state whether the issuer had undergone a recent name change. Silverton routinely checked the box for “No” in response to this question. Wedbush did not verify Silverton’s response by using readily accessible information that would have revealed that several of the issuers had in fact changed their names recently and that Silverton had provided false information on the form.
- b. Silverton routinely made serial deposits of securities of the same issuer while falsely stating on the Deposit Forms that it had not made any deposits of that security in the last 90 days and did not intend to make additional deposits of the same security. Wedbush did not take sufficient steps to verify Silverton’s statements, neglected to compare successive Deposit Forms, and failed to conduct an inquiry into Silverton’s serial deposits of large blocks of shares of the same issuer.
- c. Silverton routinely stated in its Deposit Forms that it had acquired its shares directly from the issuer in a private transaction. Wedbush did not attempt to further determine the manner in which the securities were acquired in the private transactions. For example, Wedbush did not request documentation supporting the purported private transactions, such as a share purchase agreement and proof of payment, or those documents required by its WSP. Had Silverton been required to provide copies of these documents, such an such inquiry may have revealed that Silverton routinely acquired shares in private transactions from various entities in

amounts consistently just under 5% of any public company's stock instead of directly from the issuer as it represented in the Deposit Forms.

18. In September 2017, after receiving multiple regulatory inquiries about the Silverton account, Wedbush decided to "exit" the Silverton account and ceased accepting deposits of securities by Silverton. Wedbush, however, failed to conduct any inquiry concerning Silverton's ongoing sales of securities that had already been deposited or purchased at Wedbush, and permitted Silverton to liquidate those securities and withdraw the proceeds of those sales.

19. No registration statement was filed or in effect as to the offer and sale of the securities Wedbush accepted for deposit by its customer Silverton, and in fact no exemption from the registration requirements was available for these sales. Wedbush offered and executed sales for Silverton without conducting a reasonable inquiry to confirm that Silverton was not an underwriter or that the transaction was not a part of a distribution of securities of the issuer. Wedbush made use of means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, sell, and deliver after sale the securities it sold on behalf of its customer Silverton.

Failure to File Suspicious Activity Reports

20. The Bank Secrecy Act (the "BSA"), and implementing regulations promulgated by the Financial Crimes Enforcement Network ("FinCEN") (a bureau of the U.S. Treasury Department that collects and analyzes information about financial transactions), require that certain financial institutions, including broker-dealers, file SARs with FinCEN to report a transaction (or a pattern of transactions of which the transaction is a part) conducted or attempted by, at, or through the broker-dealer involving or aggregating to at least \$5,000 that the broker-dealer knows, suspects, or has reason to suspect: (1) involves funds derived from illegal activity or is conducted to disguise funds derived from illegal activities; (2) is designed to evade any requirement of the BSA; (3) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the broker-dealer knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or (4) involves use of the broker-dealer to facilitate criminal activity. 31 C.F. R. §1023.320(a)(2) ("SAR Rule").

21. Wedbush's WSPs pertaining to the filing of SARs were designed to identify transactions that involved possible illegal unregistered distributions in violation of Section 5 of the Securities Act. Wedbush's WSPs required the registered representative assigned to particular accounts to understand the business of their customers. The WSPs set forth certain customer traits that might indicate high risk customer activity and/or suspicious transactions, such as a pattern of receiving stock in physical form or the incoming transfer of shares, selling the position and wiring out proceeds. Wedbush's WSPs also listed other related risk factors to be considered by the registered representative, such as: (i) when a "customer's explanation of how he or she acquired the certificate does not make sense or changes"; (ii) deposits of shares of a company that has

undergone frequent material changes in business strategy or its line or business; (iii) securities of companies that have been the subject of a prior trading suspension; and (iv) the receipt of law enforcement subpoenas related to a customer's account. Wedbush's WSPs provided that, if any of the above warning signs appears, a registered representative should bring it to the attention of the Wedbush Sales Office Manager and the Anti-Money Laundering (AML) Compliance Officer.

22. Wedbush's WSPs further provided that the Wedbush Sales Office Managers overseeing registered representatives must "follow practices intended to intercept unreported Rule 144 transactions. . . ." Sales Office Managers must immediately report in writing to the AML Compliance Officer complete details of any suspicious transactions. The AML compliance officer would then review all referenced accounts for suspicious activity to determine if a SAR filing is warranted.

23. During the Relevant Period, Wedbush overlooked red flags which taken together should have alerted Wedbush to the likelihood that Silverton's transactions were suspicious. Those circumstances included:

- a. Silverton's activity primarily consisted of transactions involving low-priced securities, known to carry a higher risk of fraud than other types of securities;
- b. Silverton regularly made large deposits of thinly traded or low-priced securities;
- c. Silverton deposited blocks of thinly traded or low-priced securities large enough to constitute a large percentage of the number of shares available for investors to trade (referred to as the "float");
- d. Silverton engaged in a pattern of depositing thinly traded or low-priced securities, selling the shares shortly thereafter, and wiring the proceeds of the sales out of its brokerage account;
- e. Silverton routinely made serial deposits of stock of the same issuer, repeating the pattern of deposit, sale, and withdrawal multiple times;
- f. Silverton deposited and sold securities of issuers that had undergone a recent name change;
- g. Silverton's sales often coincided with a sudden spike in trading volume and/or price; and,
- h. During the Relevant Period, there were four Commission trading suspensions involving low-priced securities sold by the Silverton account and Wedbush received multiple requests from securities regulators for information pertaining to the Silverton account.

24. Despite the red flags and suspicious circumstances described above, no suspicious circumstances were reported by the registered representative assigned to the Silverton account to the Sales Office Manager and the AML Compliance Officer, as required by the firm's WSPs, and Wedbush did not file a SAR for any of Silverton's transaction during the Relevant Period.

Violations

25. As a result of the conduct described above, Wedbush willfully⁶ violated Section 5(a) of the Securities Act, which prohibits the direct or indirect sale of securities through the mail or interstate commerce unless a registration statement has been filed and is in effect, and 5(c) of the Securities Act, which prohibits the offer to sell securities through the mail or interstate commerce unless a registration statement has been filed.

26. As a result of the conduct described above, Wedbush willfully violated Section 17(a) of the Exchange Act and Rule 17a-8 thereunder, which require broker-dealers registered with the Commission to comply with the reporting, record-keeping, and record retention requirements of the BSA, including the requirement to file a SAR with FinCEN to report a suspicious transaction as required by 31 C.F.R. § 1023.320.

Disgorgement and Civil Penalties

27. The disgorgement and prejudgment interest ordered in paragraph IV.D. is consistent with equitable principles and does not exceed Respondent's net profits from its violations and will be distributed to harmed investors, if feasible. The Commission will hold funds paid pursuant to paragraph IV.D in an account at the United States Treasury pending a decision whether the Commission in its discretion will seek to distribute funds. If a distribution is determined feasible and the Commission makes a distribution, upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

⁶ 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[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

Undertakings

Respondent has undertaken to:

28. Within 30 days from the issuance of this Order, at its own cost, hire an Independent Compliance Consultant (“ICC”), who has as of this date already been identified and agreed upon as not unacceptable to the Commission staff, to conduct a comprehensive review of, and to report and make recommendations as to, the effectiveness, construction and implementation of Wedbush’s supervisory, compliance, and other policies and procedures reasonably designed to prevent violations of the federal securities laws by Wedbush and its employees, involving: (1) firm wide internal audit and corporate governance policies and procedures; (2) Wedbush’s retail and institutional securities businesses with respect to (a) customer onboarding; (b) Know Your Customer; (c) Anti-Money Laundering; (d) review of customer’s purchases, sales, transfers, and/or deposits of securities; and (e) market access; (3) all remedial measures adopted by Wedbush in connection with regulatory enforcement actions since 2014; and (4) Wedbush’s compliance with any disqualification(s) under Rule 506 of Regulation D and Regulation A of the Securities Act, including policies and procedures to ensure compliance with any disqualification.

29. Wedbush shall cooperate fully with the ICC and shall provide the ICC with access to such of its files, books, records, and personnel as are reasonably requested by the ICC for review.

30. Wedbush shall require the ICC to submit to the Commission’s staff a certification stating whether Wedbush cooperated with the ICC with every report submitted.

31. Wedbush shall require the ICC to prepare reports at intervals the ICC deems appropriate during its engagement prior to an annual report (the “Annual Report”) from the issuance of this Order, describing the review it performed, the names of the individuals who performed the review, the conclusions reached, and the ICC’s recommendations for changes in or improvements to Wedbush’s supervisory, compliance, and other policies and procedures reasonably designed to prevent violations of the federal securities laws by Wedbush and its employees. Wedbush shall require the ICC to submit each report and the Annual Report to the Commission staff.

32. Unless otherwise directed by the Commission staff, all reports, certifications, and other documents required to be provided to the Commission staff shall be sent to Paul Levenson, Regional Director, Boston Regional Office, 33 Arch St, 24th Floor, Boston, MA 02110.

33. Wedbush shall adopt all recommendations contained in each report within one hundred fifty (150) days of the issuance thereof; provided, that within one hundred and twenty (120) days after the date of any report, Wedbush shall in writing advise the ICC and the Commission staff of any recommendation that Wedbush considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that Wedbush considers unduly

burdensome, impractical, or inappropriate, Wedbush need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure, or system designed to achieve the same objective or purpose.

34. As to any recommendation with respect to Wedbush's policies and procedures on that Wedbush and the ICC do not agree, Wedbush shall attempt in good faith to reach an agreement with the ICC within one hundred and fifty (150) days after the date of a report. Within fifteen (15) days after the conclusion of the discussion and evaluation by Wedbush and the ICC, Wedbush shall require that the ICC inform Wedbush and the Commission staff in writing of the ICC's final determination concerning any recommendation that Wedbush considers to be unduly burdensome, impractical, or inappropriate. Wedbush shall abide by the determinations of the ICC and, within thirty (30) days after final agreement between Wedbush and the ICC or final determination of the ICC, whichever occurs first, Wedbush shall adopt and implement all of the recommendations that the ICC deems appropriate.

35. Within thirty (30) days of Wedbush's adoption of all of the recommendations in a report that the ICC deems appropriate, as determined pursuant to the procedures set forth herein, (1) Wedbush's Chief Compliance Officer shall prepare and submit a report to Wedbush's President stating whether Wedbush has adopted all such recommendations and whether Wedbush is in compliance, in all material respects, with the policies and procedures described in Paragraph 28; (2) Wedbush shall submit a letter to the Commission's staff, signed by the President and supported by the report from the Chief Compliance Officer, certifying that Wedbush has (a) adopted and implemented all recommended actions; and (b) that the President has reviewed the Chief Compliance Officer's report and, based on the President's knowledge, the report does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and (3) Wedbush shall post to its website a summary of the actions it has taken in response to the ICC's report. Wedbush may, at its option, post the ICC's report itself or a summary thereof. The Commission staff may make reasonable requests for evidence of compliance, and Wedbush agrees to provide such evidence.

36. On the anniversary of the date of the submission of the Annual Report, Wedbush shall require the ICC to conduct a review to determine whether: (1) Wedbush is implementing all of the ICC's recommendations adopted pursuant to the foregoing provisions and this provision; and, (2) there have been any changes in the law or Wedbush's business operations such that the recommendations should be amended and updated to take into account any such changed circumstance. Within forty-five (45) days after the anniversary date of the submission of the Annual Report, Wedbush shall require the ICC to submit a written and dated report of its findings to Wedbush and the Commission staff (the "Anniversary Report"). Wedbush shall require that the Anniversary Report include a description of the review performed, the names of the individuals who performed the review, the conclusions reached, and any further recommendations concerning changes in or improvements to Wedbush's policies and procedures directed at effecting

implementation of the recommendations in the reports or directed at addressing any changes in the law or business.

37. One hundred and eighty (180) days after the Anniversary Report, subject to extensions requested by the ICC and granted by the staff, (1) Wedbush's Chief Compliance Officer shall prepare and submit another report to Wedbush's President stating whether Wedbush has adopted all recommendations by the ICC and whether Wedbush is in compliance, in all material respects, with the policies and procedures described in Paragraph 28; (2) Wedbush shall submit a letter to the Commission's staff, signed by the President and supported by the report from the Chief Compliance Officer, certifying that Wedbush has (a) adopted and implemented all recommended actions; and (b) that the President has reviewed the Chief Compliance Officer's report and, based on the President's knowledge, the report does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading. The Commission staff may make reasonable requests for evidence of compliance, and Wedbush agrees to provide such evidence.

38. To ensure the independence of the ICC for the remainder of the engagement, Wedbush: (1) shall not have the authority to terminate the ICC or substitute another compliance consultant for the ICC without the prior written approval of the Commission staff; and (2) shall compensate the ICC and persons engaged to assist the ICC for services rendered pursuant to this Order at their reasonable and customary rates.

39. Wedbush shall maintain its agreement with the ICC, which provides that for the period of engagement and for a period of two (2) years from completion of the engagement, the ICC shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Wedbush, or any of its present or former affiliates, directors, officer, employees, or agents acting in their capacity as such. Wedbush shall similarly maintain its agreement with the ICC requiring that any firm with which the ICC is affiliated or of which the ICC is a member, and any person engaged to assist the ICC in the performance of the ICC's duties under this Order shall not, without prior written consent of the Commission staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Wedbush, or any of its 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 (2) years after the engagements.

40. The reports by the ICC will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the reports 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, (4) to the extent it is posted on Wedbush's website pursuant to Paragraph 35, or (5) is otherwise required by law.

41. Recordkeeping. Wedbush shall preserve for a period of not less than six (6) years from the end of the fiscal year last used, the first two years in an easily accessible place, any record of its compliance with the undertakings set forth herein.

42. Deadlines. For good cause shown, the Commission staff may extend any of the procedural dates relating to the 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 to be 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 Respondent's Offer.

Accordingly, pursuant to Section 8A of the Securities Act, Sections 15(b) and 21C of the Exchange Act, and Section 203(e) of the Advisers Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act and Section 17(a) of the Exchange Act and Rule 17a-8 promulgated thereunder.

B. Respondent is censured.

C. Respondent shall comply with the undertakings in paragraphs 28 through 42.

D. Respondent shall, within 60 days of the entry of this Order, pay disgorgement of \$173,508.40, prejudgment interest of \$34,332.16, and a civil penalty of \$1,000,000 to the Securities and Exchange Commission. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, transfer them to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and if timely payment of a civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

E. 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 Wedbush Securities Inc. 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 John T. Dugan, Associate Director, Boston Regional Office, 33 Arch Street, 24th Floor, Boston, MA 02110-1424.

F. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, 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 A. Countryman
Secretary