UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16463

In the Matter of	
AEGIS CAPITAL, LLC CIRCLE ONE WEALTH MANAGEMENT, LLC DIANE W. LAMM STRATEGIC CONSULTING ADVISORS, LLC and DAVID I. OSUNKWO	
Respondents.	

RESPONDENTS STRATEGIC CONSULTING ADVISORS, LLC AND DAVID I. OSUNKWO'S MOTION TO SEVER

Pursuant to Rule 201(b) of the Commission's Rules of Practice Respondents Strategic Consulting Advisors, LLC ("Strategic Consulting") and David I. Osunkwo ("Osunkwo") (collectively the "Moving Respondents") respectfully submit this motion to sever the causes of action against them from the other named respondents.[1]

I. Preliminary Statement

Osunkwo, an experienced independent compliance officer and Strategic Consulting, a firm Osunkwo provides compliance consulting services through, move to sever the causes of action against them from the other named respondents. Osunkwo and Strategic Consulting make

[1] Rule 201(b) of the Commission's Rules of Practice requires that a motion to sever be made solely to the Commission.

this motion to sever because the administrative proceedings in this matter have been stayed indefinitely as to all respondents at the request of the US Attorney's Office of the Eastern District of New York (the "USAO"). The USAO's request for a stay was made because one of the named respondents herein (Diane Lamm) is also a defendant in a criminal case that is pending in the Eastern District of New York (the "Lamm Criminal Case"). Osunkwo and Strategic Consulting request that the administrative proceedings with respect to them move forward immediately because the pending administrative proceedings have made it impossible for Osunkwo to earn a living as a compliance consultant and it is patently unfair to have the proceedings stayed indefinitely due to Lamm's unrelated conduct.

In addition, this matter as it concerns Strategic Consulting and Osunkwo is more appropriately heard in federal court than it is in an Administrative Proceeding under the considerations announced on May 8, 2015 by the Division of Enforcement, United States Securities and Exchange Commission. One of the considerations states "[i]f a contested matter is likely to raise unsettled and complex legal issues under the federal securities laws, or interpretation of the Commission's rules, consideration should be given to whether, in light of the Commission's expertise concerning those matters, obtaining a Commission decision on such issues, subject to appellate review in the federal courts, may facilitate development of the law." The liability of Chief Compliance Officers for the alleged compliance failures of their firms and the scope of Investment Advisers Act Rule 206(4)-7, is a developing area of the law that is in need of, and currently undergoing, clarification by the federal courts. Because the case against the Moving Respondents raises unsettled and complex legal issues of federal law and the Commission would not have an inherent expertise in the interpretation of Rule 206(4)-7 it should be heard in federal court.

Factual Background.

Respondent Osunkwo, through Respondent Strategic Consulting, provided investment advisory compliance services as a consultant to Respondents Aegis Capital, LLC ("Aegis") and Circle One Wealth Management, LLC ("Circle One Wealth"). Respondent Diane Lamm was the Chief Operating Officer for Aegis and Circle One Wealth. The Order Instituting Proceedings ("OIP") alleges that Aegis overstated its assets under management and the number of accounts it managed and that Osunkwo forged the signature of Circle One Wealth's Chief Investment Officer on its 2010 Form ADV (filed with the SEC in the March/April 2011 period). The OIP also alleges Osunkwo and Strategic Consulting caused violations of Section 204 of the Advisers Act of 1940 (the "Advisers Act") and Rule 204-1(a)(1) and to have violated Section 207 of the Advisers Act,

Osunkwo and Strategic Consulting are in no way involved in the Lamm Criminal Case and they are not mentioned at all in the Lamm Indictment. In addition, the allegations against Lamm in the Lamm Criminal Case involve conduct by Lamm that is different in nature and origin from the conduct at issue in the administrative proceeding. The allegations against Osunkwo in this proceeding concern only the filing of the 2010 Form ADV for Circle One Wealth (and the alleged failure to file the 2010 Form ADV for Aegis) and there are no allegations that he was involved in any way whatsoever in matters related to the Lamm Criminal Case or that he and Lamm acted in concert in those matters. Rather, the allegation in this administrative proceeding is that Osunkwo was entirely responsible on his own for the allegedly false 2010 Form ADV filing for Circle One Wealth. Therefore, no common parties or witnesses bind the allegations against Osunkwo to the allegations against Lamm in this proceeding and therefore Osunkwo's right to a speedy hearing should not be denied.

Good Cause Exists to Sever the Proceedings

The Moving Respondents request that the Commission sever the proceedings as to them because they wish to proceed to a hearing in this administrative proceeding as quickly as possible. The Moving Respondents are suffering – and will continue to suffer - severe prejudice to their ability to earn a living as compliance professionals so long as these administrative proceedings are pending against them and, therefore, good cause exists under Rule 201(b) of the Commission's Rules of Practice to sever them from the other respondents (as to which the administrative proceeding can remain stayed).

Judicial Economy Does Not Weigh Against Granting the Motion to Sever

Considerations of judicial economy are not impacted by severing the Moving Respondents -- who were outside contractors to, not employees of, Respondents Aegis and Circle One -- because the allegations against the Moving Respondents are separate and distinct from the allegations against the remaining respondents. As a result, there would be little overlap in the evidence or witnesses if the proceedings against the Moving Respondents were severed from the proceedings against the remaining three respondents.

The Criminal Case Would Not Be Prejudiced By Granting the Motion to Sever

Finally, because the Lamm Criminal Case and this administrative proceeding involve entirely different sets of facts, different conduct and different legal issues there will not be any prejudice to the Lamm Criminal Case by severing the Moving Respondents and allowing them to proceed to a hearing so they can address the serious allegations made against them in the OIP.

Commission Precedent Supports Granting the Motion to Sever

The Commission granted a motion to sever in a case with similar facts involving indeterminate delays against certain of the named respondents in *In the Matter of John A. Carley.* (Admin. Proc. File No. 3-11626, January 3, 2005.) In that case, some of the named respondents could not be served with the order instituting proceedings and the Commission severed the administrative proceedings so that those respondents who had been served with the order instituting proceedings could move forward with a hearing and not be subject to indeterminate delays. The Commission stated

> "[f] the requested severance is not granted, the proceedings against those Respondents who have already been served could be delayed for an indeterminate time. The potential for such delay argues in favor of the severance. The risk that there will be some duplication of effort in litigating the case. . . is outweighed by the potential for harm to the [other] Respondents and the public interest if the proceedings against them are delayed." (Emphasis added)

Likewise in this case, the Moving Respondents are suffering significant harm due to the indeterminate stay issued in this administrative proceeding and, therefore, the administrative proceedings as to them should be severed.

As discussed below recent statements by the Commissioners and the Director of the Division of Enforcement – as well as recent initial decisions by SEC administrative law judges – demonstrate a high level of concern for overzealous enforcement actions against compliance officers in situations where the compliance officer is alleged to have failed to uncover the securities law violations of other people. These same policy concerns lend additional support to this motion.

II. The Moving Respondents

Osunkwo is an experienced attorney and a securities compliance professional who has worked for over six years as a securities compliance consultant. Prior to this administrative

proceeding Osunkwo had an unblemished record. Strategic Consulting is a compliance consulting firm who contracted with Aegis and Circle One Wealth to provide consulting services. Strategic Consulting designated Osunkwo to be the Chief Compliance Officer for each registrant.

III. Facts

The OIP in this matter was filed March 30, 2015. With regards to the Moving Respondents the OIP alleges that Osunkwo was an independent contractor and the Chief Compliance Officer of Aegis Capital, LLC ("Aegis") and a firm that was under common ownership with Aegis and into which Aegis was eventually merged known as Circle One Wealth. At the relevant times Aegis and Circle One Wealth were SEC registered investment advisers. The OIP further alleges that Osunkwo and Strategic Consulting (the firm Osunkwo worked for) caused violations of the federal securities laws because: (i) the 2010 Form ADV for Circle One Wealth overstated the firm's assets under management and advisory accounts; and (ii) Aegis Capital, LLC ("Aegis") failed to file its annual update to Form ADV for the December 31, 2010 year end.[2]

On May 11, 2015 the Moving Respondents filed an Answer denying the allegations contained in the OIP. During this time frame counsel for the Moving Respondents and counsel for the Division of Enforcement had discussions about scheduling the hearing in this matter and a tentative hearing date was proposed among counsel for August 2015.

[2] The information in this section is taken both from the OIP and from the Division of Enforcement's clarification of the OIP in response to Moving Respondent's Motion for a More Definite Statement.

On May 11, 2015 Osunkwo and Strategic Consulting filed a motion seeking a more definite statement of the allegations against them because the improper group pleading that was set forth in the OIP made it impossible to determine what conduct the OIP attributed to Osunkwo and what conduct was attributed to other respondents. In its response to the Motion for a More Definite Statement the Division set forth narrower claims against Osunkwo in his role as a compliance officer related to alleged inaccuracies in Circle One Wealth's 2010 Form ADV and for Aegis' failure to file a 2010 Form ADV.

On May 18, 2015, USAO made motion to stay proceedings based on a criminal case entitled *United States v. Lakian & Lamm*, 15-CR-43 (FB). A copy of the indictment in that matter (the "Lamm Indictment") is attached hereto as **Exhibit A.** In its Motion to Stay the USAO noted that the Lamm Indictment alleges the following against Lamm:

a. In or about and between December 2009 and July 2013, Lamm and Lakian, together with others, executed a scheme to defraud investors and potential investors in the Aegis Capital Fund, LLC ("Aegis Fund")[3] through material misrepresentations and omissions.

b. From approximately December 2009 through December 2011, Lamm and Lakian directed more than $1,000,000 of investor funds from the Aegis Fund to entities owned and controlled by Lamm and Lakian.

c. By way of example, Lakian and Lamm directed a $120,000 payment from an investment that belonged to Aegis Fund investors to a bank account they established and controlled in the name of Circle One Group, LLC,[4] and used those funds for, among other things, their personal use and business ventures. Lamm and Lakian subsequently concealed this $120,000 from the investors to whom it belonged.

d. In addition, between July 2010 and November 2011, Lamm and Lakian raised more than $8,000,000 from Capital L investors by misrepresenting that they would use these funds to purchase and consolidate small- to midsized registered investment

[3] The Aegis Capital Fund, LLC is an entity that is not involved in the administrative proceeding, and it was also not registered with the SEC in any capacity.

[4] Circle One Group, LLC is an entity that is not involved in the administrative proceeding, and it was also not registered with the SEC in any capacity.

> advisory firms. Contrary to these representations, Lamm and Lakian used a significant portion of the moneys raised for their personal use and business ventures.

Osunkwo and Strategic Consulting opposed the motion to stay because they were suffering, and would continue to suffer, severe prejudice to their ability to earn a living if the serious allegations in the OIP could not be addressed in a timely manner at a hearing. Incredibly, the Division supported the motion of the US Attorney's Office which directly contradicted the position the Division took in its response to the Motion to Sever and went back to the theory that the OIP laid out broad claims of improper conduct by Osunkwo and Strategic Consulting. Over the Moving Respondent's objections the Administrative Law Judge granted the USAO's motion to stay the entire proceeding on June 10, 2015 with great weight being given to the fact that Lamm was a common defendant/respondent in the Lamm Criminal Case and this administrative proceeding.

On January 6, 2016 the USAO filed a status report requesting that the stay remain in place. The USAO gave no indication as to when it would agree to lift the stay or when the criminal case is expected to be completed.

IV. Legal Argument

SEC Rule of Practice 201(b) states that "[b]y order of the Commission, any proceeding may be severed with respect to one or more parties. Any motion to sever must be made solely to the Commission and must include a representation that a settlement offer is pending before the Commission *or otherwise show good cause*." (Emphasis added). In this motion the question presented to the Commission is whether there exists good cause to sever the proceedings as to the Moving Respondents and the answer is yes.

The indefinite stay of the administrative proceedings has left a cloud over Osunkwo's reputation and professional life, and made it very difficult for him to earn a living as a

compliance officer and compliance consultant. Moreover, Osunkwo, an independent compliance officer, and Strategic Consulting also fit squarely within the concerns expressed by Chairman White, Commissioner Gallagher and two recent initial decisions. On July 15, 2015 in her Opening Remarks at the Compliance Outreach Program for Broker-Dealers, Chairman White stated:

> "Our enforcement program also emphasizes the importance of a strong compliance program. We do this by highlighting in our orders situations where a compliance program operated effectively in identifying misconduct; by bringing enforcement actions when those programs have failed, Modified: July 16, 2015 particularly in the investment adviser realm where there is a specific requirement for compliance policies and procedures; and by requiring independent consultants in appropriate cases to ensure that compliance policies are crafted to guard against misconduct recurring.
>
> To be clear, it is not our intention to use our enforcement program to target compliance professionals. We have tremendous respect for the work that you do. You have a tough job in a complex industry where the stakes are extremely high. That being said, we must, of course, take enforcement action against compliance professionals if we see significant misconduct or failures by them. Being a CCO obviously does not provide immunity from liability, but neither should our enforcement actions be seen by conscientious and diligent compliance professionals as a threat. We do not bring cases based on second guessing compliance officers' good faith judgments, but rather when their actions or inactions cross a clear line that deserve sanction." (http://www.sec.gov/news/speech/opening-remarks-compliance-outreach-program-for-broker-dealers.html)

On June 18, 2015, Commissioner Daniel Gallagher also expressed similar concerns when he stated:

> "I have long called on the Commission to tread carefully when bringing enforcement actions against compliance personnel. In both instances, the Commission's order states that the CCO was responsible for the *implementation* of the firms' policies and procedures. Both settlements illustrate a Commission trend toward strict liability for CCOs under Rule 206(4)-7. Actions like these are undoubtedly sending a troubling message that CCOs should not take ownership of their firm's compliance policies and procedures, lest they be held accountable for conduct that, under Rule 206(4)-7, is the responsibility of the adviser itself. . . At the end of the day, ultimate responsibility for *implementation* of policies and procedures rests with the adviser itself. The Commission needs to be especially cognizant of the messages it sends to the compliance community, and in particular to CCOs of investment advisers."
> (http://www.sec.gov/news/statement/sec-cco-settlements-iaa-rule-206-4-7.html)

Likewise, Commission administrative law judges have also become very concerned with sanctioning compliance officers. In *In the Matter of Judy K. Wolf*, ALJ Elliot found that a compliance officer had violated the securities laws but declined to impose any sanctions on her. In his decision Judge Elliot stated "[t] here is a real risk that excessive focus on violations by compliance personnel will discourage competent persons from going into compliance, and thereby undermine the purpose of compliance programs in general. That is, "we should strive to avoid the perverse incentives that will naturally flow from targeting compliance personnel who are willing to run into the fires that so often occur at regulated entities (*In the Matter of Judy K. Wolf.* (AP File No. 3-16195, August 5, 2015). Likewise in *In the Matter of the Robarge Group* the initial decision held that a respondent compliance officer did not violate the securities laws merely because he was knowledgeable about an investment advisors business and possessed authority to make Form ADV filings. (*In the Matter of the Robarge Group, Ltd.*, et al. (AP File No. 3-16047, June 4, 2015). In addition, Andrew Ceresney, the Director of the SEC's Division of Enforcement, has recently stated that the Division does not intend to pursue enforcement cases against compliance officers who have exercised good faith judgments. (See http://www.sec.gov/news/speech/keynote-address-2015-national-society-compliance-prof-ceresney.html). The allegations set forth in the OIP and the positions that the Division has taken in the underlying administrative proceeding demonstrate that, contrary to Ceresney's statement, the Division is doing nothing more than challenging the exercise of Osunkwo's good faith judgment.

The Commission has also shown a willingness to provide respondents with greater due process rights in administrative proceedings through its rule proposal modernizing the administrative proceeding process by, among other things, allowing discovery depositions. (See

Proposed Amendments to the Commission's Rules of Practice (Release No. 34-75976 (September 24, 2015)). Although the proposed amendments have not yet taken effect there is no reason why the Commission's desire to provide respondents with greater due process rights should not be applied in this matter. The new proposed rules, along with the growing concern about pursuing enforcement proceedings against outsourced compliance officers, all weigh in favor of granting this motion to sever.

A. Good Cause Exists for the Commission to Sever the Moving Respondents

As detailed in the Osunkwo Declaration dated May 27, 2015 ("Osunkwo Decl.") submitted in opposition to the USAO motion for a stay (and submitted herewith as **Exhibit B**) the unproven allegations in the OIP has had a devastating impact on his ability to make a living as a compliance consultant, a career he has been in for over six years. Mr. Osunkwo has lost the majority of his income Osunkwo Decl. ¶ 6), had his speaking and publishing engagements halted (Osunkwo Decl. ¶ 7) and has been forced to curtail his marketing and client development during the pendency of the charges in the OIP (Osunkwo Decl. ¶ 8). As a result of the allegation in the OIP Osunkwo's consulting practice has fallen behind on bill payments and he is experiencing significant financial hardship (Osunkwo Decl. ¶ 9). Strategic Consulting and Osunkwo are not named or implicated in any way in the Lamm Indictment. Any extended delay in resolving the charges in the OIP will extinguish Osunkwo's small business compliance consultancy practice. For these reasons, good cause exists to sever Osunkwo and Strategic Consulting.

B. Severing the Moving Respondents Would Not Conflict With Judicial Economy

The allegations made in the OIP against Lamm and the Moving Respondents are separate and distinct and could easily be split into two separate hearing without any substantial amount of overlap. Osunkwo was an outside consultant and Chief Compliance Officer to the

two registered investment advisers that are respondents in this proceeding. Osunkwo was not an owner or employee of either investment adviser. The allegations against Osunkwo in this proceeding concern only the filing of the 2010 Form ADV for registrant Aegis and registrant Circle One Wealth (into which Aegis was merged and consolidated). There are no allegations that Osunkwo was involved in any matters related to Lamm or that he and Lamm acted in concert. In fact, the allegations in this administrative proceeding is that Osunkwo was entirely responsible on his own for the allegedly false 2010 Form ADV filing for Aegis.

The evidence used and witnesses called in an administrative hearing involving the Moving Respondents would be different than the evidence used and witnesses called in an administrative hearing against the remaining respondents once the stay is lifted as to those proceedings. Finally, the Division of Enforcement previously advised Osunkwo's counsel that any criminal charges against Lamm would not impact the progress of this administrative proceeding. However, now the Division of Enforcement is hiding behind the very same criminal charges against Lamm to obtain a stay. This amounts to a preliminary injunction against Osunkwo without the opportunity for a hearing and is a deprivation of rights without adequate due process. Accordingly, granting the motion to sever would not harm judicial economy because a single proceeding would not be more efficient than separate proceedings.

C. There Would Be No Prejudice to the Criminal Case in Granting Moving Respondents' Motion to Sever and Allowing Them to Proceed to a Hearing

The Lamm Indictment alleges a fraudulent scheme whereby Lamm and Lakian (who is not a respondent in this administrative proceeding) defrauded investors in the Aegis Capital Fund, LLC and Circle One Group, LLC (both of which are non-SEC registered entities that Moving Respondents were not involved with and both of which are not respondents in this administrative proceeding) by making misrepresentations to investors about the use of funds that

Lamm and Lakian were raising and by diverting funds to their personal use. However, the Lamm Indictment does not make any allegations related to the operation of the two registered investment advisors involved in this administrative proceeding – Aegis Capital, LLC and Circle One Wealth Management, LLC. In contrast to the offering fraud alleged in the Lamm Indictment, the OIP in this matter alleges that Aegis Capital, LLC and Circle One Wealth Management, LLC (two registered investment advisors at the time) failed to timely file accurate reports for the year-end 2010 with the Commission and to maintain required books and records (OPI ¶ 1). The OIP also alleges that Respondents Osunkwo and Strategic Consulting failed to adequately prepare, review and file the Aegis Capital, LLC Form ADV for the year end December 31, 2009 (OPI ¶ 2).

Nothing in the OIP relates to misrepresentations by Respondent Lamm made to investors in entities that are not parties to this administrative proceeding or to misappropriation of assets. The Lamm Indictment does not mention the Moving Respondents and does not make any allegations related to whether the Moving Respondents properly performed their compliance duties in connection with the Form ADV that is at issue in this administrative proceeding.

While the Division has argued that Lamm and Laiken may be called as witnesses in the administrative proceeding the mere act of calling somebody as a witness in an administrative proceeding, even if the person may also be a witness in a criminal case, does not in any way support the assertion that the Lamm Criminal Case criminal case would be harmed or interfered with – particularly in this matter when the topics that the witnesses would testify to would only involve the completion and filing of the 2010 Form ADV for Circle One Wealth and the lack of an ADV update filing by Aegis. Neither of these issues relate to the purported offering fraud and misappropriation of assets that Lamm is charged with in the Lamm Criminal Case.

In addition, there are no Fifth Amendment concerns with respect to Lamm because Lamm has previously testified during the investigation of this matter. Under such circumstances there is little burden to Lamm's Fifth Amendment rights and as such does not provide a basis to stay the case against Osunkwo. *See Federal Sav. & Loan Ins. Corp. v. Molinaro*, 889 F.2d 899, 903 (9th Cir. 1989) (denying a motion to stay when a defendant had already provided sworn testimony and holding the burden on defendant's Fifth Amendment rights imposed by going forward with litigation was "negligible"); *S.E.C. v. Secure Inv. Services, Inc.*, 2009 WL 982010 (E.D.CA. 2009)(denying motion to stay SEC enforcement case when defendant had provided sworn testimony during the SEC's investigation). For the same reasons, the administrative proceeding against Osunkwo should be severed and allowed to proceed.

D. The Contested Case Allegations Against Osunkwo and Strategic Consulting Should Be Heard in Federal Court.

On May 8, 2015 the Division of Enforcement announced a set of considerations that would govern the selection as to whether a case should be litigated in an administrative proceeding or federal court. One of the considerations states that "[i]f a contested matter is likely to raise unsettled and complex legal issues under the federal securities laws, or interpretation of the Commission's rules, consideration should be given to whether, in light of the Commission's expertise concerning those matters, obtaining a Commission decision on such issues, subject to appellate review in the federal courts, may facilitate development of the law." Because the case against Osunkwo and Strategic Consulting raises unsettled and complex legal issues of federal law and the Commission would not have an inherent expertise in the interpretation of Rule 206(4)-7 it should be heard in federal court.

As then Commissioner Gallagher noted when addressing the uncertainty surrounding Rule 206(4)-7:

"Much of the blame, of course, can be laid at the feet of Rule 206(4)-7 itself, which is not a model of clarity. The rule merely states that registered investment advisers are required to "[a]dopt and implement written policies and procedures reasonably designed to prevent violation[s]" of the Advisers Act and its rules, but offers no guidance as to the distinction between the role of CCOs and management in carrying out the compliance function. And in the eleven years since the rule was adopted, the Commission has not issued any guidance about how to comply with the rule.

Unfortunately, the only guidance market participants have at their disposal are enforcement actions, which in some cases have unfairly contorted the rule to treat the compliance function as a new business line, with compliance officers assuming the role of business heads. On its face, Rule 206(4)-7 speaks directly to the responsibility of the adviser, but all too often, the Commission interprets the rule as being directed at CCOs. The rule expressly states that the firm must designate a CCO to administer its compliance policies and procedures. At the end of the day, ultimate responsibility for implementation of policies and procedures rests with the adviser itself." (*Statement on Recent SEC Settlements Charging Chief Compliance Officers With Violations if Investment Advisers Act Rule 206(4)-7*)(June 18, 2015)

Because the case against the Moving Respondents raises unsettled and complex legal issues of federal law and the Commission has no inherent advantage over a federal court in interpreting Rule 206(4)-7, it should be heard in federal court.

Conclusion

Based upon the foregoing, Respondents Strategic Consulting and Osunkwo respectfully request that the causes of action alleged against them be severed from the other named respondents and that they be allowed to proceed to a hearing in this matter in the appropriate forum.

Dated: New York, New York
January 15, 2016

Respectfully submitted,

MEYERS & HEIM LLP

By: Robert G. Heim

Robert G. Heim
444 Madison Avenue, 30th Floor
New York, New York 10022
Phone: (212) 355-7188 ext. 1
Facsimile: (212) 355-7190

Attorneys for Strategic Consulting Advisors, LLC and David I. Osunkwo.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16463

In the Matter of	
AEGIS CAPITAL, LLC	
CIRCLE ONE WEALTH MANAGEMENT, LLC	
DIANE W. LAMM	
STRATEGIC CONSULTING ADVISORS, LLC and	
DAVID I. OSUNKWO	
Respondents.	

CERTIFICATE OF SERVICE

I, Robert G. Heim, certify that on the 15th day of January 2016, I caused true and correct copies of Respondents Strategic Consulting Advisors, LLC and David I. Osunkwo Motion to Sever to be filed and served by first class mail on the following:

Brent J. Fields
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E. Mail Stop 20549
Washington, DC 20549
(Original and three copies)

The Honorable James Grimes
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-2557

W. Shawn Murnahan, Esq.
M. Graham Loomis, Esq.
Atlanta Regional Office
Securities and Exchange Commission
950 East Paces Ferry Road
N.E. Atlanta, GA 30326

Harlan Protass, Esq.
Isabelle Kirshner, Esq.
Clayman & Rosenberg LLP
305 Madison Avenue
New York, NY 10165
(Counsel for Respondent Diane M. Lamm)

Whitman G.S. Knapp, Esq.
Assistant United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

Aegis Capital, LLC
c/o Mr. John R. Lakian, Director
26 East 63rd Street, 8A
New York, NY 10065

Circle One Wealth Management, LLC
c/o Mr. J. R. Lakian, Director & Chairman
26 East 63rd Street, 8A
New York, NY 10065

Robert G. Heim

EXHIBIT A

WMP:WK
F. #2012R01558

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - -X

UNITED STATES OF AMERICA

- against -

JOHN R. LAKIAN and
DIANE M. LAMM,

Defendants.

- - - - - - - - - - - - - - - - -X

INDICTMENT

CR Nº 15 0043

(T. 15, U.S.C., §§ 78j(b) and 78ff;
T. 18, U.S.C., §§ 371, 981(a)(1)(C),
982(a)(2)(A), 1349, 2 and 3551 et seq.;
T.21, U.S.C., § 853(p); T. 28, U.S.C.,
2461(c))

THE GRAND JURY CHARGES:

SCANLON, M.J.

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. The Defendants and Relevant Entities

1. The defendants JOHN R. LAKIAN and DIANE W. LAMM owned and lived in a home they shared in Mount Pleasant, South Carolina. In or about 2012, LAKIAN and LAMM sold the house in Mount Pleasant and moved to a house in Highlands, North Carolina.

2. The defendant JOHN R. LAKIAN was a shareholder and managing member of Pangea Capital Management, LLC ("Pangea Capital"), a Delaware limited liability investment management company with its principal place of business in New York, New York. On or about October 9, 2009, LAKIAN purchased, on behalf of Pangea Capital, a majority stake of Aegis Advisor Alliance, LLC ("Aegis Advisor").

3. The defendants JOHN R. LAKIAN and DIANE W. LAMM sat on Aegis Advisor's three-person board of management, which had broad control over the company. By January 2010, LAKIAN and LAMM had complete control of Aegis Advisor with LAKIAN

serving as the Chief Executive Officer ("CEO") and LAMM as the Chief Operating Officer ("COO"). On or about February 4, 2010, LAKIAN and LAMM changed Aegis Advisor's name to Capital L Group, LLC ("Capital L"). On or about February 10, 2010, LAKIAN secured sole authority to manage Pangea Capital's interests in Capital L.

4. On or about December 1, 2011, the defendants JOHN R. LAKIAN and DIANE W. LAMM sold Capital L to an investor, relinquished their interests in the company, resigned their positions and stepped down as members of the board, in return for $600,000. Additionally, Capital L transferred, inter alia, the following subsidiaries to LAKIAN and LAMM: (i) Aegis Capital Fund, LLC (the "Aegis Fund"), a Charlotte, North Carolina-based investment fund with more than 100 investors, and (ii) Circle One Group, LLC ("Circle One"), a Delaware limited liability company. The equity interest in the subsidiaries was transferred from Capital L to JRL Investment, LLC ("JRL Investment"), a Delaware limited liability company with its principal place of business at the defendants' home in Mount Pleasant, South Carolina.

5. The defendants JOHN R. LAKIAN and DIANE W. LAMM also controlled, inter alia, JRL Investment Group, Inc. ("JRL Group"); JRL Investment II, Inc. ("JRL Investment II"); JRL Group III, LLC ("JRL Group III"); and a restaurant chain including Roadside Kitchens, LLC ("Roadside Kitchens").

II. The Fraudulent Schemes

A. The Registered Investment Advisor Schemes

6. In or about and between February 2009 and December 2011, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to defraud investors and potential investors in Pangea Capital by obtaining investments through material

misrepresentations and omissions. Specifically, LAKIAN and LAMM told investors and potential investors in, inter alia, meetings, telephone calls and marketing materials that investor funds would be used to purchase and consolidate small- to mid-sized registered investment advisory firms ("RIAs") into one larger entity, which would then be "monetized" by selling it to a private purchaser or by selling its shares in a public offering.

7. To execute this scheme to defraud, in October 2009, the defendant JOHN R. LAKIAN, as a managing member of Pangea Capital, used investor funds to purchase 70% of Aegis Advisor for $3,000,000. Aegis Advisor was a company that included both a subsidiary RIA and an investment management company. Pursuant to the purchase agreement, Aegis Advisor would use $2,250,000 of the $3,000,000 investment to finance acquisition of additional RIAs. Contrary to these representations, within a month of Pangea Capital's acquisition of Aegis Advisor, more than $1,700,000 of the $3,000,000 raised for the acquisition was transferred from Aegis Advisor into bank accounts controlled by LAKIAN and the defendant DIANE W. LAMM. A significant amount of this money was used by LAKIAN and LAMM for, inter alia, personal purposes unrelated to the acquisition of RIAs.

8. In furtherance of this scheme to defraud, in or about and between July 2010 and November 2011, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to defraud investors and potential investors in Aegis Advisor, later renamed Capital L, by obtaining investments through material misrepresentations and omissions. Specifically, LAKIAN and LAMM told investors and potential investors in, inter alia, meetings, telephone calls and promotional materials that investor funds would be used to purchase and consolidate small- to mid-sized RIAs. Based on these representations, LAKIAN and LAMM

raised more than $8,000,000 from the Aegis Advisor investors. Contrary to these representations and unknown to investors, LAKIAN and LAMM used a significant portion of investor funds for, inter alia, personal purposes unrelated to the acquisition of RIAs, including for the payment of LAKIAN's and his wife's home mortgage and to fund Roadside Kitchens and related restaurant entities owned and controlled by LAKIAN and LAMM.

B. The Aegis Capital Fund Scheme

9. In or about and between December 2009 and July 2013, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to defraud investors and potential investors in the Aegis Fund through material misrepresentations and omissions. Beginning in approximately December 2009, LAKIAN and LAMM exercised control over the Aegis Fund's investment decisions. Over the next two years, the Aegis Fund's net asset value decreased from more than $27,000,000 to approximately $13,000,000. During this time period, LAKIAN and LAMM directed more than $1,000,000 of investor funds from the Aegis Fund to the Roadside Kitchens and related restaurant entities owned and controlled by LAKIAN and LAMM.

10. In or about May 2011, the Aegis Fund was placed into liquidation, a process pursuant to which no new investments were supposed to be made, and all the investments and assets were supposed to be sold so that the investors could be paid from the proceeds of the sale. Contrary to the representations made to investors during the liquidation process, the defendants JOHN R. LAKIAN and DIANE W. LAMM used the proceeds from the liquidation for, inter alia, their personal use and other business ventures. For example, one of the Aegis Fund's investments was a loan to Power Company 1, an entity whose identity is known to the Grand Jury. In or about

April 2012, Power Company 1 was ready to make a $120,000 interest payment on the loan to the Aegis Fund. Rather than use these proceeds to pay investors, LAKIAN and LAMM directed that the payment be sent by wire transfer to Circle One's bank account, which was established and controlled by LAKIAN and LAMM. On or about April 30, 2012, in a telephone call with investors, LAKIAN and LAMM actively concealed the interest payment from Power Company 1 and LAKIAN falsely assured the investors, inter alia, "any money that comes into the fund would be distributed to you, we have no legal right to anything. . . . The money that we are able to liquefy in this fund would come back to you all, nothing comes to us. Zero."

C. The Bank Fraud Scheme

11. In or about and between 2009 and 2012, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, executed a scheme to fraudulently obtain more than $8,000,000 in loans from federally insured banks through material misrepresentations and omissions. Specifically, LAKIAN and LAMM submitted extensive false information to four banks, including forged tax returns and false pay stubs.

12. On or about December 7, 2009, the defendant JOHN R. LAKIAN applied to a TD Bank located in Merrick, New York ("TD Bank") for a $250,000 loan, to be secured by property owned by LAKIAN and his wife on Shelter Island ("the Shelter Island Property"). At LAKIAN's request, on or about December 1, 2009, LAMM sent an email to the TD Bank manager attaching a fraudulent Internal Revenue Service ("IRS") Form 1040 tax returns ("1040s") and phony pay stubs. The fraudulent 1040s reported adjusted gross income for LAKIAN and his wife in the amount of $2,157,527 for 2007 and $1,184,432 for 2008. In fact, the 1040s that LAKIAN and his wife actually filed with the IRS reported adjusted gross income in the amount of $633,868

for 2007 and $584,342 for 2008. Similarly, the phony pay stubs purported to reflect that LAKIAN received an annual salary of $670,000 in 2009 from Pangea Capital. In fact, LAKIAN received no salary from the company. Based on the false information that LAKIAN and LAMM provided to TD Bank, TD Bank granted the loan application and extended a $250,000 loan to LAKIAN.

13. On or about December 23, 2009, the defendant JOHN R. LAKIAN applied to HSBC Bank in Brooklyn, New York ("HSBC Bank") for a $3,000,000 mortgage on the Shelter Island Property. As part of the application, LAKIAN and the defendant DIANE W. LAMM submitted copies of the same fraudulent 1040s submitted to TD Bank, as well as phony pay stubs. Based on the false information that LAKIAN and LAMM provided to HSBC Bank, HSBC Bank approved LAKIAN's loan application, but LAKIAN ultimately declined to accept the loan.

14. On or about February 1, 2010, the defendant JOHN R. LAKIAN, through JRL Group III, applied to Bridgehampton National Bank in Southold, New York ("Bridgehampton Bank") for a $2,350,000 loan to purchase the Chequit Inn on Shelter Island, New York. That same day, the defendant DIANE W. LAMM sent an email to a Bridgehampton Bank senior vice president attaching copies of the same fraudulent 1040s submitted to TD Bank and HSBC Bank and phony pay stubs. The phony pay stubs submitted to Bridgehampton Bank, inter alia, reflected improper Social Security deductions. Additionally, LAKIAN and LAMM submitted a forged bank statement to Bridgehampton Bank, purporting to show that LAKIAN had more than $1,400,000 in an account that in fact contained less than $13,000. At some point after submitting the fake 1040s and paystubs, LAKIAN withdrew his loan application from Bridgehampton Bank.

15. On or about March 22, 2012, the defendant JOHN R. LAKIAN applied to Bank of America in New York, New York ("Bank of America") for a $2,560,700 mortgage on the Shelter Island Property. As part of the application, LAKIAN and the defendant DIANE W. LAMM submitted copies of fraudulent 1040s and phony pay stubs. The fraudulent 1040s reported that LAKIAN and his wife received adjusted gross income in the amounts of $2,280,010 in 2009 and $2,157,527 in 2010. In fact, the 1040s filed by LAKIAN and his wife with the IRS reported adjusted gross income in the amounts [redacted], respectively. Bank of America denied LAKIAN's loan application.

COUNT ONE
(Conspiracy to Commit Securities and Wire Fraud –
The Registered Investment Advisor Theft Scheme)

16. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.

17. In or about and between February 2009 and December 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully conspire:

a. to use and employ manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices

and courses of business which would and did operate as a fraud and deceit upon investors and potential investors in Pangea Capital, Aegis Advisor and Capital L, in connection with the purchase and sale of investments in Pangea Capital, Aegis Advisor and Capital L, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, contrary to Title 15, United States Code, Sections 78j(b) and 78ff; and

b. to devise a scheme and artifice to defraud investors and potential investors in Pangea Capital, Aegis Advisor and Capital L, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

18. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, committed and caused to be committed, among others, the following:

OVERT ACTS

a. On or about September 30, 2009, LAKIAN and LAMM opened a bank account in the name of JRL Investment II in Mount Pleasant, South Carolina.

b. On or about February 10, 2010, LAKIAN entered into an agreement to secure sole authority to manage Pangea Capital's interests in Capital L.

c. On or about July 29, 2010, LAKIAN and LAMM met with Investor Representative One, an individual whose identity is known to the Grand Jury, in Charlotte, North Carolina.

d. On or about December 22, 2010, LAKIAN sent an email to Investor Representative Two, an individual whose identity is known to the Grand Jury, representing that investment proceeds would be used to acquire an RIA and to serve as working capital.

e. On or about February 5, 2011, LAMM directed the transfer of $350,000 of Capital L investors' money to bank accounts held in the names of either LAKIAN or LAMM.

f. On or about April 15, 2011, LAMM directed the transfer of $100,000 of investors' money from an account at Carolina First Bank, held in the name of JRL Group, to an account at Carolina First Bank, held in the name of Roadside Kitchens.

g. On or about July 27, 2011, LAMM directed the transfer of $85,000 of Capital L investors' money to restaurant entities controlled by LAKIAN and LAMM.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT TWO
(Conspiracy to Commit Securities and Wire Fraud - The Aegis Capital Fund Theft Scheme)

19. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.

20. In or about and between December 2010 and July 2013, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully conspire:

a. to use and employ manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities

and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which would and did operate as a fraud and deceit upon investors and potential investors in the Aegis Fund, in connection with the purchase and sale of investments in the Aegis Fund, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, contrary to Title 15, United States Code, Sections 78j(b) and 78ff; and

b. to devise a scheme and artifice to defraud investors and potential investors in the Aegis Fund, and to obtain money and property from them by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

21. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, committed and caused to be committed, among others, the following:

OVERT ACTS

a. On or about December 8, 2011, LAKIAN and LAMM opened an account in the name of Circle One at a Southcoast Community Bank in Mount Pleasant, South Carolina.

b. On or about April 20, 2012, LAKIAN sent an email to Power Company 1 personnel confirming that the Power Company should send a payment due to the Aegis Fund to LAKIAN and LAMM's Circle One bank account.

c. On or about June 5, 2013, LAKIAN and LAMM opened an account in the name of the Aegis Fund (the "Highlands Account") at Bank of America in Highlands, North Carolina.

d. On or about June 24, 2013, LAKIAN sent an email directing that the proceeds of an Aegis Fund investment be sent to the Highlands Account.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT THREE
(Securities Fraud – The Registered Investment Advisor Scheme)

22. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.

23. In or about and between February 2009 and December 2011, both dates being approximate and inclusive, within the Western District of North Carolina and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state one or more material facts necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; and

(c) engaging in one or more acts, practices and courses of business which would and did operate as a fraud and deceit upon one or more investors and potential investors in Pangea Capital and Capital L, in connection with the purchases and sales of investments in Pangea Capital and Capital L, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT FOUR
(Securities Fraud – The Aegis Capital Fund Scheme)

24. The allegations contained in paragraphs one through fifteen are realleged and incorporated as though fully set forth in this paragraph.

25. In or about and between December 2010 and July 2013, both dates being approximate and inclusive, within the Western District of North Carolina and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and willfully use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state one or more material facts necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; and (c) engaging in one or more acts, practices and courses of business which would and did operate as a fraud and deceit upon one or more investors and potential investors in the Aegis Fund, in

connection with the purchases and sales of investments in the Aegis Fund, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT FIVE
(Bank Fraud Conspiracy)

26. The allegations contained in paragraphs one through fifteen are realleged and incorporated by reference as if fully set forth in this paragraph.

27. In or about and between September 2009 and May 2012, both dates being approximate and inclusive, within the Eastern District and elsewhere, the defendants JOHN R. LAKIAN and DIANE W. LAMM, together with others, did knowingly and intentionally conspire to execute and attempt to execute a scheme and artifice to defraud TD Bank, HSBC Bank, Bridgehampton Bank and Bank of America, financial institutions the deposits of which were insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits and other property owned by and under the custody and control of these banks by means of materially false and fraudulent pretenses, representations and promises, contrary to Title 18, United States Code, Section 1344.

(Title 18, United States Code, Sections 1349, 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION
FOR COUNTS ONE THROUGH FOUR

28. The United States hereby gives notice to the defendants JOHN R. LAKIAN and DIANE W. LAMM that upon their conviction of any of the offenses charged in Counts One

through Four, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any property, real or personal, which constitutes or is derived from proceeds traceable to such offense.

29. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

CRIMINAL FORFEITURE ALLEGATION
FOR COUNT FIVE

30. The United States hereby gives notice to the defendants JOHN R. LAKIAN and DIANE W. LAMM that upon their conviction of the offense charged in Count Five, the

government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(2)(A), which requires any person convicted of such offense to forfeit any property constituting, or derived from, proceeds obtained directly or indirectly, as a result of such offense.

31. If any of the above-described forfeitable property as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 982(a)(2)(A); Title 21, United States Code, Section 853(p))

A TRUE BILL

FOREPERSON

LORETTA E. LYNCH
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

BY:
ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. 0.138

F. #2012R01558
FORM DBD-34
JUN. 85

No.

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

JOHN R. LAKIAN, et al.,

Defendants.

INDICTMENT

(T. 15, U.S.C., §§ 78j(b) and 78ff; T. 18, U.S.C., §§ 371, 981(a)(1)(c), 982(a)(2)(A), 1343, 1344, 2 and 3551 et seq.; T.21, U.S.C., § 853(p); T. 28, U.S.C., 2461(c))

A true bill.

_____ *Foreperson*

Filed in open court this _____ *day,*

of _____ *A.D. 20* _____

_____ *Clerk*

Bail, $ _____

Whitman Knapp, Assistant U.S. Attorney (718) 254-6107

EXHIBIT B

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16463

In the Matter of	
AEGIS CAPITAL, LLC CIRCLE ONE WEALTH MANAGEMENT, LLC DIANE W. LAMM STRATEGIC CONSULTING ADVISORS, LLC and DAVID I. OSUNKWO	
Respondents.	

DECLARATION OF RESPONDENT DAVID I. OSUNKWO IN OPPOSITION TO UNITED STATES ATTORNEY'S APPLICATION TO INTERVENE AND MOTION TO STAY THIS ADMINISTRATIVE PROCEEDING

David I Osunkwo, pursuant to 28 U.S.C. § 1746, declares, under penalty of perjury, as follows:

1. I am a Respondent in this administrative proceeding and submit this declaration in opposition to the United States Attorney's Application to Intervene and Motion to Stay this Administrative Proceeding ("Motion to Stay").

2. I have worked as a securities compliance professional for over fifteen ycars and prior to this administrative proceeding I have had an unblemished record.

3. The filing of the Order Instituting Proceedings on March 30, 2015 has had a devastating impact on my livelihood and ability to earn a living. The OIP is a public document

and my clients and prospective clients have become aware of its existence and the allegations made against me.

4. As a result of the OIP I have lost a significant part of my income. For example, a compliance consulting company that I had a long-term relationship with terminated my consulting engagement effective April 2, 2015 as a result of the OIP. Since 2009 that company has been my primary source of consulting work with income of between $2,500 and $5,700 per month.

5. In addition, as a result of the allegations in the OIP, I had to end my relationship with a second firm that is an investment advisor registered with the SEC effective April 1, 2015. As a result I lost an additional $1,500-$2,500 in monthly income.

6. These two engagements alone accounted for more than 60% of my annual income.

7. Additionally, my speaking and publishing engagements with securities industry associations and publications have been halted because of the reputational issues stemming from this administrative proceeding and the OIP.

8. As a result of the OIP I have also been forced to severely curtail my marketing and client outreach opportunities as I am obligated to respond to, or disclose, the existence of the administrative charges prior to any engagement.

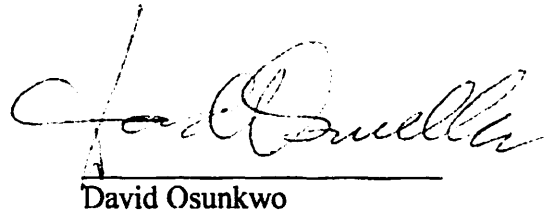
9. As a result of the foregoing, my consulting practice is now falling behind on bill payments and I am experiencing significant financial hardship. Any extended delay in resolving the charges in the OIP will extinguish my small practice and ruin my career in the securities industry.

10. I have read the indictment that was filed against Diane Lamm and other defendants and which is the basis of the Motion to Stay. I do not see any overlap between the allegations contained in the indictment and the allegations made against me in the OIP. In fact, the Diane Lamm indictment does not mention me at all and is not related to the duties I performed as compliance officer of Aegis Capital LLC or Circle One Wealth Management.

11. I seek only to have a hearing in this administrative proceeding as soon as possible so I can address the serious charges made against me in the OIP. Accordingly I request that the Motion to Stay be denied.

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

Date: May 27, 2015



David Osunkwo