

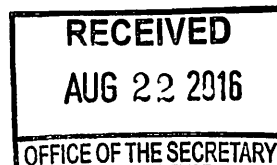
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File Nos. 3-16227 / 3-16229

In the Matter of

MIDDLEBURY SECURITIES, LLC
And GREGORY OSBORN

Respondents.



MEMORANDUM OF LAW OF RESPONDENT
MIDDLEBURY SECURITIES LLC
IN OPPOSITION TO
THE DIVISION OF ENFORCEMENT'S MOTION
FOR SUMMARY DISPOSITION

Dated: New York, NY
August 19, 2016

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Preliminary Statement

Respondent Middlebury Securities LLC (“Middlebury”) hereby submits this Memorandum of Law in Opposition to the Division of Enforcement’s (the “Division’s”) motion for summary disposition. The Division’s motion must fail because issues of fact preclude summary disposition.

As the Division acknowledges, summary disposition is only appropriate when there are “no genuine issues with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law.” 17 C.F.R. § 201.250(a). The Division relies on the facts found in the Middlebury Order,¹ which Middlebury cannot contest, and the mathematical calculations derived by the Division’s counsel in the moving Certification of Jorge Tenreiro, Esq., dated July 26, 2016 (the “Tenreiro Decl.”). However, an administrative award of sanctions—whether money penalties or disgorgement—must, by statute, depend on a threshold finding “on the record after notice and opportunity for hearing, that such a penalty is in the public interest” Exchange Act § 21B(a)(1). Without a finding that a money penalty is in the public interest, the Commission lacks authority to impose either a money penalty or disgorgement. Exchange Act § 21B(e) (“In any proceeding in which the Commission . . . may impose a penalty under this section, the Commission . . . may enter an order requiring accounting and disgorgement, including reasonable interest.”). The Middlebury Order does *not* establish—not at all, much less dispositively—that a money penalty in this case is in the public interest.²

¹ As defined in the Division’s Memorandum of Law at 2, n.2.

² Even with a finding that a penalty is in the public interest, no such penalty is authorized unless, again after opportunity for a hearing, it is found that the Respondent “willfully” engaged in proscribed conduct, or failed to supervise another who “willfully” engaged in such conduct. Exchange Act § 21B(a)(1)(A)-(D). The Middlebury

On the contrary, money penalties in this case are not in the public interest for these reasons:

First, Middlebury (unlike Respondent Osborn and perhaps others) was not unjustly enriched to any great extent by the sale of Navagate securities. Over 86% of all commissions paid to Middlebury were disbursed to Osborn or upon his direction—Middlebury as an entity only retained \$38,835.³ The remedy of disgorgement forces a person, who has inequitable possession of funds obtained through violative conduct, to give back those funds to the rightful owners; *disgorgement is not damages*. Here, Respondent Gregory Osborn (“Osborn”), if anyone, received the bulk of all monies received on account of the sale of interests in Navagate. Middlebury did not keep the bulk of those funds, and does not have them to give back.

Second, Middlebury has already been sanctioned by FINRA for this very same conduct. Middlebury has already paid \$312,054.96 of a \$345,000 FINRA sanction, and its principal James B. Robinson (“Robinson”) has paid an additional \$45,000 to settle a related failure to supervise charge. On top of those FINRA fines, Middlebury has incurred \$329,484.69 in legal fees (\$146,239.69 of which are still unpaid), with more accruing in connection with this very motion and proceeding, to deal with the legal and regulatory fallout of its relationship with Osborn—much of it involving Navagate. While a duplicative SEC sanction may not rise to the constitutional level of double jeopardy, the existence of FINRA’s prior-imposed sanction, not to

Order at most might be dispositive as to this second necessary element of a penalty. However, nothing in that Order establishes the necessary predicate that penalties would be “in the public interest.”

³ To the extent Middlebury has any assets left after paying its creditors, it is willing to disgorge that amount voluntarily.

mention the costs collateral to it, still weighs, by statute and common fairness, against it. No public interest is served by continuing to pile on.

Third, not surprisingly given all this, Middlebury has concluded that it cannot continue. It has filed a Form BDW and is no longer in business. Hence there is no public interest in deterring it from committing similar acts in the future—because it has no future.

Fourth, given the larger context of this entire case, in which the principal defrauder, Navagate’s CEO Gregory Rorke (“Rorke”), has been sentenced to two years in prison and three years of probation, a further SEC sanction will have no additional deterrent effect to other persons.

Finally, relatedly and in a practical sense most pertinently, Middlebury will not be able to pay any sanction even close to what the Division seeks here. It is a truism that one cannot get blood from a stone. Middlebury is out of business and its few assets will be depleted paying off its current creditors and future expenses to shut down the firm and to be represented in this proceeding. No public interest will be served by imposing an uncollectible sanction against a defunct firm.

Relevant Contested Facts

The accompanying Declaration of James Robinson, dated August 19, 2016 (the “Robinson Decl.”), and its annexed exhibits, asserts and documents the following facts to show that money penalties against Middlebury are not in the public interest:

1. Between December 11, 2009 and April 5, 2011, Middlebury received a total of \$284,650 on account of fees related to the sale of Navagate Securities. Of that amount, \$226,915 was paid to Gregory Osborn, either directly to him as

compensation, or to his behalf through Everest Advisors, an entity with which he was affiliated. Also out of that amount, \$18,900 was paid to third parties at Osborn's direction. Only \$38,835 was ultimately retained by Middlebury. Robinson Dec. ¶2 and Ex. A.

2. On August 7, 2013, FINRA, Middlebury and Robinson entered into a Letter of Acceptance, Waiver and Consent ("AWC"). Robinson Dec. ¶4 and Ex. C. Pursuant to the AWC, Middlebury agreed to pay a fine of \$325,000, and Robinson personally agreed to pay a fine of \$45,000 (and to be suspended as a principal for one year). Robinson Decl. Ex. C at p. 9. The AWC relates to the conduct of Osborn (identified as "GO" in the AWC) and includes in large measure his conduct in selling interests of Navagate (identified as "NVG" in the AWC). In particular, the AWC asserts that "GO made fraudulent misrepresentations and omissions of material facts concerning . . . the fact that NVG (and its CEO [that being Rorke]) were the subject of pending federal and state tax liens totaling over \$3 million during the offering." Robinson Dec. ¶4 and Ex. C at p 4.
3. The AWC also asserts that Osborn converted approximately \$125,000 in escrowed monies and otherwise misused escrow accounts. Robinson Decl. Ex. C at pp. 5-6. Some of those funds undoubtedly were from the Navagate offering, and this probably explains the discrepancy between the Division's accounting and Middlebury's records. The Division's accounting is based on accounting records of funds disbursed by escrow agents, and thus shows at best what Middlebury might have, in theory, received. It does not show Middlebury's actual receipt of those funds. On the other

hand, Middlebury's records reflect what Middlebury actually received and what actually remained in Middlebury's account after disbursements to Osborn or at his direction. Accordingly, Middlebury's records show the extent to which Middlebury was "enriched" in reality, and not merely in theory, and that amount is \$38,835.

4. Middlebury has paid almost all of its FINRA fine, and is preparing to pay the balance. It has paid to date \$312,054.96 under a payment plan that included interest. Robinson paid his fine in full. Robinson Dec. ¶6.
5. However, Osborn's conduct also cost Middlebury over \$329,484.69 in legal expenses. Middlebury still owes \$146,239.69 of that amount, plus the costs of this motion and the continuing costs of this proceeding. Robinson Dec. ¶7.
6. Middlebury has determined to stop doing business and it has filed a Form BDW. Robinson Dec. ¶8 and Ex. E.
7. Middlebury's liquidable assets as of June 31, 2016, consisted of \$252,697 and its payables of \$106,664, leaving \$146,033. In July, Middlebury accrued additional payables of about \$32,000. Since the end of July Middlebury has incurred additional expenses, and it will continue to need to pay expenses, in connection with this motion, with shutting down the firm, with needed representation in connection with FINRA proceedings concerning the shut-down of the firm, and in connection with this proceeding. Middlebury will submit more current information as expenses accrue into the future, but it Robinson reasonably believes that the total of those present and future expenses will exhaust whatever capital Middlebury has left. Accordingly, Middlebury is unlikely to be able to pay any sanctions that may be

assessed, and it certainly will not be able to pay sanctions in and amount anything near what the Division is demanding. Robinson Decl. 9 and Ex. G.

Argument

I.

REASONABLE DISCRETION IN AWARDING SANCTIONS REQUIRES A FULL ADJUDICATION OF RELEVANT FACTS

There are no “mandatory minimum” sanctions that the Commission must impose. All sanction determinations are within the discretion of the ALJ and the Commission. That discretion, however, is not unfettered. As is all exercise of discretion by government agencies, it must be exercised reasonably and cannot be abused.

The abuse of discretion standard is written right into the statute, which authorizes money sanctions only upon findings “on the record after notice and opportunity for hearing.” Exchange Act § 21B(a)(1). The requirement of a “hearing” means that this court must hear evidence in order to reach reasonable findings. A hearing can only be avoided with respect to facts about which there is no genuine issue—hence the correlative standard for summary disposition that is found in SEC Rule 250(a) and elsewhere in the law. Here there are issues of fact that require a hearing before a sanction decision can be made.

II.

THE CONTESTED FACTS ARE RELEVANT TO AN AWARD OF SANCTIONS

Section 21B(a)(1) of the Exchange Act establishes as the first prerequisite for the imposition of money sanctions in this proceeding a finding “on the record after notice and opportunity for hearing, that such penalty is in the public interest. . . .”

In considering under this section whether a penalty is in the public interest, the Commission . . . may consider—

* * *

- (3) the extent to which any person was unjustly enriched . . . ;
- (4) whether such person previously has been found by . . . another appropriate . . . self-regulatory organization to have violate the Federal securities laws . . . ;
- (5) the need to deter such person of other persons from committing such acts or omissions; and
- (6) such other matters as justice may require.

Id. at § 21B(c). Among “such other matters” is ordinarily included ability to pay, and the Exchange Act makes that explicit:

In any proceeding in which the Commission . . . may impose a penalty under this section, a respondent may present evidence of the respondent’s ability to pay such penalty. The Commission . . . may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person’s ability to continue in business and the collectability of a penalty, taking into account any other claims . . . of third parties upon such person’s assets and the amount of such person’s assets.

Id. at § 21B(d). All of those considerations are impacted in this case, and they argue that imposing a money sanction against Middlebury is not in the public interest.

First, there is a factual dispute as to the extent that Middlebury was “unjustly enriched” as a result of investments made in Navagate. The Division asserts that Middlebury received \$311,150 in Navagate commissions and retained over \$120,000 of it. Tenreiro Decl. ¶¶39-42. Middlebury’s records show that it received \$284,650 and that it paid all but \$38,835 to Osborn or as he directed. Robinson Decl. ¶¶2-3. The Division’s assertions are supported by accounting ledgers of third parties, but not by any evidence of actual delivery of funds. Middlebury’s assertion is based on its records of cash actually received and disbursed. There is an over three-

fold difference between what the Division says Middlebury retained and what Middlebury says it retained, and that substantial difference cannot be bridged on documents alone.

The actual amount of any unjust enrichment is also relevant to the remedy of disgorgement. Accounting and disgorgement are the equitable remedies applied to a corpus of property—be it tangible or money—that can be directly traced to the violative conduct. It follows from the common law imposition of a constructive trust upon the recipient of ill-gotten gains for the benefit of the victim, and the remedy of disgorgement in effect takes back the ill-gotten gain and returns it to the victim. But there must be some “gain” in the possession of the person upon whom a constructive trust is imposed which can be disgorged. “A constructive trust is the formula through which the conscience of equity finds expression. When property has been acquired in such circumstances that the holder of the legal title may not in good conscience retain the beneficial interest, equity converts him into a trustee.” *SEC v. Antar*, 831 F. Supp. 380, 402 (D.N.J. 1993), quoting *Beatty v. Guggenheim Exploration Co.*, 225 N.Y. 380, 386, 122 N.E. 378, 380 (1919)(Cardozo, J.).

Here, possession of almost 90% of the Navagate commissions passed almost immediately from Middlebury to Osborn, who all parties agree was the only actively culpable actor (on Middlebury’s behalf, at least). “Joint and several” disgorgement only makes sense when the gains sought to be disgorged are in fact jointly and severally held. Here, Middlebury does not have any possession of the funds that were paid to Osborn or to others at Osborn’s direction. Osborn was the person who took possession of any victims’ property; Osborn was the person unjustly enriched; therefore Osborn is the one who holds that property in constructive trust for the victims and only Osborn can be made to disgorge that property.

Second, the FINRA AWC has already fined Middlebury \$325,000 for this conduct, and Middlebury will have paid that fine in full by the time this motion is heard. Robinson Decl. ¶4 and Ex. C. On top of that, Middlebury has incurred and continues to incur over \$329,000 in legal fees to deal with the legal and regulatory consequences of Osborn's conduct. Further sanctions by the SEC would be duplicative and result in an overall punishment well out of scale to Middlebury's corporate conduct and to its small \$38,000 profit from the Navagate deal.

Third, an SEC sanction will have no deterrent effect here, not on Middlebury and not on anyone else. Middlebury has ceased doing business and is seeking to liquidate. Robinson Decl. ¶8 and Ex. E. It will no longer exist to be deterred. As to any other person being deterred, the fact that Rorke has been sentenced to 2 years in jail and 3 years probation for causing this mess (*see* Tenreiro Decl. ¶3 and Ex. B) is a deterrent that marginalizes any sanction the SEC may impose against a defunct firm like Middlebury.

Finally, the simple fact is that Middlebury is unable to pay any substantial money penalty. Its assets after discharging all its existing debts, both those extant as of June 30 and those accrued in July, will be no more than about \$114,000. That will undoubtedly be exhausted after it pays bills for expenses incurred in August to date and into the future in connection with shutting down the firm, representation in proceedings related to shutting down the firm, and representation in this proceeding. To the extent there is any money left over, Middlebury is willing voluntarily remit as disgorgement the \$38,835 that its records show it retained from the Navagate commissions. However, that prospect is exceedingly unlikely, and so any sanctions imposed here will almost certainly be uncollectible. The sanctions of over \$600,000 that the Division seeks will not ever be collected.

III.

THE EXISTENCE OF RELEVANT CONTESTED FACTS PRECLUDES SUMMARY DISPOSITION

Summary judgment in any forum is defeated by the mere showing of a genuine issue of fact as to any matter relevant to a legal determination. SEC Rule 250 incorporates that standard, and it is too fundamental to belabor.

In this case, the Robinson Declaration establishes with competent proof that (a) only about 13% of all Navagate commissions were retained by Middlebury, and that the rest were disbursed to Respondent Osborn or at his direction; (b) Middlebury has already been sanctioned by FINRA for the same conduct described in the Middlebury Order; (c) Middlebury has ceased doing business and is seeking to liquidate itself completely; and (d) Middlebury will not be able to pay any money penalty or disgorgement that might be imposed. In addition, with Mr. Rorke facing jail time for the Navagate fraud, an SEC sanction against a defunct firm will rightly be seen as an afterthought having no additional deterrent effect

Each of those facts is germane to a legal determination whether money penalties are, in this case “in the public interest.” Exchange Act § 21B(c) and (d). Those facts have not been adjudicated. Unless the Division concedes them, Middlebury is entitled to present evidence at a hearing to prove them, and that in and of itself precludes summary disposition. If, on the other hand, the Division concedes those facts, then the court should find summarily, on those facts, that money penalties against Middlebury are *not* in the public interest.

Conclusion

For the foregoing reasons summary disposition is inappropriate and the Division's motion must be denied.

Dated: New York, NY
August 19, 2016

Respectfully submitted,

STERM, TANNENBAUM & BELL LLP

By: 

Aegis J. Frumento, Esq.

Attorneys for Respondent

MIDDLEBURY SECURITIES LLC

380 Lexington Avenue, 33rd Floor

New York, NY 10168

Tel: 212-792-8979

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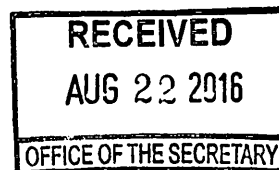
UNITED STATES OF AMERICA
Before the
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ADMINISTRATIVE PROCEEDING
File Nos. 3-16227 / 3-16229

In the Matter of

MIDDLEBURY SECURITIES, LLC
and **GREGORY OSBORN**

Respondents.



**DECLARATION OF JAMES B. ROBINSON IN SUPPORT OF
RESPONDENT MIDDLEBURY SECURITIES LLC'S
OPPOSITION TO THE DIVISION OF ENFORCEMENT'S
MOTION FOR SUMMARY DISPOSITION**

JAMES B. ROBINSON, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am the principal and ultimate owner of Respondent Middlebury Securities LLC ("Middlebury"). I make this Declaration in opposition to the motion for summary disposition made the SEC's Division of Enforcement (the "Division"), insofar as it relates to Middlebury. I make this Declaration upon my personal knowledge and based upon the records of Middlebury annexed as Exhibits hereto. For the reasons set forth in this Declaration and in Middlebury's accompanying Memorandum of Law, the Division's motion should be denied as to Middlebury.

2. Annexed hereto as Exhibit A is a true copy of a spreadsheet showing from Middlebury's records the receipt and disbursement of monies by Middlebury relating to the sale of securities of Navagate, Inc. ("Navagate"). Middlebury's records show that Middlebury received \$284,650 in Navagate fees, of which it paid \$226,915.00 to Respondent Gregory

Osborn ("Osborn"), either directly or to his affiliated entity, Everest Advisors, and of which it paid \$18,900 to Michael Teicher and Alan Miller (at First Discount Brokerage) at Osborn's direction. Middlebury retained only \$38,835 of the Navagate fees it received. These are based on the records that Middlebury provided to the Division at its request. Those records are attached as Exhibits AAA and BBB to the Declaration of Jorge Tenreiro dated July 26, 2016 (the "Tenreiro Decl."). Additional information was provided to the Division by Middlebury's counsel's email dated July 11, 2014 (a true copy of which is annexed hereto as Exhibit B).

3. I understand that the Division asserts that Middlebury received \$311,150.00 in total fees. Tenreiro Decl. ¶ 37 and Table D. That number is not consistent with Middlebury's records. Middlebury's records concerning Navagate were maintained by Osborn, and it is possible that releases were paid but retained directly by Osborn. While I have no first-hand knowledge of that, FINRA has found that Osborn did convert escrow funds (see paragraph 5 below). Suffice to say that the Division's conclusions as to how much of the Navagate fees Middlebury retained are in dispute.

4. Annexed hereto as Exhibit C is a true copy of a FINRA Letter of Acceptance, Waiver and Consent ("AWC") executed by Middlebury and by me personally on August 7, 2013. Although this copy does not show counter-execution by FINRA, this was ultimately approved by FINRA. Pursuant to the AWC, Middlebury agreed to pay a fine of \$325,000, and I personally agreed to pay a fine of \$45,000, along with being suspended as a principal for one year. Ex. C at p. 9. The AWC relates to the conduct of Osborn (identified as "GO" in the AWC) and includes in large measure his conduct in selling interests of Navagate (identified as "NVG" in the AWC). In particular, the AWC asserts that "GO made fraudulent misrepresentations and omissions of material facts concerning . . . the fact that NVG (and its CEO [that being Rorke])

were the subject of pending federal and state tax liens totaling over \$3 million during the offering.” Ex. C at p 4.

5. The AWC also asserts that Osborn converted approximately \$125,000 in escrowed monies and otherwise misused escrow accounts. Ex. C at pp. 5-6. Some of those funds undoubtedly were from the Navagate offering, and this is the probable explanation between the discrepancy between the Division’s accounting and Middlebury’s records. Middlebury’s records, however, reflect actual dollars remaining in Middlebury’s accounts at the end of everything, that is, the extent to which Middlebury was actually “enriched.”

6. Middlebury has paid almost all of its FINRA fine, and is preparing to pay the balance. It has paid to date \$312,054.96 under a payment plan that included interest. I paid my fine in full.

7. However, the FINRA fines also cost Middlebury a substantial amount in legal fees. Annexed hereto as Exhibit D is a true copy of an invoice listing provided by Middlebury’s counsel, Stern Tannenbaum & Bell, of invoices rendered in connection with FINRA, SEC and private matters arising from Osborn’s conduct while he was affiliated with Middlebury. Middlebury has incurred legal fees of \$329,484.69 because of Osborn. Middlebury and I personally still owe \$146,239.69 of that amount. I understand that additional expenses are accruing on account of work being done currently in connection with this motion, and they have been estimated at approximately \$20,000 to date, with more to be done as the case proceeds.

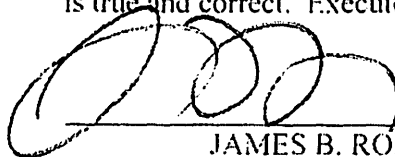
8. Middlebury has attempted without success to build a business that could pay all these fines and expenses and be worthwhile keeping. It has not succeeded. Accordingly, we have determined to stop doing business and file a Form BDW. A true copy of the filed Form

BDW for Middlebury is annexed hereto as Exhibit E. I understand that the filing identification number for the BDW is 44271966.

9. Annexed hereto as Exhibit G is a true copy of Middlebury's FOCUS Report showing its assets and liabilities as of June 30, 2016. This shows that Middlebury's assets available to pay creditors was \$252,697 and its payables were \$106,664. Middlebury is in the process of completing an up-to-date FOCUS to be filed in connection with the BDW. That FOCUS will accrue additional payables incurred in July (approximately \$32,000). Additional expenses have been incurred in August and are continuing to be incurred in shutting down of the firm, in connection with FINRA examinations surrounding the shut-down, and for legal representation on this motion. I will file a supplemental declaration when that FOCUS Report is filed and submit it to the court. And, of course, Middlebury will continue to need to pay to be represented in this proceeding for as long as it continues. I have no doubt that the full amount of payment obligations accrued and accruing after June 30, 2016, will exceed \$145,000. Middlebury's net capital that is shown on the June 30, 2016 FOCUS Report. Accordingly, Middlebury cannot pay any sanction worth mentioning, and probably not any at all. Certainly it cannot pay a sanction anything near what the Division is asking for.

10. For all the foregoing reasons, and on the basis of the documentary evidence submitted with this Declaration, and upon the accompanying Memorandum of Law, I respectfully request that the Division's motion be denied, or in the alternative that the Court find that the imposition of money penalties against Middlebury will not be in the public interest.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 19, 2016.



JAMES B. ROBINSON

EXHIBIT A

Accounting of Middlebury Securities Fees Received Re Navagate, Inc.

| Date | Amount Received Re Navagate | Paid to Osborn | Paid to Third Parties at Osborn's Instruct. | Cumulative Amt Retained by Middlebury | Comments |
|---------------------|--------------------------------|----------------------|--|--|--|
| 12/11/2009 | \$ 20,000.00 | \$ 17,000.00 | | \$ 3,000.00 | |
| 1/8/2010 | \$ 8,000.00 | \$ 5,300.00 | | \$ 5,700.00 | |
| 3/4/2010 | \$ 4,000.00 | \$ 3,400.00 | | \$ 6,300.00 | |
| 3/30/2010 | \$ 6,000.00 | \$ - | | \$ 12,300.00 | |
| 4/5/2010 | \$ 11,000.00 | \$ 9,900.00 | | \$ 13,400.00 | |
| 4/13/2010 | \$ 2,000.00 | \$ 7,750.00 | | \$ 7,650.00 | |
| 9/17/2010 | \$ 7,000.00 | | | \$ 14,650.00 | |
| 9/21/2010 | | \$ 4,550.00 | | \$ 10,100.00 | |
| 9/23/2010 | \$ 30,000.00 | | | \$ 40,100.00 | |
| 9/27/2010 | | \$ 21,550.00 | | \$ 18,550.00 | |
| 10/21/2010 | \$ 97,250.00 | | | \$ 115,800.00 | |
| 10/22/2010 | \$ 5,000.00 | | | \$ 120,800.00 | |
| 10/22/2010 | | \$ 51,945.00 | | \$ 68,855.00 | |
| 10/22/2010 | | \$ 45,000.00 | | \$ 23,855.00 | Pd to Osborn c/o Everest Advisors (Navagate portion of a \$54,904.45 wire) |
| 11/24/2010 | \$ 40,000.00 | | | \$ 63,855.00 | |
| 11/26/2010 | | \$ 28,000.00 | | \$ 35,855.00 | |
| 11/29/2010 | | | \$ 8,000.00 | \$ 27,855.00 | Pd to Alan Miller-First Discount Brokerage |
| 12/28/2010 | \$ 20,800.00 | | | \$ 48,655.00 | |
| 12/29/2010 | | | \$ 4,900.00 | \$ 43,755.00 | Pd to Michael Teicher |
| 1/7/2011 | | \$ 3,400.00 | | \$ 40,355.00 | |
| 1/7/2011 | | \$ 10,000.00 | | \$ 30,355.00 | Pd to Osborn c/o Everest Advisors |
| 3/2/2011 | \$ 9,600.00 | | | \$ 39,955.00 | |
| 3/3/2011 | | \$ 6,720.00 | | \$ 33,235.00 | |
| 3/7/2011 | \$ 8,000.00 | | | \$ 41,235.00 | |
| 3/9/2011 | | \$ 5,600.00 | | \$ 35,635.00 | |
| 4/5/2011 | \$ 16,000.00 | | | \$ 51,635.00 | |
| 4/6/2011 | | | \$ 6,000.00 | \$ 45,635.00 | Pd to Alan Miller-First Discount Brokerage |
| 4/6/2011 | | \$ 6,800.00 | | \$ 38,835.00 | |
| TOTALS: | \$ 284,650.00 | \$ 226,915.00 | \$ 18,900.00 | \$ 38,835.00 | |
| Percentages: | 100.00% | 79.72% | 6.64% | 13.64% | |

Aegis J. Frumento

From: Aegis J. Frumento
Sent: Friday, July 11, 2014 3:13 PM
To: Tenreiro, Jorge
Cc: Craig Sherman
Subject: In the matter of Navagate, Inc., NY 8947

Jorge,

Craig Sherman went back into the earlier records and can confirm receipts by Middlebury Securities of commissions concerning Navagate before September 2010 (totaling \$51,000), and the corresponding payments of 85% of those commissions (totaling \$43,350) to Greg Osborn, as set forth in the chart below. It appears that some payments due Osborn were deferred from January and March 2010, and caught up in April 2010.

| <u>Date</u> | <u>Received by Middlebury Securities</u> | <u>Paid to Greg Osborn</u> |
|----------------|--|----------------------------|
| 12.11.2009 | \$20,000 | \$17,000 |
| 01.08.10 | \$8,000 | \$5,300 |
| 03.04.2010 | \$4,000 | \$3,400 |
| 03.30.2010 | \$6,000 | \$0 |
| 4.5.2010 | \$11,000 | \$9,900 |
| 4.13.10 | \$2,000 | \$7,750 |
| Totals: | \$51,000 | \$43,350 |

Please advise if we need anything further, and otherwise how we might proceed.

Thanks, and regards,
Aegis

Aegis J. Frumento
212-792-8979

From: Tenreiro, Jorge [mailto:tenreiroj@SEC.GOV]
Sent: Tuesday, July 08, 2014 11:14 AM
To: Aegis J. Frumento
Subject: RE: In the matter of Navagate, Inc., NY 8947

Mr. Frumento

Please let us know when you expect to have an answer to the below query.

Kind regards,

Jorge G. Tenreiro
Staff Attorney, Division of Enforcement
U.S. Securities and Exchange Commission
200 Vesey Street, Suite 400
New York, NY 10281
Tel: (212) 336-9145
Fax: (212) 336-1348

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From: Aegis J. Frumento [<mailto:afumento@sternannenbaum.com>]
Sent: Tuesday, July 01, 2014 3:55 PM
To: Tenreiro, Jorge; Janghorbani, Alexander
Cc: Stephanie Korenman
Subject: RE: In the matter of Navagate, Inc., NY 8947

Mr. Tenreiro,

I have asked Middlebury to review Navagate-related payments preceding September 2010, as you allege, but I do not yet have an answer for you. However, attached is the FINRA AWC you requested, referencing both Navagate ("NVG") and Mr. Osborn ("GO").

On the question that Alex raised about the possibility of a bifurcated settlement, we would be open to such a resolution, depending, of course on the content to which our consent was required. Please advise how we should proceed down that path.

Thank you and regards,
Aegis

Aegis J. Frumento
Partner
Stern Tannenbaum & Bell LLP
380 Lexington Avenue
New York, NY 10168
Tel: 212-792-8979
Fax: 212-792-8489
afumento@sternannenbaum.com
www.sterntannenbaum.com

From: Tenreiro, Jorge [<mailto:tenreiroj@SEC.GOV>]
Sent: Tuesday, July 01, 2014 2:43 PM
To: Aegis J. Frumento
Subject: In the matter of Navagate, Inc., NY 8947

Mr. Frumento,

In addition to our last e-mail, requesting that your client check on whether it received Navagate-related payments before September of 2010, we ask that you produce the settlement between your client and FINRA pursuant to which your client is currently paying a penalty in connection with, among other issuers, Navagate.



Jorge G. Tenreiro | Staff Attorney

U.S. Securities and Exchange Commission
Division of Enforcement
New York Regional Office
200 Vesey Street, Suite 400
New York, NY 10281
212-336-9145
TenreiroJ@sec.gov

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**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2011025438901**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Middlebury Securities LLC (BD No. 122602),
Respondent

and

James Baldwin Robinson (CRD No. 1651804),
Respondent

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, we, Middlebury Securities LLC ("Middlebury" or the "Firm") and James Baldwin Robinson ("Robinson") (collectively "Respondents"), submit this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against us alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondents hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Middlebury is based in Weybridge, Vermont and conducts a general securities business. The Firm has been a FINRA member since January 2003. During the period from in or about December 2009 through in or about April 2012 (hereinafter the "Relevant Period"), Middlebury employed approximately 20 registered persons and maintained branch offices in Ridgewood, New Jersey ("Ridgewood Branch") and Boca Raton, Florida. Middlebury has no FINRA disciplinary history.

Robinson first became registered with FINRA as a General Securities Representative on July 21, 1987. On June 19, 2002, Robinson became registered as a General Securities Principal.

On January 2, 2003, he became registered in those same capacities through Middlebury, and also as a Financial and Operations Principal. While at Middlebury, he subsequently became registered as an Investment Banking Representative on December 14, 2009, and as an Operations Professional on November 8, 2011. Robinson remains registered with Middlebury.

Robinson is the owner, President and Chief Compliance Officer of Middlebury and held those positions during the Relevant Period. He works in the Firm's main office in Vermont. Robinson has no FINRA disciplinary history.

OVERVIEW

During the Relevant Period, Middlebury, acting through GO, one of its registered representatives, established two escrow accounts to hold investor monies from nine private offerings in which Middlebury participated as the selling broker-dealer, including the NVG, NVL and BCT offerings. Investor funds received from these offerings were commingled in a non-segregated manner in the escrow accounts, which were maintained by a law firm.

GO converted approximately \$125,000 in customer funds received from the Middlebury offerings by directing that those funds be wired from the escrow accounts to his personal bank account. In addition, Middlebury, acting through GO, misused approximately \$200,000 in escrowed investor funds from two of the offerings to make payments to, or on behalf of, the third issuer (e.g., legal fees and commission payments).

(From in or about December 2009 through in or about December 2011, GO made fraudulent misrepresentations and omissions of material facts in connection with the NVG and NVL private offerings, which collectively raised approximately \$5 million.

Middlebury, acting through Robinson, (i) failed to reasonably supervise GO, (ii) failed to establish and maintain an adequate supervisory system, written supervisory procedures, and written supervisory control procedures relating to the handling and transmittal of customer funds, and the use of escrow accounts in connection with private offering activity, and (iii) allowed GO to engage in activities that required a principal registration while he was not so registered.

Middlebury also failed to make and keep current required records, such as monthly bank statements for the escrow accounts that it used to hold customer funds.

By this conduct, Middlebury violated NASD Membership and Registration Rule 1021(a), FINRA Rules 2150, 2010, and 4511 (for conduct after December 4, 2011), Exchange Act Rule 17a-4, and NASD Conduct Rules 3010, 3012, and 3110 (for conduct before December 5, 2011), and Robinson violated NASD Membership and Registration Rule 1021(a), FINRA Rules 2010 and NASD Conduct Rules 3010 and 3012.

FACTS AND VIOLATIVE CONDUCT

The NVG and NVL Offerings

During the Relevant Period, GO was registered with Middlebury as a General Securities Representative. He worked in the Firm's Ridgewood Branch and was the investment banker and primary salesman for all of Middlebury's private offerings, which accounted for the majority of the Firm's revenues during this period. Among other things, GO performed due diligence for the offerings and was the primary contact with the issuers and their counsel.

From in or about December 2009 through in or about April 2011, GO raised approximately \$2.63 million from 23 investors through the sale of the NVG offering. In the NVG offering, investors received both secured convertible promissory notes and common stock warrants.

From in or about February 2010 through in or about December 2011, GO raised approximately \$2.46 million from 23 Middlebury investors through the sale of the NVL offering. In the NVL offering, investors again received both secured convertible promissory notes and common stock warrants.

The NVG and NVL secured convertible preferred notes had the same structure. Each had a six-month maturity and paid 12% interest a quarter. The maturity dates could be extended, once, for up to sixty days, provided that, if such an extension occurred, the quarterly interest rate would increase to 15%.

During the Relevant Period, only three NVG investors (who were personally selected for repayment by GO) received their principal back, a total of approximately \$300,000. The principal invested by the remaining 20 Middlebury customers was not returned, resulting in a loss of approximately \$2.33 million to those investors. In addition, NVG never made any interest payments to investors.

During the Relevant Period, only one NVL investor (personally selected for repayment by GO) received his principal back, a total of approximately \$100,000. The principal invested by the remaining 22 Middlebury customers was not returned, resulting in a loss of approximately \$2.36 million to those investors. In addition, NVL never made any interest payments to investors.

In connection with his sale of the NVG and NVL Offerings, GO made fraudulent misrepresentations and omissions of material facts concerning:

- the financial condition of the two issuers, including the fact that NVG (and its CEO) were the subject of pending federal and state tax liens totaling over \$3 million during the offering;
- the fact that NVL had no revenues and was operating at a loss;
- the fact that both issuers defaulted on their promises to repay investors in full and failed to make promised interest payments; and
- the fact that GO had a substantial financial and ownership interest in NVL.

The Escrow Accounts

During the Relevant Period, Middlebury, acting through GO, established two escrow accounts to hold investor monies from nine private offerings in which Middlebury participated as the selling broker-dealer, including the NVG and NVL offerings. The accounts were maintained by a law firm. Investor funds received from these offerings were commingled in a non-segregated manner in the escrow accounts.

Because the offerings overlapped, at any given point in time during the Relevant Period the escrow accounts included offering proceeds from two or more of the nine offerings.

The first escrow account was maintained at CBank (the "CBank Escrow Account"). From in or about December 2009 through at least March 2012, Middlebury utilized the CBank Escrow Account to hold investor funds from the following five private offerings:

| Issuer | Offering Period | Total Deposits between December 2009 and March 2012 |
|--------|--------------------------------|---|
| BCT | December 2009 – June 2011 | \$4.12 M |
| NVG | December 2009 – September 2011 | \$2.96 M |
| NVL | March 2010 – December 2011 | \$1.9 M |
| VSE | April 2010 – July 2010 | \$690,000 |
| CAS | December 2010 – Feb 2011 | \$250,000 |

The second escrow account that Middlebury used to hold offering funds was held at HBank (the "HBank Escrow Account").

Beginning in or about March 2011 and continuing through at least April 2012, Middlebury used the HBank Escrow Account to hold investor funds from the following five private offerings:

| Issuer | Offering Period | Total Deposits between March 2011 and April 2012 |
|--------|----------------------------|--|
| MV II | March 2011- April 2012 | \$13.59 M |
| MV III | March 2011- April 2012 | \$6.13 M |
| VSE | April 2011- April 2012 | \$502,000 |
| RYM | September 2011- April 2012 | \$1.72M |
| ABT | March 2012 – April 2012 | \$6.55 M |

The CBank Escrow Account and HBank Escrow Account are collectively referred to herein as the "Middlebury Escrow Accounts."

GO's Conversion of Monies From the Escrow Accounts

During the Relevant Period, GO converted approximately \$125,000 in escrowed monies received from offering investors by directing that those funds be wired to his personal bank account.

Middlebury's Misuse of Escrowed Monies

Middlebury, acting through GO, misused \$200,000 in escrowed customer funds that were given to Middlebury for investment in the BCT and NVL offerings to make payments to, or on behalf of NVG, as follows:

- On or about March 4, 2010, Middlebury, acting through GO, directed that three wires totaling \$50,000 be sent from the CBank Escrow Account. The monies were sent to NVG (\$36,000) or were payments to Middlebury (\$4,000) and outside counsel (\$10,000) for purported commissions and fees associated with the NVG offering. The only offering funds in the CBank Escrow Account at the time of these transfers were on deposit from the NVL and BCT offerings.
- On or about March 30, 2010, Middlebury, acting through GO, directed that \$50,000 be wired from the CBank Escrow Account to NVG. The only offering funds in the CBank Escrow Account at the time of this transfer were on deposit from the NVL and BCT offerings.
- On or about April 5, 2010, Middlebury, acting through GO, directed four wires totaling \$50,000 from the CBank Escrow using funds on deposit from the NVL and BCT offerings. The monies were sent to NVG (\$2,500) or were payments to third parties on behalf of NVG (\$47,500).

including \$11,000 to Middlebury, purportedly for offering commissions in connection with the NVG offering when there were no NVG monies on deposit.

- On or about April 13, 2010, Middlebury, acting through GO, directed that three wires totaling \$50,000 be sent from the CBank Escrow Account. The monies were sent to NVG (\$44,000) or were payments to Middlebury (\$2,000) and outside counsel (\$4,000) for purported commissions and fees associated with the NVG offering. The only offering funds in the CBank Escrow Account at the time of these transfers were on deposit from the NVL and BCT offerings.

NVG had no authority to receive funds from BCT or NVL under the terms of each of these offerings.

By improperly using customer funds as described above, Middlebury violated FINRA Rules 2150 and 2010.

Middlebury and Robinson Failed to Reasonably Supervise GO

During the Relevant Period, Robinson had supervisory responsibility over GO and was responsible for reviewing GO's activities to ensure his compliance with applicable securities laws and Middlebury's written supervisory procedures.

As noted above, GO converted approximately \$125,000 in customer funds received from the Middlebury offerings, and made fraudulent misrepresentations and omissions of material facts in connection with the NVG and NVL private offerings, which collectively raised approximately \$5 million.

During the Relevant Period, Middlebury, acting through Robinson, failed to reasonably supervise GO, by among other things, failing to review GO's selling activity and handling of customer offering funds through the escrow accounts. In particular, Robinson failed to monitor and review GO's releases of funds from those accounts. As a result, GO was given access to investor money, resulting in the conversion noted above. Robinson failed to detect this activity.

Robinson was also aware of "red flags" suggestive of violative conduct by GO, but failed to take reasonable follow-up steps to review GO's conduct. For example, Robinson was aware:

- that GO, the primary salesman of the NVL offering, had an ownership interest in NVL and had lent the company approximately \$325,000, creating potential conflicts of interest;
- that NVG had a large tax liability, creating potential disclosure issues; and

-
- that GO owed a large tax liability to the IRS and had other financial difficulties that resulted in him borrowing funds from customers, an activity prohibited by Middlebury's written supervisory procedures.

By failing to reasonably supervise GO, Middlebury and Robinson violated NASD Conduct Rule 3010 and FINRA Rule 2010.

Other Supervisory Violations by Middlebury and Robinson

During the Relevant Period, Middlebury, acting through Robinson, failed to establish and maintain an adequate supervisory system, and failed to establish, maintain and enforce adequate written supervisory procedures and written supervisory control procedures, reasonably designed to achieve compliance with the applicable securities laws and regulations and FINRA rules applicable to the handling and transmittal of customer funds in connection with private offering activity, including the monitoring of fund transmittals to third-party accounts.

As the President and Chief Compliance Officer of Middlebury, Robinson was responsible for establishing and implementing a reasonable supervisory system and written supervisory procedures for Middlebury, as well as establishing and implementing the Firm's supervisory control system.

Middlebury, acting through Robinson, failed to obtain monthly bank statements for the Middlebury Escrow Accounts. Instead, the Firm and Robinson relied solely on manually-prepared spreadsheets that the escrow agent provided monthly for each offering showing escrow account activity. This information was incomplete, however, as it did not, until in or about December 2010, identify the recipients of outgoing wires from the accounts.

Further, since Middlebury never obtained the actual bank statements for the Middlebury Escrow Accounts, it was unable to verify that the information that the law firm provided on the escrow spreadsheets was accurate.

Robinson also failed to implement any procedures requiring the review and retention of Escrow Release Notices, the sole document used to release customer funds from the Middlebury Escrow Accounts. The Firm failed to perform any supervisory review of the Release Notices until in or about December 2010, at which time it began attempting to reconcile the information on the Release Notices with the information on the escrow spreadsheets, even though it lacked the necessary bank statements to accomplish this, as described above.

The Firm also failed to retain all of the Release Notices for its private offerings. Based in part on these deficiencies, the Firm and Robinson failed to detect that GO was converting customer funds.

By this conduct, Middlebury and Robinson violated NASD Conduct Rules 3010 and 3012, and FINRA Rule 2010.

Registration Violation

During the Relevant Period, GO performed the functions of a principal of Middlebury by *inter alia*:

- making virtually all of the decisions regarding Middlebury's securities activities in the Ridgewood Branch;
- acting as the *de facto* branch manager of the Ridgewood Branch by providing instructions and guidance to the registered representatives in the Ridgewood Branch concerning the offering activity in that office;
- signing Escrow Agreements and investor fund Release Notices on behalf of Middlebury; and
- determining the compensation of a registered representative in the Ridgewood Branch office.

GO, however, was not registered as a principal during the Relevant Period.

GO also erroneously identified himself as a "managing partner" and "co-founder" of Middlebury on his business card and in Middlebury-related e-mails.

Robinson knew that GO was acting in such capacities and making such representations and that GO was not registered as a principal. He approved GO's business card that identified GO as a "managing partner" of the Firm.

By permitting GO to act as a principal of Middlebury without the required principal registration, Middlebury and Robinson violated NASD Membership and Registration Rule 1021(a) and FINRA Rule 2010.

Recordkeeping Violations

NASD Conduct Rule 3110 and FINRA Rule 4511 require member firms, such as Middlebury, to make and keep records in accordance with Exchange Act Rules 17a-3 and 17a-4.

During the Relevant Period, Middlebury failed to maintain copies of the following records: bank statements for the Middlebury Escrow Accounts and an escrow account established for another offering at TBank; and Escrow Release Notices for the TBank escrow account.

Middlebury was required to maintain these records under Exchange Act Rule 17a-4.

By failing to maintain required books and records, Middlebury willfully violated Exchange Act Rule 17a-4, NASD Conduct Rules 3110 (for conduct before December 5, 2011) and FINRA Rules 4511 (for conduct after December 4, 2011) and FINRA Rule 2010.

B. Respondents also consent to the imposition of the following sanctions:

1. Middlebury to be:
 - a. Censured; and
 - b. Fined \$325,000.

2. Robinson to be:
 - a. Suspended from associating in any and all principal capacities with any FINRA member firm for a period of one year;
 - b. Required to requalify as a General Securities Principal by passing the Series 24 examination prior to associating with any FINRA member firm in any principal capacity following the one-year suspension; and
 - c. Fined \$45,000.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have submitted Election of Payment forms showing the method by which they propose to pay the fines imposed.

Respondents specifically and voluntarily waive any right to claim that they are unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

Robinson understands that if he is barred or suspended from associating with any FINRA member in a principal capacity, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, he may not be associated with any FINRA member in a principal capacity, during the period of the bar or suspension (see FINRA Rules 8310 and 8311). Furthermore, because he is subject to a statutory disqualification during the suspension, if he remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

Robinson understands that this settlement includes a finding that he failed to supervise an individual who violated Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 10b-5 promulgated thereunder and that under Article III, Section 4 of FINRA's By-Laws, this makes him subject to a statutory disqualification with respect to association with a member.

Middlebury understands that this settlement includes a finding that it failed to supervise an individual who violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder and that under Article III, Section 4 of FINRA's By-Laws, this makes it subject to a statutory disqualification with respect to membership.

Middlebury understands that this settlement includes a finding that it willfully violated Rule 17a-4 of the Exchange Act and that under Article III, Section 4 of FINRA's By-Laws, this makes it subject to a statutory disqualification with respect to membership.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against them;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondents specifically and voluntarily waive any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondents further specifically and voluntarily waive any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondents understand that:


- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against them; and
- C. If accepted:
 - 1. this AWC will become part of their permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against them;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about their disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. Respondents may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondents may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondents: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Respondents may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of Middlebury, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

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

Respondent Middlebury Securities LLC,

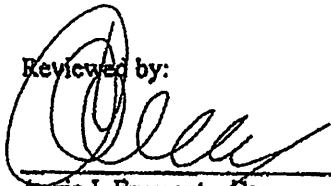
August 7, 2013
Date (mm/dd/yyyy)

By: 
Print Name: Jim Robinson
Print Title: Managing Member

August 7, 2013
Date (mm/dd/yyyy)


Respondent James Baldwin Robinson

Reviewed by:

 8/7/13

Aegis J. Frumento, Esq.
Counsel For Respondents
Stern Tannenbaum & Bell LLP
380 Lexington Avenue
New York, NY. 10168

Accepted by FINRA

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

Date

Michael J. Newman
Senior Regional Counsel
FINRA Department of Enforcement
581 Main Street, Suite 710
Woodbridge, New Jersey 07095
Phone: (732) 596-2030
Fax: (202) 721-6557

EXHIBIT D

Invoice Listing

| <u>Date</u> | <u>Number</u> | <u>Bill To</u> | <u>Amount</u> |
|-------------|---------------|--|---------------|
| 7/18/2012 | 4224 | Middlebury Securities/FINRA | 29,475.30 |
| 7/18/2012 | 4222 | Middlebury Securities/Greg Osborn | 8,958.50 |
| 7/18/2012 | 4223 | Middlebury Securities/SEC | 587.50 |
| 8/13/2012 | 4299 | Middlebury Securities/FINRA | 5,394.00 |
| 8/13/2012 | 4300 | Middlebury Securities/Greg Osborn | 4,508.00 |
| 8/13/2012 | 4301 | Middlebury Securities/Osborn Arbitration | 10,610.00 |
| 8/13/2012 | 4302 | Middlebury Securities/SEC | 14,040.50 |
| 8/22/2012 | 4368 | Middlebury Securities/Greg Osborn | 0.00 |
| 8/22/2012 | 4369 | Middlebury Securities/Osborn Arbitration | 1,090.50 |
| 8/22/2012 | 4370 | Middlebury Securities/SEC | 13,708.00 |
| 8/22/2012 | 4371 | Middlebury Securities/FINRA | 12,214.50 |
| 9/10/2012 | 4380 | Middlebury Securities/FINRA | 21,589.31 |
| 9/10/2012 | 4377 | Middlebury Securities/Greg Osborn | 345.00 |
| 9/10/2012 | 4378 | Middlebury Securities/SEC | 1,816.50 |
| 9/24/2012 | 4423 | Middlebury Securities/FINRA | 26,592.50 |
| 9/24/2012 | 4424 | Middlebury Securities/SEC | 3,943.50 |
| 10/09/2012 | 4434 | Middlebury Securities/FINRA | 42,301.86 |
| 10/09/2012 | 4432 | Middlebury Securities/SEC | 2,300.00 |
| 10/09/2012 | 4433 | Middlebury Securities/Osborn Arbitration | 0.00 |
| 10/22/2012 | 4511 | Middlebury Securities/FINRA | 33,659.50 |
| 10/22/2012 | 4506 | Middlebury Securities/SEC | 339.50 |
| 10/22/2012 | 4503 | Middlebury Securities/Osborn Arbitration | 402.50 |
| 11/16/2012 | 4519 | Middlebury Securities/Greg Osborn | 0.00 |
| 11/16/2012 | 4520 | Middlebury Securities/Osborn Arbitration | 1,207.50 |
| 11/16/2012 | 4521 | Middlebury Securities/SEC | 10,906.62 |
| 11/29/2012 | 4592 | Middlebury Securities/FINRA | 9,959.60 |
| 11/14/2014 | 6490 | Middlebury Securities/FINRA | 22,827.00 |
| 11/14/2014 | 6491 | Middlebury Securities/Osborn Arbitration | 9,761.00 |
| 11/14/2014 | 6492 | Middlebury Securities/SEC | 1,476.00 |
| 1/19/2016 | 7762 | Middlebury Securities/SEC Enforcement Division Subpoena | 20,648.00 |
| 1/19/2016 | 7763 | Middlebury Securities/FINRA AWC Negotiation | 15,797.50 |
| 7/18/2016 | 8389 | Middlebury Securities/SEC Enforcement Division Subpoena | 3,024.50 |
| 8/15/2016 | 8469 | Middlebury Securities/SEC Enforcement Division Subpoena | 0.00 |

| | |
|---------------------|----------------------------|
| Report Total | <u>\$329,484.69</u> |
|---------------------|----------------------------|

FORM BDW UNIFORM REQUEST WITHDRAWAL FROM BROKER-DEALER REGISTRATION

Primary Business Name: MIDDLEBURY SECURITIES LLC

BD Number: 122602

BDW - FULL

07/29/2016

BDW - APPLICANT INFORMATION

OMB Number3235-0018

Expires.....August 31, 2014

Estimated average burden hours per response.....0.25

WARNING: INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

1. A. **Full Name of Broker-Dealer (if sole proprietor, state last, first and middle name):**
MIDDLEBURY SECURITIES LLC
- B. **IRS Emp. Ident. No.:**
16-1616866
- C. **Name under which business is conducted, if different:**
MIDDLEBURY SECURITIES LLC
- D. **Firm CRD No.:**
122602
- E. **SEC File No.:**
65520
- F. **Firm Main Address:**
- | | | | |
|-----------------------------|---------------|-----------------------------|-------------------------|
| Number and Street 1: | | Number and Street 2: | |
| 1043 SHEEP FARM ROAD | | | |
| City: | State: | Country: | ZIP/Postal Code: |
| WEYBRIDGE | Vermont | USA | 05753 |
- G. **Mailing Address, if different:**
- | | | | |
|-----------------------------|---------------|-----------------------------|-------------------------|
| Number and Street 1: | | Number and Street 2: | |
| 1043 SHEEP FARM RD | | | |
| City: | State: | Country: | ZIP/Postal Code: |
| WEYBRIDGE | Vermont | UNITED STATES | 05753 |
- H. **Area Code / Telephone No.:**
802-922-1854
2. Check One: Full Withdrawal (skip Item 3) Partial Withdrawal (Check box(es) where withdrawing in Item 3.)
4. Date firm ceased business or withdrew registration request (for partial withdrawals, give the date ceased business in the *jurisdiction(s)* checked in Item 3):
- (MM/DD/YYYY)
07/27/2016

BDW - FINANCIAL LIABILITIES

5. Does the broker-dealer owe any money or securities to any customer or broker-dealer?

Yes No

If full withdrawal, complete A-D below.

A. Number of customers owed funds or securities:

1

B. Amount of money owed to:

| | |
|------------------|-----------------------|
| customers | broker-dealers |
| \$23600 | \$0 |

C. Market value of securities owed to:

| | |
|------------------|-----------------------|
| customers | broker-dealers |
| \$0 | \$0 |

D. Describe arrangements made for payment

PAYMENT ARRANGEMENTS ARE BEING NEGOTIATED WITH THE CLIENT'S COUNSEL.

If this is a full withdrawal and Item 5 is answered "yes", file with the CRD a FOCUS Report Part II (or Part IIA for non-carrying or non-clearing firms) "Statement of Financial Condition" and "Computation of Net Capital" sections. For firms that do not file FOCUS Reports, file a statement of financial condition giving the type and amount of the firm's assets and liabilities and net worth. The FOCUS Report and the statement of financial condition must reflect the finances of the firm no earlier than 10 days before this Form BDW is filed.

BDW - DISCLOSURE QUESTIONS

| | | |
|--|-----------------------|----------------------------------|
| 6. Is the broker-dealer now the subject of or named in any <i>investment-related</i> : | YES | NO |
| A. <i>investigation</i> | <input type="radio"/> | <input checked="" type="radio"/> |
| B. consumer-initiated complaint | <input type="radio"/> | <input checked="" type="radio"/> |
| C. private civil litigation | <input type="radio"/> | <input checked="" type="radio"/> |

NOTE: Update any incomplete or inaccurate information contained in Item 11 of Form BD.

BDW - CUSTODIAN INFORMATION

7. Name and Address of the person who will have custody of books and records:

| | | | |
|---|--------------------------|--|----------------------------------|
| Full Name: JAMES ROBINSON | | Telephone Number: 802-922-5748 | |
| Number and Street 1: 1043 SHEEP FARM ROAD | | Number and Street 2: | |
| City: WEYBRIDGE | State: Vermont | Country: USA | ZIP/Postal Code: 05753 |
| Address where books and records will be located, if different | | | |
| Number and Street 1: | | Number and Street 2: | |
| City: | State: | Country: | ZIP/Postal Code: |

BDW - EXECUTION

8. EXECUTION:

The undersigned certifies that he/she has executed this form on behalf of, and with the authority of, the broker-dealer, and that all information herein, including any attachments hereto, is accurate, complete and current. The undersigned and broker-dealer further certify that all information previously submitted on Form BD is accurate and complete as of this date, and that the broker-dealer's books and records will be preserved and available for inspection as required by law.

| | |
|--------------------------------------|--|
| Date MM/DD/YYYY 07/29/2016 | Name MIDDLEBURY SECURITIES LLC |
| Signature JAMES ROBINSON | Title CEO |

Subscribed and sworn before me on this _____ day of _____,
_____ by _____
Year Notary Public

My Commission expires _____ County of _____ State of _____

SUPPLEMENTAL STATEMENT OF INCOME

(Please read instructions before preparing Form)

| | | | | | |
|--|--|--|--|--|--|
| NAME OF BROKER-DEALER | | | | SEC. FILE NO. | |
| MIDDLEBURY SECURITIES LLC 13 | | | | 8-65520 14 | |
| ADDRESS OF PRINCIPAL PLACE OF BUSINESS | | | | FIRM ID NO. | |
| 1043 SHEEP FARM ROAD 20 | | | | 122602 15 | |
| (No. and Street) | | | | FOR PERIOD BEGINNING (MM/DD/YY) | |
| WEYBRIDGE 21 VT 22 05753 23 | | | | 04/01/16 24 | |
| (City) (State) (Zip Code) | | | | AND ENDING (MM/DD/YY) | |
| NAME OF PERSON COMPLETING THIS REPORT Craig Sherman | | | | 08/30/16 25 | |
| TELEPHONE NO. OF PERSON COMPLETING THIS REPORT (828) 767-1015 | | | | 11290 1290 | |

REVENUE

1. Commissions

| | | |
|--|----|---|
| A. Listed Equities, ETFs and Closed End Funds Executed on an Exchange | \$ | 13935 13935 |
| B. Exchange Listed Equity Securities Executed OTC | \$ | 13937 13937 |
| C. U.S. Government and Agencies | \$ | 11001 11001 |
| D. Foreign Sovereign debt | \$ | 11002 11002 |
| E. Corporate debt | \$ | 11003 11003 |
| F. Mortgage Backed and Other Asset Backed Securities | \$ | 11004 11004 |
| G. Municipals | \$ | 11005 11005 |
| H. Listed Options | \$ | 13938 13938 |
| I. OTC Options | \$ | 11006 11006 |
| J. All Other Securities Commissions | \$ | 13,583 13939 |
| K. Commodity Transactions | \$ | 13991 13991 |
| L. Foreign Exchange | \$ | 11007 11007 |
| M. Aggregate amount if less than the greater of \$5,000 or 5% of Total Revenue (line 14030) (Do not complete Items A-L) | \$ | 11008 11008 |
| 1. Is any portion of Item M related to municipal securities? <input type="checkbox"/> 11009 | | |
| Total Commissions: | \$ | 13,583 13940 |

2. Revenue from Sale of Investment Company Shares \$ 13970 13970

3. Revenue from Sale of Insurance Based Products

| | | |
|--|----|--|
| A. Variable Contracts | \$ | 11020 11020 |
| B. Non-Securities Insurance Based Products | \$ | 11021 11021 |
| C. Aggregate amount if less than the greater of \$5,000 or 5% of Total Revenue (line 14030) (Do not complete Items A-B) | \$ | 11022 11022 |
| Total Revenue From Sale of Insurance Based Products: | \$ | 11029 11029 |

4. Gains or Losses on Derivative Trading Desks

| | | |
|--|----|--|
| A. Interest Rate/Fixed Income Products | \$ | 13921 13921 |
| B. Currency | \$ | 13922 13922 |
| C. Equity Products | \$ | 13923 13923 |
| D. Commodity Products | \$ | 13924 13924 |
| E. Other | \$ | 13925 13925 |
| Total Gains or Losses on Derivative Trading Desks: | \$ | 13926 13926 |

SUPPLEMENTAL STATEMENT OF INCOME

BROKER OR DEALER
MIDDLEBURY SECURITIES LLC

For the period (MMDDYY) from 04/01/16 to 06/30/16
Number of months included in this statement 3

5. Net Gains or Losses on Principal Trades

A. Equities, ETFs and Closed End Funds.

Includes Dividends: \$

B. U.S. Government and Agencies. Includes interest: \$

C. Foreign Sovereign Debt. Includes interest: \$

D. Corporate Debt. Includes interest: \$

E. Mortgage-Backed and Other

Asset-Backed Securities. Includes interest \$

F. Municipals. Includes interest: \$

G. Foreign Exchange \$

H. Listed Options \$

I. OTC Options \$

J. Securities Based Swaps \$

K. All Other Swaps \$

L. Futures \$

M. Commodity Transactions \$

N. Other \$

O. Aggregate amount if less than the greater of \$5,000 or 5% of Total Revenue
(line 14030) (Do not complete Items A-N). \$

1. Is any portion of Item O related to municipal securities?

Total Net Gains or Losses on Principal Trades: \$

6. Capital Gains (Losses) on Firm Investments \$

Includes Dividends and/or Interest:

7. Interest / Rebate / Dividend Income

A. Securities Borrowings \$

B. Reverse Repurchase Transactions \$

C. Margin Interest \$

D. Interest earned from customer bank sweep (FDIC insured products) programs \$

E. Interest earned from customer fund sweeps into '40 Act Investments \$

F. Interest and/or Dividends on Securities held in Firm Inventory (not reported in
Sections 4 or 5) \$

G. Other Interest \$

H. Aggregate amount if less than the greater of \$5,000 or 5% of Total Revenue
(line 14030) (Do not complete Items A-G) \$

Total Interest / Rebate / Dividend Income: \$

8. Revenue from Underwritings and Selling Group Participation

A. Municipal Offerings. \$

B. Registered Offerings

1. Offerings other than self or affiliate. Excludes municipals \$

2. Offerings, self or affiliate. Excludes municipals \$

Total Revenue from Registered Offerings: \$

SUPPLEMENTAL STATEMENT OF INCOME

BROKER OR DEALER
MIDDLEBURY SECURITIES LLC

For the period (MMDDYY) from 04/01/16 3932 to 06/30/16 3933
Number of months included in this statement 3 3931

C. Unregistered Offerings (Excludes municipal offerings) Sections below refer to Operational Page - See Instructions

Did the broker or dealer filing this report participate in the sale of any unregistered offering during the reporting period for which it received no compensation? N 11080

1. Unregistered offerings, other than self or affiliate offerings. Section 1 \$ 11081
2. Unregistered offerings, self or affiliate offerings. Section 2 \$ 11082

Total Revenue from Unregistered Offerings: \$ 11089

Total Revenue from Underwritings and Selling Group Participation: \$ 13955

9. Fees Earned

A. Fees earned from affiliated entities \$ 11090
B. Investment Banking Fees; M&A Advisory \$ 11091
C. Account Supervision and Investment Advisory Services \$ 13975
D. Administrative Fees \$ 11092
E. Revenue from Research Services \$ 13980
F. Rebates from Exchanges, ECNs, and ATSS \$ 11093
G. 12b-1 Fees \$ 11094
H. Mutual Fund Revenue other than Concessions or 12b-1 Fees \$ 11095
I. Execution Services \$ 11096
J. Clearing Services \$ 11097
K. Fees earned on customer bank sweep (FDIC insured products) programs \$ 11098
L. Fees earned from sweep programs into '40 Act Investments \$ 11099
M. Networking Fees from '40 Act Companies \$ 11100
N. Other Fees. \$ 11101
O. Aggregate amount if less than the greater of \$5,000 or 5% of Total Revenue
(line 14030) (Do not complete Items A-N) \$ 11102

Total Fees Earned: \$ 11109

10. Commodities Revenue \$ 13990

11. Other Revenue

A. Total Revenue from sale of Certificates of Deposit (CDs) issued by an affiliate \$ 11126
B. Other Revenue \$ 16,114 13995

If Other Revenue line 13995 is greater than both 10% of Total Revenue line 14030 and \$5,000, provide a description of the 3 largest components of Other Revenue, along with the associated revenue for each.

B-1. Description of : 1st largest component of Other Revenue:

11120 Advisory on solar - no sales \$ 16,114 11121

B-2. Description of : 2nd largest component of Other Revenue:

11122 \$ 11123

B-3. Description of : 3rd largest component of Other Revenue:

11124 \$ 11125

Total Revenue: \$ 29,697 14030

SUPPLEMENTAL STATEMENT OF INCOME

BROKER OR DEALER
MIDDLEBURY SECURITIES LLC

For the period (MMDDYY) from 04/01/16 3932 to 06/30/16 3933
Number of months included in this statement 3 3931

EXPENSES

12. Compensation Expenses

| | | | |
|--|----|--------|---|
| A. Registered Representatives Compensation | \$ | 17,404 | 14110 |
| B. Compensation paid to all other revenue producing personnel | \$ | | 14040 |
| C. Compensation paid to non-revenue producing personnel (including temporary personnel) | \$ | | 11200 |
| D. Bonuses | \$ | | 11201 |
| E. Other compensation expenses | \$ | | 11202 |
| F. Aggregate amount if less than the greater of \$5,000 or 5% of Total Expenses (line 14200) (Do not complete Items A-E) | \$ | | 11203 |
| Total Compensation Expenses: | \$ | 17,404 | 11209 |

13. Commission, Clearance and Custodial Expenses

| | | | |
|--|----|--|---|
| A. Floor brokerage and fees paid | \$ | | 14055 |
| B. Amounts paid to Exchanges, ECNs, and ATSS | \$ | | 14145 |
| C. Clearance Fees Paid to broker-dealers | \$ | | 11210 |
| D. Clearance Fees Paid to non-broker-dealers | \$ | | 14135 |
| E. Commission Paid to other broker-dealers | \$ | | 14140 |
| F. 12b-1 Fees | \$ | | 11211 |
| G. Custodial Fees | \$ | | 11212 |
| H. Aggregate amount if less than the greater of \$5,000 or 5% of Total Expenses (line 14200) (Do not complete Items A-G) | \$ | | 11213 |
| Total Commission, Clearance and Custodial Fees: | \$ | | 11219 |

14. Expenses Incurred on Behalf of Affiliates and Others

| | | | |
|--|----|--|---|
| A. Soft dollar expenses | \$ | | 11220 |
| B. Rebates/Recapture of commissions | \$ | | 11221 |
| Total Expenses incurred on Behalf of Affiliates and Others: | \$ | | 11229 |

15. Interest and Dividend Expenses

| | | | |
|--|----|--|---|
| A. Interest paid on bank loans | \$ | | 11230 |
| B. Interest paid on debt instruments where broker-dealer is the obligor, including subordination agreements | \$ | | 11231 |
| C. Interest paid on customer balances | \$ | | 11232 |
| D. Interest paid on Securities Loaned transactions | \$ | | 11233 |
| E. Interest paid on Repurchase Agreements | \$ | | 11234 |
| F. Interest and/or Dividends on Short Securities Inventory | \$ | | 11235 |
| G. Other interest expenses | \$ | | 11236 |
| H. Aggregate amount if less than the greater of \$5,000 or 5% of Total Expenses (line 14200) (Do not complete Items A-G) | \$ | | 11237 |
| Total Interest and Dividend Expenses: | \$ | | 14075 |

16. Fees Paid to Third Party Service Providers

| | | | |
|--|----|-------|---|
| A. To Affiliates | \$ | | 11240 |
| B. To Third Parties | \$ | 2,688 | 11241 |
| Total Fees Paid to Third Party Service Providers: | \$ | 2,688 | 11249 |

SUPPLEMENTAL STATEMENT OF INCOME

BROKER OR DEALER
MIDDLEBURY SECURITIES LLC

For the period (MMDDYY) from 04/01/16 3932 to 06/30/16 3933
 Number of months included in this statement 3 3931

17. General, Administrative, Regulatory and Miscellaneous Expenses

| | | |
|--|-----------|--|
| A. Finders' Fees | \$ | 11250 |
| B. Technology, data and communication costs | \$ | 14060 |
| C. Research | \$ | 11251 |
| D. Promotional Fees | \$ | 14150 |
| E. Travel and Entertainment | \$ | 11252 |
| F. Occupancy and equipment expenses | \$ | 14080 |
| G. Non-recurring charges | \$ | 14190 |
| H. Regulatory Fees | \$ | 14195 |
| I. Professional Service Fees | \$ | 11253 |
| J. Litigation, arbitration, settlement, restitution and rescission, and related outside counsel legal fees | \$ | 11254 |
| K. Losses in error accounts and bad debts | \$ | 14170 |
| L. State and local income taxes | \$ | 11255 |
| M. Aggregate amount if less than the greater of \$5,000 or 5% of Total Expenses (line 14200) (Do not complete Items A-L) | \$ | 11256 |
| Total General, Administrative, Regulatory and Miscellaneous Expenses: | \$ | 11269 |

18. Other Expenses

| | | |
|-------------------------|----|--|
| A. Other Expenses | \$ | <u>2,694</u> 14100 |
|-------------------------|----|--|

If Other Expenses line 14100 is greater than both 10% of Total Expenses line 14200 and \$5,000, provide a description of the 3 largest components of Other Expenses, along with the associated expense for each.

A-1. Description of : 1st largest component of Other Expenses:

| | | | |
|---|---|----|---|
| <div style="border: 1px solid black; height: 15px; width: 100%;"></div> | 11280 | \$ | 11281 |
|---|---|----|---|

A-2. Description of : 2nd largest component of Other Expenses:

| | | | |
|---|---|----|---|
| <div style="border: 1px solid black; height: 15px; width: 100%;"></div> | 11282 | \$ | 11283 |
|---|---|----|---|

A-3. Description of : 3rd largest component of Other Expenses:

| | | | |
|---|---|----|---|
| <div style="border: 1px solid black; height: 15px; width: 100%;"></div> | 11284 | \$ | 11285 |
|---|---|----|---|

Total Expenses: \$ 22,786 14200

NET INCOME

19. Net Income

| | | |
|--|----|--|
| A. Income (loss) before Federal income taxes and items below | \$ | <u>6,911</u> 14210 |
| B. Provision for Federal income taxes (for parent only) | \$ | <u>0</u> 14220 |
| C. Equity in earnings (losses) of unconsolidated subsidiaries not included above | \$ | <u>0</u> 14222 |
| D. Extraordinary gains (losses) | \$ | <u>0</u> 14224 |
| E. Cumulative effect of changes in accounting principles | \$ | <u>0</u> 14225 |
| F. Net income (loss) after Federal income taxes and extraordinary items | \$ | <u>6,911</u> 14230 |

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

FOCUS REPORT
(FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT)
PART IIA 12

FORM
X-17A-5

(Please read instructions before preparing Form)

This report is being filed pursuant to (Check Applicable Block(s)):

- 1) Rule 17a-5(a) 16 2) Rule 17a-5(b) 17 3) Rule 17a-11 18
4) Special request by designated examining authority 19 5) Other 26

NAME OF BROKER-DEALER

MIDDLEBURY SECURITIES LLC 13

ADDRESS OF PRINCIPAL PLACE OF BUSINESS (Do not use P.O. Box No.)

1043 SHEEP FARM ROAD 20

(No. and Street)

WEYBRIDGE 21 VT 22 05753 23

(City)

(State)

(Zip Code)

SEC. FILE NO.

8-65520 14

FIRM ID NO.

122602 15

FOR PERIOD BEGINNING (MM/DD/YY)

04/01/16 24

AND ENDING (MM/DD/YY)

06/30/16 25

NAME AND TELEPHONE NUMBER OF PERSON TO CONTACT IN REGARD TO THIS REPORT (Area code) - Telephone No.

Craig Sherman 828 767 1015 30

NAME(S) OF SUBSIDIARIES OR AFFILIATES CONSOLIDATED IN THIS REPORT

OFFICIAL USE

32

34

36

38

33

35

37

39

DOES RESPONDENT CARRY ITS OWN CUSTOMER ACCOUNTS ? YES 40 NO 41

CHECK HERE IF RESPONDENT IS FILING AN AUDITED REPORT 42

EXECUTION:

The registrant/broker or dealer submitting this Form and its attachments and the person(s) by whom it is executed represent hereby that all information contained therein is true, correct and complete. It is understood that all required items, statements, and schedules are considered integral parts of this Form and that the submission of any amendment represents that all unamended items, statements and schedules remain true, correct and complete as previously submitted.

Dated the _____ day of _____ 20 _____

Manual Signatures of:

1) _____
Principal Executive Officer or Managing Partner

2) _____
Principal Financial Officer or Partner

3) _____
Principal Operations Officer or Partner

ATTENTION - Intentional misstatements or omissions of facts constitute Federal Criminal Violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78f (a))

FINRA

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIA

BROKER OR DEALER
MIDDLEBURY SECURITIES LLC

as of 06/30/16

STATEMENT OF FINANCIAL CONDITION FOR NONCARRYING,
NONCLEARING AND CERTAIN OTHER BROKERS OR DEALERS
LIABILITIES AND OWNERSHIP EQUITY

| <u>Liabilities</u> | <u>A.I. Liabilities</u> | <u>Non-A.I. Liabilities</u> | <u>Total</u> |
|--|-----------------------------|---------------------------------|------------------|
| 13. Bank loans payable | \$ 1045 | \$ 1255 | \$ 1470 |
| 14. Payable to brokers or dealers: | | | |
| A. Clearance account | 1114 | 1315 | 1560 |
| B. Other | 1115 | 1305 | 1540 |
| 15. Payable to non-customers | 1155 | 1355 | 1610 |
| 16. Securities sold not yet purchased, at market value | | 1360 | 1620 |
| 17. Accounts payable, accrued liabilities, expenses and other | 106,664 1205 | 1385 | 106,664 1685 |
| 18. Notes and mortgages payable: | | | |
| A. Unsecured | 1210 | | 1690 |
| B. Secured | 1211 | 1390 | 1700 |
| 19. Liabilities subordinated to claims of general creditors: | | | |
| A. Cash borrowings: | | | |
| 1. from outsiders \$ | 970 | | |
| 2. Includes equity subordination (15c3-1(d)) of | 980 | | |
| B. Securities borrowings, at market value from outsiders \$ | 990 | 1410 | 1720 |
| C. Pursuant to secured demand note collateral agreements | | 271,938 1420 | 271,938 1730 |
| 1. from outsiders \$ | 1000 | | |
| 2. includes equity subordination (15c3-1(d)) of | 271,938 1010 | | |
| D. Exchange memberships contributed for use of company, at market value | | 1430 | 1740 |
| E. Accounts and other borrowings not qualified for net capital purposes | 1220 | 1440 | 1750 |
| 20. TOTAL LIABILITIES | \$ 106,664 1230 | \$ 271,938 1450 | \$ 378,602 1760 |
| <u>Ownership Equity</u> | | | |
| 21. Sole proprietorship | | | \$ (85,834) 1770 |
| 22. Partnership (limited partners) | 1020 | | 1780 |
| 23. Corporation: | | | |
| A. Preferred stock | | | 1791 |
| B. Common stock | | | 1792 |
| C. Additional paid-in capital | | | 1793 |
| D. Retained earnings | | | 1794 |
| E. Total | | | 1795 |
| F. Less capital stock in treasury | | | () 1796 |
| 24. TOTAL OWNERSHIP EQUITY | | | \$ (85,834) 1800 |
| 25. TOTAL LIABILITIES AND OWNERSHIP EQUITY | | | \$ 292,768 1810 |

OMIT PENNIES

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIA

| | | |
|---|-------|----------|
| BROKER OR DEALER MIDDLEBURY SECURITIES LLC | as of | 06/30/16 |
|---|-------|----------|

COMPUTATION OF NET CAPITAL

| | | | |
|--|----|----------|--------|
| 1. Total ownership equity from Statement of Financial Condition | \$ | (85,834) | 3480 |
| 2. Deduct ownership equity not allowable for Net Capital | | | (3490) |
| 3. Total ownership equity qualified for Net Capital | | (85,834) | 3500 |
| 4. Add: | | | |
| A. Liabilities subordinated to claims of general creditors allowable in computation of net capital | | 271,938 | 3520 |
| B. Other (deductions) or allowable credits (List) | | | 3525 |
| 5. Total capital and allowable subordinated liabilities | \$ | 186,104 | 3530 |
| 6. Deductions and/or charges: | | | |
| A. Total non-allowable assets from | | | |
| Statement of Financial Condition (Notes B and C) | \$ | 40,071 | 3540 |
| B. Secured demand note deficiency | | | 3590 |
| C. Commodity futures contracts and spot commodities-proprietary capital charges | | | 3600 |
| D. Other deductions and/or charges | | | 3610 |
| | | (40,071) | 3620 |
| 7. Other additions and/or allowable credits (List) | | | 3630 |
| 8. Net Capital before haircuts on securities positions | \$ | 146,033 | 3640 |
| 9. Haircuts on securities (computed, where applicable, pursuant to 15c3-1(f)) : | | | |
| A. Contractual securities commitments | \$ | | 3660 |
| B. Subordinated securities borrowings | | | 3670 |
| C. Trading and investment securities: | | | |
| 1. Exempted securities | | | 3735 |
| 2. Debt securities | | | 3733 |
| 3. Options | | | 3730 |
| 4. Other securities | | 450 | 3734 |
| D. Undue concentration | | | 3650 |
| E. Other (List) | | | 3736 |
| | | (450) | 3740 |
| 10. Net Capital | \$ | 145,583 | 3750 |

OMIT PENNIES

**FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIA**

| | |
|--|-----------------------|
| BROKER OR DEALER MIDDLEBURY SECURITIES LLC | as of <u>06/30/16</u> |
|--|-----------------------|

COMPUTATION OF BASIC NET CAPITAL REQUIREMENT

Part A

| | | | |
|---|----|---------|------|
| 11. Minimum net capital required (6-2/3% of line 19) | \$ | 7,111 | 3758 |
| 12. Minimum dollar net capital requirement of reporting broker or dealer and minimum net capital requirement of subsidiaries computed in accordance with Note (A) | \$ | 5,000 | 3758 |
| 13. Net capital requirement (greater of line 11 or 12) | \$ | 7,111 | 3760 |
| 14. Excess net capital (line 10 less 13) | \$ | 138,472 | 3770 |
| 15. Net capital less greater of 10% of line 19 or 120% of line 12 | \$ | 134,917 | 3780 |

COMPUTATION OF AGGREGATE INDEBTEDNESS

| | | | |
|--|----|---------|------|
| 16. Total A.I. liabilities from Statement of Financial Condition | \$ | 106,664 | 3790 |
| 17. Add: | | | |
| A. Drafts for immediate credit | \$ | 3800 | |
| B. Market value of securities borrowed for which no equivalent value is paid or credited | \$ | 3810 | |
| C. Other unrecorded amounts (List) | \$ | 3820 | 3830 |
| 19. Total aggregate indebtedness | \$ | 106,664 | 3840 |
| 20. Percentage of aggregate indebtedness to net capital (line 19 divided by line 10) | % | 73.27 | 3850 |
| 21. Percentage of debt to debt-equity total computed in accordance with Rule 15c-3-1(d) | % | 0.00 | 3860 |

COMPUTATION OF ALTERNATE NET CAPITAL REQUIREMENT

Part B

| | | | |
|--|----|------|------|
| 22. 2% of combined aggregate debit items as shown in Formula for Reserve Requirements pursuant to Rule 15c3-3 prepared as of the date of net capital computation including both brokers or dealers and consolidated subsidiaries' debits | \$ | 3870 | 3870 |
| 23. Minimum dollar net capital requirement of reporting broker or dealer and minimum net capital requirement of subsidiaries computed in accordance with Note (A) | \$ | 3880 | 3880 |
| 24. Net capital requirement (greater of line 22 or 23) | \$ | 3760 | 3760 |
| 25. Excess net capital (line 10 less 24) | \$ | 3910 | 3910 |
| 26. Net capital in excess of the greater of: | | | |
| 5% of combined aggregate debit items or 120% of minimum net capital requirement | \$ | 3920 | 3920 |

NOTES:

(A) The minimum net capital requirement should be computed by adding the minimum dollar net capital requirement of the reporting broker dealer and, for each subsidiary to be consolidated, the greater of:

1. Minimum dollar net capital requirement, or
2. 6-2/3% of aggregate indebtedness or 4% of aggregate debits if alternative method is used.

(B) Do not deduct the value of securities borrowed under subordination agreements or secured demand notes covered by subordination agreements not in satisfactory form and the market values of the memberships in exchanges contributed for use of company (contra to item 1740) and partners' securities which were included in non-allowable assets.

(C) For reports filed pursuant to paragraph (d) of Rule 17a-5, respondent should provide a list of material non-allowable assets.

**FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIA**

| |
|---------------------------|
| BROKER OR DEALER |
| MIDDLEBURY SECURITIES LLC |

For the period (MMDDYY) from 04/01/16 3932 to 06/30/16 3933
 Number of months included in this statement 3 3931

REVENUE

STATEMENT OF INCOME (LOSS)

| | | | |
|---|-------|----|-------------|
| 1. Commissions: | | | |
| a. Commissions on transactions in exchange listed equity securities executed on an exchange | ..... | \$ | 3935 |
| b. Commissions on listed option transactions | ..... |  | 3938 |
| c. All other securities commissions | ..... |  | 3939 |
| d. Total securities commissions | ..... |  | 3940 |
| 2. Gains or losses on firm securities trading accounts | | | |
| a. From market making in options on a national securities exchange | ..... |  | 3945 |
| b. From all other trading | ..... |  | 3949 |
| c. Total gain (loss) | ..... |  | 3950 |
| 3. Gains or losses on firm securities investment accounts | | | 3952 |
| 4. Profits (losses) from underwriting and selling groups | | | 3955 |
| 5. Revenue from sale of investment company shares | | | 3970 |
| 6. Commodities revenue | | | 3990 |
| 7. Fees for account supervision, investment advisory and administrative services | | | 3975 |
| 8. Other revenue | | | 29,697 3995 |
| 9. Total revenue | | \$ | 29,697 4030 |

EXPENSES

| | | | |
|--|-------|----|-------------|
| 10. Salaries and other employment costs for general partners and voting stockholder officers | ..... |  | 4120 |
| 11. Other employee compensation and benefits | ..... |  | 21,692 4115 |
| 12. Commissions paid to other brokers-dealers | ..... |  | 4140 |
| 13. Interest expense | ..... |  | 4075 |
| a. Includes interest on accounts subject to subordination agreements | ..... |  | 4070 |
| 14. Regulatory fees and expenses | ..... |  | 4195 |
| 15. Other expenses | ..... |  | 1,094 4100 |
| 16. Total expenses | ..... | \$ | 22,786 4200 |

NET INCOME

| | | | |
|---|-------|----|------------|
| 17. Net Income (loss) before Federal income taxes and items below (Item 9 less Item 16) | ..... | \$ | 6,911 4210 |
| 18. Provision for Federal income taxes (for parent only) | ..... |  | 4220 |
| 19. Equity in earnings (losses) of unconsolidated subsidiaries not included above | ..... |  | 4222 |
| a. After Federal income taxes of | ..... |  | 4238 |
| 20. Extraordinary gains (losses) | ..... |  | 4224 |
| a. After Federal income taxes of | ..... |  | 4239 |
| 21. Cumulative effect of changes in accounting principles | ..... |  | 4225 |
| 22. Net income (loss) after Federal income taxes and extraordinary items | ..... | \$ | 6,911 4230 |

MONTHLY INCOME

| | | | |
|---|-------|--|--------|
| 23. Income (current month only) before provision for Federal Income taxes and extraordinary items | | | 0 4211 |
|---|-------|--|--------|

FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIA

| |
|---|
| BROKER OR DEALER MIDDLEBURY SECURITIES LLC |
|---|

For the period (MMDDYY) from 04/01/16 to 06/30/16

STATEMENT OF CHANGES IN OWNERSHIP EQUITY
(SOLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION)

| | | | | |
|---|----|--------|-----------|------|
| 1. Balance, beginning of period | | \$ | (133,846) | 4240 |
| A. Net income (loss) | | | 6,911 | 4250 |
| B. Additions (includes non-conforming capital of | \$ | 41,101 | 4262 | 4260 |
| C. Deductions (includes non-conforming capital of | \$ | | 4272 | 4270 |
| 2. Balance, end of period (from item 1800) | | \$ | (85,834) | 4290 |

STATEMENT OF CHANGES IN LIABILITIES SUBORDINATED
TO CLAIMS OF GENERAL CREDITORS

| | | | | |
|--|--|----|---------|------|
| 3. Balance, beginning of period | | \$ | 271,938 | 4300 |
| A. Increases | | | | 4310 |
| B. Decreases | | | | 4320 |
| 4. Balance, end of period (from item 3520) | | \$ | 271,938 | 4330 |

OMIT PENNIES

**FINANCIAL AND OPERATIONAL COMBINED UNIFORM SINGLE REPORT
PART IIA**

BROKER OR DEALER

MIDDLEBURY SECURITIES LLC

as of

06/30/16

Exemptive Provision Under Rule 15c3-3

25. If an exemption from Rule 15c3-3 is claimed, identify below the section upon which such exemption is based :

- A. (k) (1) - Limited business (mutual funds and/or variable annuities only) \$ 4550
- B. (k) (2) (i) - "Special Account for the Exclusive Benefit of customers" maintained 4560
- C. (k) (2) (ii) - All customer transactions cleared through another broker-dealer on a fully disclosed basis.
Name(s) of Clearing Firm(s) - Please separate multiple names with a semi-colon 4335 4570
- D. (k) (3) - Exempted by order of the Commission 4580

**Ownership Equity and Subordinated Liabilities maturing or proposed to be
withdrawn within the next six months and accruals, (as defined below),
which have not been deducted in the computation of Net Capital.**

| Type of Proposed Withdrawal or Accrual (See below for code to enter) | Name of Lender or Contributor | Insider or Outsider ? (In or Out) | Amount to be with- drawn (cash amount and/or Net Capital Value of Securities) | (MMDDYY) Withdrawal or Maturity Date | Expect to Renew (Yes or No) |
|--|-------------------------------|---|--|---|--------------------------------------|
| 4600 | 4601 | 4602 | 4603 | 4604 | 4605 |
| 4610 | 4611 | 4612 | 4613 | 4614 | 4615 |
| 4620 | 4621 | 4622 | 4623 | 4624 | 4625 |
| 4630 | 4631 | 4632 | 4633 | 4634 | 4635 |
| 4640 | 4641 | 4642 | 4643 | 4644 | 4645 |
| 4650 | 4651 | 4652 | 4653 | 4654 | 4655 |
| 4660 | 4661 | 4662 | 4663 | 4664 | 4665 |
| 4670 | 4671 | 4672 | 4673 | 4674 | 4675 |
| 4680 | 4681 | 4682 | 4683 | 4684 | 4685 |
| 4690 | 4691 | 4692 | 4693 | 4694 | 4695 |
| TOTAL | | | \$ | 4699 | |

OMIT PENNIES

Instructions: Detail listing must include the total of items maturing during the six month period following the report date, regardless of whether or not the capital contribution is expected to be renewed. The schedule must also include proposed capital withdrawals scheduled within the six month period following the report date including the proposed redemption of stock and payments of liabilities secured by fixed assets (which are considered allowable assets in the capital computation pursuant to Rule 15c3-1(c) (2) (iv)), which could be required by the lender on demand or in less than six months.

WITHDRAWAL CODE: DESCRIPTION

- 1. Equity Capital
- 2. Subordinated Liabilities
- 3. Accruals
- 4. 15c3-1(c) (2) (iv) Liabilities

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

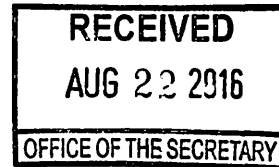
ADMINISTRATIVE PROCEEDING

File Nos. 3-16227 / 3-16229

In the Matter of

**MIDDLEBURY SECURITIES, LLC
and GREGORY OSBORN**

Respondents.



Certificate of Service

I hereby certify that I served (1) the Declaration of James B. Robinson, dated August 19, 2016, and all exhibits attached thereto, and (2) the Memorandum of Law of Respondent Middlebury Securities LLC in Opposition to the Division's Motion for Summary Disposition, dated August 19, 2016, on the parties below, by the means indicated, on this 19th day of August, 2016:

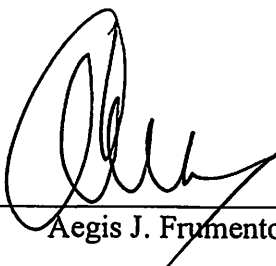
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Ridgewood, NJ [REDACTED]
Pro Se
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Hon. Cameron Elliot, A.L.J.
US Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557
(By FedEx)

Brent Fields, Secretary
Office of the Secretary
US Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557
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(Original and 3 copies)



Aegis J. Frumento, Esq.