UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



**ADMINISTRATIVE PROCEEDING**
**File No. 3-16354**

**In the Matter of**

**David B. Havanich, Jr., Carmine A. DellaSala, Matthew D. Welch, Richard Hampton Scurlock, III, Retirement Tax Advisory Group, Jose F. Carrio, Dennis K. Karasik, Carrio, Karasik & Associates, LLP, and Michael J. Salovay,**

**Respondents.**

# DIVISION OF ENFORCEMENT'S MOTION FOR PARTIAL SUMMARY DISPOSITION AGAINST RESPONDENTS JOSE F. CARRIO, DENNIS K. KARASIK, AND CARRIO, KARASIK & ASSOCIATES, LLP

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The Division of Enforcement ("Division") submits the following Motion for Summary Disposition Against Respondents Jose F. Carrio, Dennis K. Karasik, and Carrio, Karasik & Associates, LLP ("CKA," and, collectively with Carrio and Karasik, "Respondents").[1]

## I. Introduction

If it accepts Respondents' settlement offers, the Commission will issue orders (a) finding Respondents violated Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act"), (b) imposing cease-and-desist orders and industry and penny stock bars, and (c) finding that disgorgement is appropriate. Remaining for determination would be (a) the amount of disgorgement, (b) the amount of prejudgment interest, if any, and (c) the appropriateness of civil penalties and their amount. For purposes of those determinations, the orders' findings—identical to the allegations of the Order Instituting Proceedings ("OIP")—will be deemed true.

The stipulated facts and others submitted herewith show Respondents sold Diversified Energy Group, Inc.'s bonds for over two years. At the time, Carrio and CKA were not registered as brokers, and Karasik was associated with broker-dealers but sold the bonds without the firms' knowledge. Investors lost more than half their money after Diversified went out of business.

With respect to disgorgement and prejudgment interest, Respondents collectively earned approximately $435,000 in commissions for selling Diversified's bonds. Accordingly, disgorgement of that amount, plus approximately $40,000 in prejudgment interest, should be imposed against Respondents jointly and severally.

As for penalties, a single second-tier civil penalty of $75,000 should be imposed against each respondent. A second-tier penalty is appropriate because Carrio (a former registered representative) and Karasik (a registered representative at the time of the misconduct) acted

[1]The parties have agreed to submit the monetary relief issues by way of a motion for summary disposition. *See David B. Havanich, Jr.*, AP Rulings Release No. 2740, Order at 2 (May 29, 2015).

either deliberately or recklessly when they violated the registration requirement. This penalty is reasonable in the context of a multi-year violation resulting in significant investor losses. The proposed penalty is less than Respondents' pecuniary gain and is far less than the maximum that could be imposed if each sale were—as permitted by law—considered a separate violation.

## II. Statement of Facts

### A. Facts Deemed True for Purposes of the Monetary Relief Determination

#### 1. The Parties

Carrio is a resident of York, Pennsylvania and, along with Karasik, the co-founder and 50% owner of CKA, a limited liability partnership doing business in Baltimore County, Maryland. Carrio was neither registered as a broker-dealer nor associated with a registered broker-dealer during the relevant period. Between 1989 and 2006, in ascending order, Carrio was a registered representative of SEC-registered broker-dealers First Investors Corp., The Prudential Insurance Company of America, Pruco Securities Corp., Equity Services, Inc., and New England Securities. On April 1, 2014, the Securities Division of the Office of the Maryland Attorney General ("Maryland AG") issued a consent order against Carrio in connection with his offer and sale of Diversified's bonds, (a) ordering him to cease and desist from violating certain Maryland anti-fraud and registration statutes and pay a $1,499,315.87 penalty (which was waived based on inability to pay), and (b) permanently barring him from engaging in the securities or investment advisory business in Maryland. *In the Matter of Jose F. Carrio et al.* (Case No. 2012-0463).[2]

Karasik is a resident of Reisterstown, Maryland. Between 1984 and 2013, in ascending order, Karasik was a registered representative of SEC-registered broker-dealers NEL Equity Services Corp., MML Investors Services, Inc., VIP Financial Companies, Inc., Equity Services

[2]OIP §§ II.A.6-8.

Inc., New England Securities, Multi-Financial Securities Corp. ("MFSC"), and H. Beck, Inc. ("Beck"). Between 2009 and 2013, Karasik was an investment adviser representative of, and associated with, first MFSC and later Beck, both dually registered as broker-dealers and investment advisers. Karasik was also a party to the Maryland AG consent order and received the same sanctions and penalty waiver as Carrio. On July 8, 2014, by consent, FINRA barred Karasik from association with any FINRA member firm. *Dennis Keith Karasik*, Letter of Acceptance, Waiver and Consent, No. 2012034750401 (July 8, 2014).[3]

CKA is a limited liability partnership doing business in Baltimore County, Maryland. CKA states it is an independent financial services firm for wealth management issues. Carrio and Karasik each own 50% of CKA, which was not registered as a broker-dealer or an investment adviser during the relevant period. CKA was also a party to the Maryland AG consent order and received the same sanctions and waiver of penalty as Carrio and Karasik.[4]

**2. Respondents' Sale of Diversified Bonds**

In November 2009, Carrio entered into a Finders agreement with Diversified that paid him a 10% commission for each investor that purchased Diversified's bonds.[5] While Karasik and CKA did not enter into Finders agreements with Diversified, starting in December 2010, Carrio and CKA began equally sharing Diversified commissions.[6] Karasik received either all or a supermajority of the Diversified commissions paid to CKA.[7]

Between December 2009 and March 2012, Respondents recommended the bonds to CKA clients, provided prospective investors with offering documents, discussed the returns of the bond offerings with prospective investors, weighed in on the merits of the bond investment,

[3]OIP § II.A.7.
[4]OIP § II.A.8.
[5]OIP § II.F.2.a.
[6]OIP § II.F.2.b.
[7]*Id.*

provided and directed prospective investors to complete the paperwork necessary for an investment in the bonds, and, as to Karasik and CKA, handled investor funds.[8]

Respondents collectively received approximately $434,974 in transaction-based compensation for selling Diversified's bonds to approximately 40 investors.[9] Between December 2009 and March 2012, Carrio and CKA were neither registered as broker-dealers nor associated with a registered broker-dealer.[10] Between December 2010 and March 2012, Karasik's activities occurred without the knowledge of the broker-dealers with which he was then-associated.[11]

Based on the 10% commission rate, Respondents were responsible for investors purchasing approximately $4 million worth of Diversified's bonds. At the time these investments were made, Diversified was continuously losing greater and greater sums, and its survival depended on its ability to continue borrowing more and more money.[12] In April 2012, shortly after Diversified came under Commission scrutiny, it proposed a restructuring plan, whereby it would make monthly payments for 36 months, representing 57% of the debt (at a reduced interest rate), with a final balloon payment for the remaining 43%.[13] However, in July 2013, Diversified announced it could not complete the restructuring,[14] and in April 2014 Diversified was dissolved.[15]

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[8]OIP § II.F.2.a.
[9]OIP § II.F.2.d.
[10]OIP § II.F.2.e.
[11]OIP § II.F.2.f.
[12]OIP § II.G.1.a, II.G.1.c.
[13]Exh. 1 (Diversified Letter, Apr. 16, 2012).
[14]Exh. 2 (Diversified Letter, Undated). Based on the context, Diversifed sent the letter on or shortly after July 19, 2013.
[15]OIP § II.B.1.

The exact of amount of loss will vary by investor. Two of Respondents' investors suffered losses of, respectively 69% and 67%.[16]

### B. Additional Facts Pertaining to Karasik

As noted above, Karasik was involved in a FINRA enforcement proceeding relating to these events, and he signed a Letter of Acceptance, Waiver and Consent ("AWC") that provides that it "may be considered in any future actions brought by FINRA or any other regulator against me."[17] The AWC notes that at the time Karasik was selling Diversified bonds, he falsely denied involvement in private securities transactions in questionnaires he submitted to the brokerage firms he was associated with.[18] The AWC goes on to describe an episode in the Fall of 2012, when three customers sued Karasik in connection with the Diversified bonds. His employer prepared a Form U4 amendment for Karasik's review, and he commented, inaccurately, that he did not recommend Diversified bonds and had not been compensated.[19] Karasik subsequently made the same misstatement directly to FINRA.[20] Finally, Karasik falsely denied in FINRA testimony that he had promoted the Diversified bonds.[21]

## III. Disgorgement

Respondents have agreed that disgorgement is appropriate—the only issue is the amount and whether prejudgment interest should be imposed.

> Disgorgement is intended primarily to prevent unjust enrichment. Although the amount of disgorgement should include all gains flowing from the illegal activities, calculating that amount requires only a reasonable approximation of profits causally connected to the violation. Once the Division shows that its disgorgement figure

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[16]Exh. 3 (Declaration of Charles L. Brigermann, Aug. 28, 2014), ¶¶ 7, 10; Exh. 4 (Declaration of Ronald L. Bryant, Aug. 18, 2014), ¶¶ 8, 12. In the interest of brevity, we have attached only the text of the Bryant declaration and not the exhibits.
[17]Exh. 4 (Letter of Acceptance, Waiver and Consent signed June 27, 2014), § III.C.1.
[18]*Id.* § I, at p.3.
[19]*Id.*
[20]*Id.* at pp. 3-4.
[21]*Id.* at p.4.

> reasonably approximates the ill-gotten gains, the burden shifts to the respondent to demonstrate that the Division's estimate is not a reasonable approximation. Thus, exactitude is not a requirement; so long as the measure of disgorgement is reasonable, any risk of uncertainty should fall on the wrongdoer whose illegal conduct created that uncertainty.

*Ralph Calabro*, AP File No. 3-15015, 2015 WL 3439152, *44 (May 29, 2015) (Commission Opinion) (footnotes, quotations, and alterations omitted). Commissions received from unlawful sales can provide the required reasonable approximation of a respondent's ill-gotten gains. *Id.* at *44, *45. Business expenses incurred in connection with the commissions are not properly offset against the disgorgement amount. *Id.* at 44 n.233. Persons or entities who collaborate or have a close relationship in connection with the violation are appropriately held jointly and severally liable for disgorgement. *S.W. Hatfield, CPA*, AP File No. 3-15012, 2014 WL 6850921, *11 & n.60 (Dec. 14, 2014) (Commission Opinion).

Prejudgment interest should ordinarily be awarded on the disgorgement amount, "except in the most unique and compelling circumstances . . . in order to deny a wrongdoer the equivalent of an interest free loan from the wrongdoer's victims." *Terence Michael Coxon*, AP File No. 3-9218, 2003 WL 21991359, at *14 (Aug. 21, 2003) (Commission Opinion)), *aff'd*, 137 F. App'x 975 (9th Cir. 2005). Prejudgment interest should be calculated using the delinquent tax rate established by the Internal Revenue Service, 26 U.S.C. § 6621(a)(2), and assessed on a quarterly basis.

Here, because Respondents "collectively received approximately $434,974 in transaction-based compensation for selling Diversified's bonds,"[22] disgorgement in that amount should be imposed against them, jointly and severally. Moreover, there are no "unique and compelling

[22]OIP §§ II.F.2.c, II.F.2.d.

circumstances" counseling against an award of prejudgment interest, which, for the period April 1, 2012 through April 30, 2015, comes to $39,613.17.[23]

## IV. Civil Penalties

Civil penalties "are intended to punish, and label defendants wrongdoers." *Gabelli v. SEC*, 133 S. Ct. 1216, 1223 (2013). Penalties also serve to deter both the violator and "others in similar positions from engaging in future violations." *John P. Flannery*, AP File No. 3-14081, 2014 WL 7145625, *41 (Dec. 15, 2014) (Commission Opinion), *petitions for review filed*, No. 15-1080 (1st Cir. Jan. 14, 2015). Section 21B of the Exchange Act establishes a tiered system of penalties. *See* 15 U.S.C. § 78u-2(b). Under the first tier, the maximum penalties per violation are $7,500 for a natural person and $75,000 for an entity. *See* 17 C.F.R. § 201.1005.[24] Under the second tier, which requires a showing of, as pertinent here, a "deliberate or reckless disregard of a regulatory requirement," the penalties for an individual and an entity are, respectively, $75,000 and $375,000. *See* 15 U.S.C. § 78u-2(b)(2); 17 C.F.R. § 201.1005.[25]

Under Section 21B a penalty can be imposed for "each act or omission" constituting a violation, 15 U.S.C. § 78u-2(b), so in a case involving an Exchange Act Section 15(a)(1) violation, the maximum total penalty would be the highest penalty for the applicable tier multiplied by the number of transactions "effected," "induced" or "attempted to [be] induced," 15 U.S.C. § 78o(a)(1); *see Eric J. Brown*, AP File No. 3-13532, 2012 WL 625874, *17 & n.59 (Feb. 27, 2012) (Commission Opinion) ("Regarding the number of 'acts or omissions' against which to

[23]Exh. 6 (prejudgment interest report). This calculation (a) starts the running of interest in the 2nd Quarter of 2012, since Respondents last received commissions in March 2012, and (b) stops the running of interest in the 1st Quarter of 2015, in light of the tentative settlement reached in May 2015.

[24]Under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, the statutory penalty amounts are adjusted to account for inflation, based on violation dates. 17 C.F.R. §§ 201.1001-1004, Tbl. II-IV to Subpt. E. The amounts set forth in the text apply because the violations occurred after the adjustment date of March 3, 2009 but before the adjustments that took place in March 2013. *See* 17 C.F.R. § 201.1004, Tbl. IV to Subpt.

[25]The Division does not seek third-tier penalties against Respondents.

apply the maximum second-tier penalty, we believe that imposing a penalty for each defrauded customer is appropriate."); *see also SEC v. Pentagon Capital Management*, 725 F.3d 279, 288 n.7 (2d Cir. 2013) ("[W]e find no error in the district court's methodology for calculating the maximum penalty by counting each late trade as a separate violation."); *SEC v. Lazare Indus., Inc.*, 294 Fed. App'x 711, 715 (3d Cir. 2008) (unpublished) (affirming imposition of $500,000 civil penalty because the statutes "provide for a maximum penalty of $100,000 for individuals for *each* violation (i.e., each of Harley's at least 54 sales of stock)") (emphasis in original); *CFTC v. Levy*, 541 F.3d 1102, 1111 (11th Cir. 2008) (holding, where regulation authorized $120,000 civil penalty "for each such violation," that "after finding that Levy had committed at least five violations of the Commodity and Exchange Act, the district court properly multiplied the maximum civil penalty of $120,000 by five").

In assessing the appropriate penalty, the Commission considers "whether there was fraudulent misconduct; harm to others or unjust enrichment, taking into account any restitution; whether the respondent had previous violations; the need for deterrence of such persons; and such other matters as justice may require." *Montford & Co., Inc.*, AP File No. 3-14536, 2014 WL 1744130, *24 (May 2, 2014) (Commission Opinion); *see* 15 U.S.C. § 78u-2(c) (statutory factors).

In this case, a second-tier civil penalty is appropriate. As an initial matter, the Division has satisfied its light burden of establishing willfulness. *See Francis V. Lorenzo*, AP File No. 3-15211, 2015 WL 1927763, *12 (Apr. 29, 2015) (Commission Opinion) ("[A] willful violation . . . simply means that the person charged with the duty knows what he is doing. It is sufficient that the actor intentionally or voluntarily committed the act that constitutes the violation; he need not also be aware that he is violating one of the securities law or rules promulgated thereunder.") (footnotes, alterations, and quotations omitted); *Kenneth C. Meissner*,

AP File No. 3-16175, 2015 WL 1534398, *8 (Apr. 7, 2015) (Initial Decision) ("[Unregistered broker's] actions were unquestionably willful because he affirmatively acted as a broker by, for example, submitting orders, finding investors, and handling investor funds.").

A second-tier penalty is appropriate because Respondents acted in either intentional or reckless disregard of the registration requirement. Carrio had been a registered representative for seventeen years and had to have known of the registration requirement. Karasik was a registered representative at the time and clearly knew that he could only sell securities consistent with the rules of the broker-dealers with which he was affiliated—why else misrepresent his activities to these firms?[26] Carrio and Karasik's knowledge is imputed to CKA, *Ronald S. Bloomfield*, AP File No. 3-13871, 2014 WL 768828, *16 & n.84 (Feb. 27, 2014) (Commission Opinion), and therefore the requirement of deliberate or reckless disregard of a regulatory requirement is satisfied.

The amount of the penalty the Division is seeking, a single $75,000 penalty as to each respondent, is appropriate here. Registration violations—even "standalone" violations where fraud is not alleged—are serious, and warrant a significant penalty. Respondents' conduct occurred over an extended period resulting in millions invested. Investors suffered losses when Diversified could not pay the bonds in full. The violations are relatively recent, and, as described above, were committed at least recklessly. While Respondents are being barred from the industry, they were able to commit their current violation either without or outside the scope of such an association, and a penalty would deter future violations by Respondents and others. While ability to pay is potentially a factor, as yet, Respondents have not submitted financial information, and, in any event, ability to pay "may be considered, but it is only one factor. Considering it is also discretionary . . . ." *Johnny Clifton*, AP File No. 3-14266, 2013 WL

[26]It has long been established that a registered representative who sells securities outside the scope of his employment—a practice known as "selling away"—violates Exchange Act Section 15(a)(1). *See Roth v. SEC*, 22 F.3d 1108, 1109-10 (D.C. Cir. 1994).

3487076, *16 n.116 (July 12, 2013) (Commission Opinion). Finally the penalty the Division is seeking is significantly less than Respondents' pecuniary gain and the amount that could be imposed if the penalty were calculated on a per-sale basis. *See Kenneth C. Meissner*, AP File No. 3-16175, 2014 WL 7330318, *5 (Dec. 23, 2014) (settled order finding violation of Exchange Act Section 15(a) and imposing $48,000 civil penalty, the approximate amount of commissions respondent received); *see also id.*, 2015 WL 1534398, *11-12 (Apr. 7, 2015) (Initial Decision) (finding second-tier penalty appropriate for registration violation but declining to impose due to inability to pay).

## CONCLUSION

For the reasons set forth above, the Division requests that its Motion for Summary Disposition be granted, and the following relief be imposed:

(a) disgorgement of $434,974, together with prejudgment interest of $39,613.17, to be imposed against Respondents jointly and severally; and

(b) a second-tier penalty of $75,000 against each respondent.

June 15, 2015

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that an original and three copies of the foregoing were filed with the Securities and Exchange Commission, Office of the Secretary, 100 F Street, N.E., Washington, D.C. 20549-9303, and that a true and correct copy of the foregoing has been served by U.S. Mail, on this 15th day of June 2015, on the following persons entitled to notice:

The Honorable Carol Fox Foelak
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

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FOR

Andrew O. Schiff, Esq.

# Diversified Energy Group, Inc

April 16, 2012

*Via Express United States Mail*

Ronald L Bryant

[redacted]

Re: ***Proposed Restructuring Plan for Debtholders***

Dear Ronald L Bryant,

On or about March 15, 2012, Diversified Energy Group, Inc. ("Company") received a letter (the "SEC Letter") and a Subpoena Duces Tecum ("SEC Subpoena") dated March 14, 2012 from the United States Securities and Exchange Commission ("SEC"). A copy of the SEC Letter and the SEC Subpoena are attached for your reference. Upon information and belief, the SEC is conducting an investigation *In the Matter of Diversified Energy Group, Inc.*, File No. FL-3747 to determine, among other things, whether any persons or entities have engaged in possible violations of the federal securities laws in connection with the offer, sale, and/or purchase of the securities of the Company. Specifically, the SEC Letter provides, in relevant part, that:

> "This investigation is a non-public, fact-finding inquiry. We are trying to determine whether there have been any violations of the federal securities laws. The investigation and the subpoena do not mean that we have concluded that you or anyone else has broken the law. Also, the investigation does not mean that we have a negative opinion of any person, entity or security."

*See* SEC Letter at Page 3.

Shortly before receiving the SEC Letter and the SEC Subpoena, the Company learned that the SEC had interviewed certain debtholders in the Company's securities. Thereafter, the Company retained SEC litigation counsel. SEC litigation counsel commenced a Company initiated internal review of the matter. While the internal review of this matter was underway, the Company received the SEC Letter and SEC Subpoena. After receiving the SEC Letter and the SEC Subpoena, the Company accelerated its internal review and, upon the advice of SEC litigation counsel, retained reorganization counsel and new transactional securities counsel to work in conjunction with the Company's SEC litigation counsel in addressing the potential issues arising out of the SEC investigation in an expeditious fashion.

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In the abundance of caution and upon the advice of SEC litigation counsel, the Company determined that it was appropriate to cease all securities offering activities effective in March 2012 to preserve the status *quo*. Hence, the return of certain of your debtholder funds in March and April 2012.

Please note that at all relevant times during the time periods that the Company offered and sold its securities prior to March 2012, it relied, in good faith, upon the legal advice of its original transactional securities counsel to ensure that the Company was in compliance with, among other things, the federal securities laws. Indeed, the original transactional securities counsel for the Company, among other things, prepared private placement memoranda and other offering materials utilized in connection with the offer and sale of the Company from inception of the first offering of its securities until the final offering of its securities. Thus, the Company reasonably believed, in good faith, that it was in compliance with the federal securities laws during the time periods that it offered its securities for sale to debtholders and investors. Obviously, the SEC investigation has caused the Company to revisit those offering activities through newly retained counsel and to undertake precautionary steps designed to maximize the return of debtholder funds in a fair and equitable fashion.

Accordingly, after careful consideration and due deliberation, the Company has further determined that it is necessary and appropriate to implement a restructuring plan (the "Restructuring Plan") designed to satisfy the current outstanding debt through monthly payments of principal and interest at a reduced rate of 4% percent per annum of the unpaid principal balance over the next thirty-six (36) months. The critical features of the Restructuring Plan are as follows:

- 36 Month Repayment Schedule
- 4% Annual Interest Rate
- Equal monthly payments of Principal and Interest comprising 57% of current outstanding debt
- Debtholders will receive payments on a *pro rata* basis
- Final balloon payment of Principal comprising 43% of current outstanding debt at the close of the 36 Month payout period
- Goal is to achieve full satisfaction at the close of the 36 Month payout period where each debtholder receives a return of 100% of principal plus interest over the life of the workout period

The Restructuring Plan is dependent upon, among other things, the financial condition of the Company, achieving projected revenue targets, market conditions, and implementing cost containment measures such as, among other things, reducing interest expense, eliminating payments of selling/offering expenses, equalizing the payment of principal and interest, and harmonizing the maturity dates of debt obligations. Thus, no definitive assurances can be made that the Restructuring Plan will be successful.

The Company has explored conducting a variety of alternative options before deciding to proceed with the Restructuring Plan outlined herein, including, but not limited to, assignment of assets for the benefit of creditors, full liquidation of assets, receivership, and bankruptcy. If the Company were placed into a forced liquidation at this time regardless of the mechanism, the Company believes that debtholders would not receive a full return of the principal and would suffer a substantial loss. Accordingly, the Company believes that the implementation of the Restructuring Plan provides the debtholder with the greatest opportunity to recover the entire amount of principal invested with the Company. A proposed payout chart is included with this letter to show you what you can expect to receive each month if the Restructuring Plan is successful subject to the conditions set forth above. As you are aware, the Company has never defaulted on the repayment of principal or interest to bondholders since inception and the Company intends to manage the Restructuring Plan with a view toward avoiding unnecessary debtholder losses. To that end, enclosed you will find your first monthly check{s} of principal and interest pursuant to the Restructuring Plan.

In the interest of reducing expense to the Company and to maximize potential distributions to debtholders, all communications to the Company should be made in writing. We are currently in the process of creating a **"Restructuring Plan" Tab on our Web Page** at www.degoil.com which should be operational in the very near future. In addition, you will be receiving an update report at least once every thirty (30) days from the Company informing you of the status of the Restructuring Plan.

Finally, please be advised that neither the Company, nor its legal counsel, can give you legal advice concerning this matter.

Sincerely,

DIVERSIFIED ENERGY GROUP, INC.

By: _____
David B. Havanich, Jr.
As Its President

Enclosures:

1. SEC Letter dated March 14, 2012;
2. SEC Subpoena Duces Tecum dated March 14, 2012; and
3. Proposed Payout Schedule Pursuant to Restructuring Plan for Debtholders; and
4. Monthly Principal and Interest Check{s}.

# Diversified Energy Group, Inc

*Via USPS First Class Mail*

Anita Frances
[redacted]

Re: *Restructuring Plan for Debt Holders*

Dear Anita,

Since April 2012 the Company has been implementing its Restructuring Plan. As we previously informed you, although we have been unable to provide you with any assurance that the Restructuring Plan will ultimately be successful, the Company's goal has been to achieve full satisfaction at the close of a thirty six month payout period where each debtholder would receive a return of 100% of principal and interest over the life of the workout period.

As indicated in our letter to you dated April 16, 2012, the Restructuring Plan has been dependent on factors including but not limited to market conditions and the Company achieving projected revenue targets. We wish to assure you that we have worked diligently attempting to complete the Restructuring Plan as originally contemplated. Those efforts allowed the Company to make timely payments to all debtholders for fifteen months. Despite our efforts, however, within the past month circumstances beyond the Company's control, including specifically market conditions, have made it impossible to complete the Restructuring Plan as originally contemplated.

Accordingly, on July 19, 2013 the Company's Directors determined that the Company will be unable to return 100% of your principal and interest and after careful consideration and due deliberation decided to commence the process of selling all of the Company's assets. While we are not yet able to quantify the shortfall, we know that unfortunately you will suffer a loss on your investment.

It is impossible to predict the exact amount which you will ultimately receive or the timeline on which you will receive it. However, we have already listed for sale our office building and are in the process of preparing marketing packages for the sale of our oil and gas assets. The sale of these assets will occur in a staggered process and will occur through a bidding process/auction which will be conducted online by an entity engaged in the business of selling such assets. Also, as part of the process, our reorganization counsel has established an escrow account into which all proceeds from the sale of our assets will be deposited. Our goal is to sell the assets in a commercially reasonable manner designed to reduce your loss while completing this process expeditiously and ensuring that all debtholders are treated equally.

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We are not intending to conduct a formal liquidation under the Bankruptcy Code or otherwise. We believe that doing so would result in greater expenses to the Company, and accordingly a lower payout to you. Due to this, we ask for your continued patience as we complete this process.

The Company's efforts to comply with subpoenas issued by the United States Securities and Exchange Commission in In the Matter of Diversified Energy Group, Inc., File No. FL-3747 are ongoing in nature. From time to time, the Company receives similar subpoenas, inquiries and informational requests from other regulators. The Company, through its counsel, will continue to respond to such subpoenas, inquiries and requests as the need arises. Please note that, to date, no charges have been made against the Company or any of its officers or directors. The Company's officers and directors continue to believe in the rightfulness of their good faith reliance on the legal advice of its original securities counsel.

In addition, from time to time, the Company has received and/or may receive inquiries, requests, complaints, or legal process from debtholders and other third persons. The Company, through its counsel, will respond to such matters as the need arises and with a view towards minimizing the adverse impact on the Company's ability to sell its assets and distribute the proceeds in a manner which treats all debtholders equally. Please be aware that, if the need arises, we will defend against efforts designed to capture a greater than pro rata payout.

In the interest of reducing expense and to maximize potential distributions to debtholders, all communications to the Company should be made in writing. You will be receiving an update report at least once every thirty (30) days from the Company informing you of the status of the sale of its assets.

Please be advised that neither the Company, nor its legal counsel, can give you legal advice concerning this matter.

Sincerely,

DIVERSIFIED ENERGY GROUP, INC.

By: _____

David B. Havanich, Jr.

As Its President

## DECLARATION OF CHARLES BRIGERMANN

Pursuant to 28 U.S.C. § 1746, the undersigned states as follows:

1. My name is Charles L. Brigermann. I am over the age of 21 and have personal knowledge of the matters set forth herein. [redacted]

[redacted]

2. I first met Dennis Keith Karasik ("Karasik") after responding to an advertisement I received in the mail from him regarding investing. After contacting Karasik, he invited me to dinner and we discussed various investment opportunities. I did not make any investments through Karasik at that time.

3. Once I was ready to make an investment, I reached out to Karasik again and met with him and Lauretta. Lauretta appeared to be his apprentice and acted more as an observer and did not provide me with any investment advice. At that meeting, I told Karasik that I had funds I was ready to invest, was not interested in anything risky, and wanted a conservative investment. Karasik provided me with a ~~handwritten~~ printed graph that demonstrated a risk scale from low to high of the risks involved in various investment products. Karasik illustrated to me that while the Diversified Energy Group, Inc. ("Diversified") bond investment had some risk, it carried minimal risk. Karasik told me that Diversified had a good track record and had no problems making payments to investors in the past. He also stated that Diversified had so many assets, that even if anything went wrong, the company could liquidate those assets and make me whole. These representations by Karasik led me to believe that the Diversified bond investment was a safe investment.

4. Prior to my investment in Diversified, Karasik also provided and reviewed literature with me regarding Diversified's business and assets. I recall seeing an October 6, 2011 document

titled Confidential Information Memorandum that contained several pages of information regarding individual wells including the number of barrels of oil in each well. Seeing this information, I felt that I was provided with a "security blanket." Based on the information in the Confidential Information Memorandum, I believed that Diversified's principals were experts in the oil and gas industry and had internal experts. I relied heavily on the information in the Confidential Information Memorandum in making my investment decision. Karasik also provided me with a brochure titled Diversified Energy Group Corporate Bond Program Series 2012A but I do not recall him going over it with me as it was more of an overview of what an investor could expect to receive based on the amount invested. In addition, Karasik showed me information about Diversified's hedge account.

5. Prior to my investment with Diversified, Karasik provided me with the paperwork I believed to be necessary for the investment in the bonds. Karasik completed the majority of that paperwork except for my signature and the portion of the paperwork reserved for Diversified's representatives.

6. At the time of my investment with Diversified, my net worth was approximately $100,000 and if I included the value of my home it was approximately $750,000. My income was less than $200,000 in the two most recent years prior to my investment.

7. In February 2012, I provided Karasik with a check for my $10,000 investment in Diversified.

8. I never received a profit and loss statement from Karasik or anyone at Diversified. If I had known that since Diversified's first offering of securities its expenses exceeded its income and its losses only grew larger each year, I would not have purchased the Diversified bond.

9. When I initially received Diversified's letter concerning its restructuring plans, I contacted Karasik and he told me that he would look into it and get back to me. He never got back to me. When I later saw him at a conference, Karasik told me that he did not know any more about the situation than what the letter provided.

10. To date, Diversified has not returned to me the balance of my principal due in the amount of approximately $6,902.54.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Charles L. Brigermann

Executed on this 28th day of August, 2014

# DECLARATION OF RONALD L. BRYANT

Pursuant to 28 U.S.C. § 1746, the undersigned states as follows:

1. My name is Ronald L. Bryant. I am over the age of 21 and have personal knowledge of the matters set forth herein. I reside at [redacted]

2. I have known Jose Francisco Carrio ("Carrio") and Dennis Keith Karasik ("Karasik") since the early 2000s. I first met with Carrio and Karasik to discuss personal investment options. At that time, I was also the owner of an electrical contracting company and one of the trustees of a profit sharing plan and trust for the benefit of the employees of that company. Eventually Carrio and Karasik became what I believed to be my personal and the profit sharing plan and trust's advisors. I assumed that both Carrio and Karasik were my investment advisors as they both worked for the same firm, Carrio, Karasik, & Associates, LLP, and always met with me together.

3. In 2010, I told Carrio and Karasik that I wanted to invest in a product that provided a fixed rate of return and Carrio and Karasik recommended the Diversified bond to me. Carrio and Karasik provided the sales pitch to me concerning Diversified. They both discussed the Diversified bond investment with me and told me that Diversified was involved in oil, cattle, and commodities. Neither Carrio nor Karasik discussed with me the risks involved with purchasing the bonds.

4. Prior to my investment with Diversified, Carrio and Karasik provided me with a private placement memorandum, business plan, and brochure related to Diversified. I did not read any of the documents prior to my investment in Diversified. Attached hereto as Composite Exhibit 1 are true, correct, and authentic copies of those documents. Prior to my investment with Diversified, Carrio and Karasik also provided me with the Diversified paperwork I believed to be

necessary for the investment in the bonds. Carrio and Karasik completed that paperwork and I was only required to sign. Attached hereto as Exhibit 2 is a true, correct, and authentic copy of that paperwork. Carrio and Karasik also prepared Sterling Trust paperwork that I believed to be necessary for the investment in the bonds.

5. In October 2010, I personally invested $99,400 in Diversified with funds from my IRA account with Sterling.

6. In October 2011, after my initial investment matured, I reinvested $99,400 in Diversified.

7. Prior to my reinvestment with Diversified, Carrio and Karasik also provided me with the Diversified paperwork I believed to be necessary for my reinvestment in the bonds. Carrio and Karasik completed that paperwork and I was only required to sign. Carrio and Karasik also prepared Sterling Trust paperwork that I believed to be necessary for my reinvestment in the bonds.

8. I sold my electrical contracting company in 2009 but remained on as a consultant and one of the trustees for the profit sharing plan and trust. In March 2012, the profit sharing plan and trust invested $100,000 in Diversified. Prior to the profit sharing plan and trust's investment in Diversified, Carrio and Karasik provided me with the Diversified paperwork I believed to be necessary for the profit sharing plan and trust's investment in Diversified. Carrio and Karasik completed that paperwork and I was only required to sign.

9. I never received any financial statements related to Diversified from Carrio, Karasik, or Diversified and did not speak with any of Diversified's principals or employees prior to my and the profit sharing plan and trust's investments in Diversified.

10. If I had known that since Diversified's first offering of securities its expenses exceeded its income and its losses only grew larger each year, I would not have purchased a Diversified bond for myself or for the profit sharing plan and trust.

11. When I initially received Diversified's letter concerning its restructuring plans, I contacted Carrio and Karasik but they did not offer me an explanation as to what caused Diversified's problems. They advised me to send Diversified a letter rejecting its proposed restructuring plan and emailed me a form letter. I did not use their form letter but instead drafted and set my own letter to Diversified rejecting its proposed restructuring plan.

12. To date, the profit sharing plan and trust and I have each received approximately a $43,000 return of our principal investment, respectively.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Ronald L. Bryant

Executed on this 18th day of August, 2014

**FINANCIAL INDUSTRY REGULATORY AUTHORITY**
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**
**NO. 2012034750401**

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

RE: Dennis Keith Karasik, Respondent
Registered Representative
CRD No. 1227463

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I 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 me alleging violations based on the same factual findings described herein.

## I.

## ACCEPTANCE AND CONSENT

A. I 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

Karasik was employed by seven firms in the securities industry from 1986 through February 27, 2013. During the times relevant to this matter, he was registered with Multi-Financial Securities Corp. (until Dec. 31, 2011), and with H. Beck, Inc. (from January 5, 2012 until February 27, 2013). Karasik maintained his office in Parkton, Maryland. He was dismissed by H. Beck for the conduct underlying this matter. Karasik held Series 7 and Series 66 securities licenses. Karasik was also a partner, along with another individual, in an independent financial services business, Carrio, Karasik & Associates (CKA).

### RELEVANT DISCIPLINARY HISTORY

None.

## OVERVIEW

From December 2010 to March 2012, Karasik participated in private securities transactions without providing prior written notice to the two firms with which he was associated. Specifically, Karasik participated in the offer and sale of bonds issued by Diversified Energy Group, Inc. (DEG), a domestic energy company, and received finder's fees from DEG as a result of these sales. Karasik failed to provide the notice required under NASD Rule 3040 to his employing firms, and falsely certified to one firm that he had not engaged in any private securities transactions without first receiving approval from the firm.

Karasik also provided false information to FINRA in response to a request for information and in testimony. Karasik submitted a letter to FINRA in response to a Rule 8210 request in which he asserted that he did not recommend the purchase of DEG bonds and did not receive any compensation for sales of DEG bonds. He provided the same false information to H. Beck in response to inquiries about a lawsuit filed against him by a customer who had purchased DEG bonds. The firm included the false information on Karasik's amended Form U4. In testimony before FINRA, Karasik falsely denied that he had been involved in sales of DEG bonds and had received compensation for those sales from DEG.

## FACTS AND VIOLATIVE CONDUCT

### Karasik's Sale of DEG Bonds

DEG is a Florida-based energy company involved in developing domestic oil and gas reserves in the United States. It has raised funds through private placement offerings of corporate bonds to accredited investors. In April 2012, DEG implemented a debt restructuring plan which significantly reduced the interest rate and extended the repayment timeline for the bonds.

Between January 2010 and March 2012, Karasik and his partner in CKA participated in the sale of more than $3.2 million of DEG bonds to at least 25 investors, some of whom were also his brokerage customers. Karasik told many of the investors about DEG and discussed the benefits and features of the bonds with them. Karasik was compensated for his role in these sales through the payment of a finder's fee, which was paid to CKA.

Karasik and his partner set up their arrangement with DEG in a manner that hid Karasik's participation in, and compensation for, the sales. Karasik's partner entered into a formal selling agreement with DEG without identifying Karasik as a seller. Beginning in November 2010, Karasik's partner directed DEG to pay 50% of the finder's fees they generated to himself personally, and 50% to CKA. Karasik personally withdrew most of the DEG proceeds deposited into the CKA bank account – more than $115,000 – by writing checks to himself, often a day or two after the deposit by DEG.

Non-disclosure and Inaccurate Disclosure of Karasik's Outside Activities

NASD Rule 3040 requires an associated person to provide his or her employer with written notice of private securities transactions before participating in any manner in those transactions. If, as here, the associated person is being compensated for the transactions, the associated person may not engage in the transactions unless and until the employer gives its prior approval in writing.

Karasik failed to disclose his participation in the sales of DEG bonds to either of the firms with which he was registered when he sold those bonds, Multi-Financial Securities and H. Beck. By failing to do so, he violated NASD Rule 3040 and FINRA Rule 2010. In addition, he falsely answered "No" on his 2010 and 2011 Multi-Financial Securities Annual Business Questionnaire to the question asking whether he had engaged in private securities transactions (including introducing, discussing, contacting, or referring clients or prospects to third parties seeking investors) without receiving prior written approval. By doing so, Karasik violated FINRA Conduct Rule 2010.

Karasik also failed to provide accurate information to H. Beck regarding CKA. He portrayed CKA on an Outside Business Activity Disclosure Form as not being investment related. However, as depicted in publicly-available marketing materials, CKA provided various investment-related services. By providing false information about CKA to his firm and concealing its investment-related nature, Karasik violated FINRA Rule 2010.

False Responses to Inquiries

In October 2012, a lawsuit was filed against Karasik by three customers who had purchased DEG bonds on Karasik's recommendation. The customers alleged that Karasik made unsuitable recommendations of DEG and engaged in private securities transactions. H. Beck sent Karasik a draft Form U4 amendment to disclose the lawsuit, and asked Karasik to respond with his comments. Karasik provided a response inaccurately stating that he "did not make the recommendation nor was I compensated." H. Beck amended Karasik's Form U4 on October 25, 2012, and included this response. However, the information was false. Karasik had recommended the purchase of the bonds and had been paid a finder's fee in connection with the transaction. By providing false information to H. Beck, Karasik violated FINRA Rule 2010.

On November 16, 2012, FINRA requested, pursuant to FINRA Rule 8210, a signed statement from Karasik addressing allegations by three individuals of unsuitable recommendations, misrepresentations, and negligence in the sale of DEG bonds. By letter dated November 27, 2012 to FINRA, Karasik stated that he "did not make the recommendation nor did I receive any compensation." This information was false. In fact, Karasik had recommended that these individuals

purchase DEG bonds, and he received compensation in the form of finder's fees from DEG after these individuals purchased the bonds. By responding falsely to the staff's inquiry, Karasik violated FINRA Rules 8210 and 2010.

Karasik also provided false testimony to FINRA about his role in the sales of the DEG bonds and his receipt of compensation from DEG. In testimony, Karasik falsely denied promoting the bonds to potential investors, denied preparing paperwork or assisting in the preparation of paperwork for bond investments, and denied providing materials about the bonds to customers. By providing false testimony, Karasik violated FINRA Rules 8210 and 2010.

B. I also consent to the imposition of the following sanction: a bar from association with any FINRA member.

Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

## II.

## WAIVER OF PROCEDURAL RIGHTS

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

A. To have a Complaint issued specifying the allegations against me;

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, I specifically and voluntarily waive any right to claim bias or prejudgment of the Chief Legal Officer, 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.

I 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

I 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 me; and

C. If accepted:

1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;

2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my 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. I 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. I 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 my: (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.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have 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 me [the Firm] to submit it.

6-27-14
Date

Respondent

Reviewed by:

Cornelius Carmody
Counsel for Respondent
Hereford Center, Suite 201
1940 York Road
Monkton, MD 21111

Accepted by FINRA:

July 3, 2014
Date

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

Jonathan Golomb
Senior Special Counsel
FINRA Department of Enforcement
15200 Omega Drive
Rockville, MD 20850

# U.S. Securities and Exchange Commission

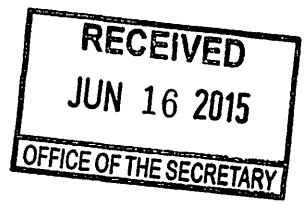
## Division of Enforcement

## Prejudgment Interest Report

### Carrio, Karasik, CKA/AP File No.3-16354

| Quarter Range | Annual Rate | Period Rate | Quarter Interest | Principal+Interest |
|---|---|---|---|---|
| Violation Amount | | | | $434,974.00 |
| 05/01/2012-06/30/2012 | 3% | 0.5% | $2,174.87 | $437,148.87 |
| 07/01/2012-09/30/2012 | 3% | 0.75% | $3,296.53 | $440,445.40 |
| 10/01/2012-12/31/2012 | 3% | 0.75% | $3,321.39 | $443,766.79 |
| 01/01/2013-03/31/2013 | 3% | 0.74% | $3,282.66 | $447,049.45 |
| 04/01/2013-06/30/2013 | 3% | 0.75% | $3,343.68 | $450,393.13 |
| 07/01/2013-09/30/2013 | 3% | 0.76% | $3,405.71 | $453,798.84 |
| 10/01/2013-12/31/2013 | 3% | 0.76% | $3,431.47 | $457,230.31 |
| 01/01/2014-03/31/2014 | 3% | 0.74% | $3,382.25 | $460,612.56 |
| 04/01/2014-06/30/2014 | 3% | 0.75% | $3,445.13 | $464,057.69 |
| 07/01/2014-09/30/2014 | 3% | 0.76% | $3,509.04 | $467,566.73 |
| 10/01/2014-12/31/2014 | 3% | 0.76% | $3,535.57 | $471,102.30 |
| 01/01/2015-03/31/2015 | 3% | 0.74% | $3,484.87 | $474,587.17 |

| Prejudgment Violation Range | Quarter Interest Total | Prejudgment Total |
|---|---|---|
| **05/01/2012-03/31/2015** | **$39,613.17** | **$474,587.17** |




# Office Memorandum

**SECURITIES AND EXCHANGE COMMISSION**

**Miami Regional Office**

DATE: June 15, 2015

TO: OFFICE OF THE SECRETARY

FROM: Andrew Schiff, Esq.
By: Jessica Benitez-Perellada, Paralegal

RE: **In the Matter of the Havanich, et al.**
**Adm. Proceeding No. 3-16354**

Enclosed please find the original and three copies of the Division of Enforcement's Motion for Partial Summary Disposition against Respondents Jose F. Carrio, Dennis K. Karasik, and Carrio, Karasik & Associates, LLP.

Thank you.