FINRA

Financial Industry Regulatory Authority

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January 20, 2016

VIA MESSENGER

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: SUCCESS TRADE SECURITIES, INC. AND FUAD AHMED
ADMINISTRATIVE PROCEEDING FILE NO. 3-16900

Mr. Fields:

Enclosed are the original and three copies of FINRA's brief in opposition to the application for review for the above-referenced matter. Please contact me at 202-728-8317 if you have any questions.

Very truly yours,

Jante C. Turner

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Enclosures

BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC

In the Matter of the Application of

Success Trade Securities, Inc. and Fuad Ahmed

For Review of Disciplinary Action Taken by

FINRA

Administrative Proceeding File No. 3-16900

FINRA'S BRIEF IN OPPOSITION TO THE APPLICATION FOR REVIEW

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January 20, 2016

TABLE OF CONTENTS

PAGE

PAGE

TABLE OF AUTHORITIES

FEDERAL DECISIONS **PAGE**

SEC DECISIONS AND RELEASES

SEC DECISIONS AND RELEASES (CONT'D) **PAGE**

FINRA DECISIONS

FEDERAL STATUTES AND CODES

FEDERAL STATUTES AND CODES (CONT'D) **PAGE**

FINRA RULES AND GUIDELINES

BEFORE THE
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In the Matter of the Application of

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I. INTRODUCTION

Fuad Ahmed and the broker-dealer that he owned and operated, Success Trade Securities, Inc. ("STS" or "Firm"), orchestrated, implemented, and recruited others to participate in a profound fraud. Between February 2009 and February 2013, Ahmed and STS offered and sold $19.4 million in promissory notes to 65 investors in unregistered, non-exempt transactions. The issuer was STS's parent company, Success Trade, Inc. ("Parent Company"). Many of the investors were customers of STS and advisory clients of Jade Wealth Management, LLC ("Jade Wealth"), an investment adviser whose employees were registered with STS.

When Ahmed and STS offered the notes to investors, they misrepresented and omitted numerous material facts concerning the use of the offering's proceeds, the Parent Company's financial condition, the size and terms of the offering, the accreditation of the investors, the valuation of the Parent Company's software subsidiary, the Parent Company's listing on a European exchange, and the Parent Company's acquisition of an Australian broker-dealer. In so doing, Ahmed and STS fraudulently diverted funds from the offering to pay Ahmed, his brother, Jade Wealth, and existing investors. FINRA's National Adjudicatory Council ("NAC") imposed sanctions that were commensurate with the gravity of Ahmed's and STS's extensive misconduct.

The record fully supports the NAC's decision, and the Commission should dismiss Ahmed's and STS's application for review.

II. FACTUAL BACKGROUND

A. Ahmed

In September 1998, Ahmed founded STS as the broker-dealer subsidiary of the Parent Company, a holding company that Ahmed had formed in 1997.[1] RP 1606-1608. From September 1998 through March 2015, Ahmed was registered with STS. RP 2886. He has not registered with another FINRA firm since March 2015.

B. STS

STS is a "deep discount online broker[-dealer]" and operates under the names STS, "Just2Trade.com," and "LowTrades.com." RP 1613-1614. STS maintains its principal place of business in the District of Columbia, but also operates from a branch office in McLean, Virginia. RP 3049, 3086. STS filed a Uniform Request for Broker-Dealer Withdrawal in February 2015, and it is no longer a FINRA-registered firm.

During the relevant period, March 2009 to February 2013, Ahmed was STS's CEO, President, and the sole Director. RP 1607. He also served as STS's Chief Compliance Officer ("CCO"), Anti-Money Laundering ("AML") Compliance Officer, Financial and Operations Principal ("FINOP"), and designated supervisor of the Firm's McLean office.[2] RP 1607-1608, 2886-2887, 11155-11159.

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[1] Between May 1994 and August 1998, Ahmed had been associated with five FINRA firms. RP 2888-2891.

[2] In April 2010, Ahmed hired another individual, Chae Yi, to serve as STS's CCO and AML Compliance Officer. RP 1607-1608.

C. The Parent Company

The Parent Company is the holding company of two subsidiaries, STS and BP Trade, Inc. ("BP Trade"). RP 1613. Ahmed is the Parent Company's CEO, President, largest shareholder, sole Director, and the only signatory on the Parent Company's bank accounts. RP 1612.

D. BP Trade

BP Trade is a software company that Ahmed acquired in 2001. RP 1613. BP Trade, which is located in Canada, provides a software and trading platform for only one customer, STS. RP 1613, 1679-1680. Ahmed is CEO and President of BP Trade. RP 1613.

E. Ahmed, STS, and the Parent Company Experience Financial Difficulties in the Years Leading to the Offering

STS and its Parent Company were experiencing significant financial distress prior to the securities offering that is the subject of this case.

1. The Parent Company's Financial Problems

In four of the five years prior to the offering (2004-2008), the Parent Company operated with net losses, including a net loss of $661,000 for 2008. RP 2843. The Parent Company also was burdened with significant debt obligations. Throughout 2007 and 2008, Ahmed executed several promissory notes on behalf of the Parent Company with a business person named Riaz Khokhar. RP 2865, 9187-9197, 9199, 9227-9238, 9251-9262, 9263, 9268.

In 2008, the Parent Company owed Khokhar $800,000 plus at least 50 percent in interest. RP 9227-9238, 9251-9262. As a result of Commission and FINRA examinations, Ahmed and Khokhar restructured the debt obligations to one promissory note with a principal value of $800,000, an annual interest rate of 15 percent, and a maturity date of December 2012. RP 2214-2215, 9263. Ahmed and the Parent Company also agreed to pay Khokhar monthly interest payments until the debt matured, and then to make a balloon payment of $1.52 million. RP 1931-1932, 9263.

As December 2012 approached, Ahmed and the Parent Company were not be able to satisfy the terms of the promissory note, and, that month, they again restructured the debt to a note with a face value of $1.48 million, annual interest rate of 15 percent, and a one-year maturity. RP 1932-1934, 9265-9268. At maturity, Ahmed and the Parent Company agreed to pay Khokhar a balloon payment of $1.48 million. RP 9268. As of August 2013, Ahmed and the Parent Company owed Khokhar $1.6 million. RP 1916.

2. Ahmed's and STS's Financial Problems

STS struggled in the years leading up to the Parent Company's offering. Although STS had positive net income between 2004 and 2007, the Firm experienced a net loss of $21,000 in 2008. RP 2841. STS's financial problems occurred when, in 2008, the Firm lost its clearing deposit, four months of commissions, and several customer accounts because of regulatory actions taken against its clearing firm. RP 2194-2198.

By October 2008, STS's financial outlook was dim, and it was in desperate need of capital. RP 2209-2210. The funds that the Parent Company had borrowed from Khokhar were critical for keeping STS afloat. RP 2209-2210.

The Parent Company's and STS's financial problems also imposed a significant financial strain on Ahmed. Ahmed was the personal guarantor for the promissory notes between the Parent Company and Khokhar. RP 9187-9197, 9199, 9227-9238, 9251-9262, 9263, 9268. If the Parent Company defaulted, Ahmed became "unconditionally" responsible for all amounts due. RP 9194-9195, 9199, 9235, 9259, 9263, 9268.

F. Ahmed Establishes a Relationship with Jinesh Brahmbhatt and the Investment Advisers of Jade Wealth

In the wake of these worsening financial situations, Ahmed decided to raise capital in early 2009. RP 1619. Ahmed enlisted Jinesh Brahmbhatt, a registered representative with whom he previously worked, to assist him with the capital-raising effort.

Brahmbhatt formed Jade Wealth, a registered investment adviser, in May 2008. RP 2055-2056. Brahmbhatt is Jade Wealth's President, CEO, and CCO and owns at least 75 percent of Jade Wealth. RP 3117-3118, 3130.

Jade Wealth's customers are primarily professional athletes. RP 2056. Jade Wealth specializes in providing its customers with an array of "concierge services," including financial advice, budgeting, bill payments, relocation assistance, the purchase of life and disability insurance, and procurement of car services. RP 9269-9270. In March 2013, Jade Wealth reported that it had 26 to 100 customers, 76 percent to 99 percent of whom were "high net worth individuals," and $62 million in assets under management. RP 3100, 3102.

Jade Wealth had five employees. RP 3099. All five employees were registered with STS. RP 2947 (Ramnik Aulakh), 2957 (Amandeep Basi), RP 2963 (Jinesh Brahmbhatt), RP 2987 (Nainesh Brahmbhatt), RP 3031 (Derrick Leak).

Jade Wealth maintained its principal office and place of business in STS's office suite in McLean, Virginia, and it kept its books and records at STS's office in the District of Columbia. RP 3086, 3091, 3094. Jade Wealth's investment advisers purchased and sold securities for their customers through STS. RP 9269-9270.

G. Jade Wealth's and Brahmbhatt's Financial Difficulties

Prior to the Parent Company's offering, Jade Wealth was experiencing financial difficulties. In spring 2009, Jade Wealth could not afford to pay its employees without assistance from Ahmed and the Parent Company. RP 9359. During the relevant period, March 2009 to February 2013, Ahmed and the Parent Company regularly provided Brahmbhatt with personal funds, paid Jade Wealth's payroll, and provided Jade Wealth with funds to ensure its continued operations. RP 9349-9360.

Brahmbhatt also had personal financial problems. RP 9271-9279, 9281-9290. Brahmbhatt did not have funds to pay a $180,000 arbitration settlement, and, in fall 2009, he asked Ahmed for assistance. RP 1652-1653. Ahmed and the Parent Company provided Brahmbhatt with money to pay the settlement, and, in January 2010, Brahmbhatt agreed to start making repayment. RP 2233-2235.

H. The Parent Company's Offering

By March 2009, Ahmed designed a plan to permit Ahmed, Brahmbhatt, and their respective companies to remain solvent. RP 1619. Ahmed decided that the Parent Company would issue promissory notes to raise capital for Ahmed, Ahmed's other enterprises, Ahmed's family members, Jade Wealth, and Jade Wealth's employees. RP 1619-1620, 2863-2864, 2869.

Ahmed had Brahmbhatt and Jade Wealth's advisers register with STS. RP 2947, 2957, 2963, 2987, 3031. The newly registered representatives of STS then sold the Parent Company's promissory notes to Jade Wealth's existing and prospective investment advisory customers. RP 1619, 9349. In return for selling the notes, the Parent Company compensated the representative who made the sale, assisted Brahmbhatt in paying his $180,000 settlement, and provided Brahmbhatt with funding to keep Jade Wealth afloat. RP 2233-2235, 2863-2864, 9349-9360.

Between March 2009 and February 2013, Ahmed, Brahmbhatt, and STS's registered representatives sold 152 promissory notes, totaling $19.4 million, to 65 investors. RP 1619, 2643-2644. Many of the investors were recently drafted NBA or NFL players in their early 20s. RP 1983, 2643-2644, 2867-2868. Approximately 23 of the 65 investors had income of less than $200,000 in the two years prior to the offering, a net worth of less than $1 million, and minimal investment experience. RP 2867-2868.

1. The Offering Documents

The key offering documents associated with the Parent Company's offering are six private placement memoranda ("PPMs"), dated January 1, February 1, September 29, and November 30, 2009, and a supplement to the PPMs ("Supplement"), dated June 30, 2010. RP 3153-3391, 3393-3395. Ahmed authorized the offering documents, signed all but eight of the promissory notes, and approved the terms of each note, including the interest rates. RP 1619-1621.

2. The First and Second PPMs

The first and second PPMs (collectively, "Initial PPMs") explained that the offering consisted of 50 of the Parent Company's unsecured promissory notes at an offering price of $100,000 per note, and that the gross proceeds would total $5 million.[3] RP 3153, 3187. The Initial PPMs set a "minimum purchase" of one note. RP 3157, 3191. The Initial PPMs stated that the notes had an annual rate of return of 12.5 percent "until maturity, simple interest, paid monthly, with a maturity date of 36 months from the [c]ommencement [d]ate of each [n]ote." RP 3157, 3191. The Initial PPMs also explained that participation in the offering was limited to "accredited investors,"[4] and that the offering was exempt from registration pursuant to Rule 506 of Regulation D of the Securities Act of 1933 ("Securities Act").[5] RP 3162, 3196.

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[3] The first PPM set minimum and maximum offering amounts of $5 million and $7.5 million, where the second PPM did not do so. RP 3153, 3187.

[4] Amandeep Basi, a representative formerly registered with STS, testified that investors would sign the Accredited Investor Questionnaire, leaving questions unanswered, and he would fill in missing demographic, profile, or income information. RP 1765-1767.

[5] In June 2009, the Parent Company filed a notice with the Commission, claiming that the promissory notes were exempt from registration under Rule 505 of Regulation D of the Securities Act. RP 11655-11659. Ahmed testified that the filing was in error, and the offering was exempt from registration pursuant to Rule 506. RP 2251-2256.

The Initial PPMs represented the following regarding the investors' funds: "[$1.5 million] will be used to buy out existing shareholders and retire debt; [$2 million] will be allocated to an advertising campaign; and [$1.1 million] to be reinvested in technology." RP 3157, 3191. The remaining $400,000 raised would provide the Parent Company with "working capital" and offset offering expenses, commissions, and legal and accounting fees. RP 3158, 3192. With regard to the use of proceeds to pay commissions, the Initial PPMs stated that the Parent Company's officers and directors would sell the offering, but they would not receive compensation for doing so. RP 3158, 3192.

3. The Third, Fourth, Fifth, and Sixth PPMs

The third, fourth, fifth, and sixth PPMs (collectively, "Subsequent PPMs") were similar to the Initial PPMs in many ways. The Subsequent PPMs offered the same number of the Parent Company's promissory notes (50) at the same subscription price ($100,000) as the Initial PPMs. RP 3227, 3269, 3311, 3351. They contained the same minimum purchase (one note), annual rate of return (12.5 percent), and months to maturity (36 months). RP 3227, 3269, 3311, 3351. They also explained that the offering was limited to accredited investors and exempt from registration pursuant to Rule 506. RP 3244-3245, 3286-3287, 3328, 3368-3369. Unlike the Initial PPMs, the Subsequent PPMs added disclosures about the Parent Company's use of the offering's proceeds and its debt.

a. The Parent Company's Use of the Offering's Proceeds

The Subsequent PPMs advised investors that the Parent Company may not sell the maximum number of offered promissory notes, but stressed that, "there is no minimum proceeds threshold required." RP 3227, 3269, 3311, 3351. In addition, the Subsequent PPMs added a

section titled, "Management['s] Discretion as to Use of Proceeds." RP 3242-3243, 3284-3285, 3326-3327, 3366-3367. That section stated,

> The [Parent] Company reserves the right to use the funds obtained from this offering for other similar purposes not presently contemplated which it deems to be in the best interest of the [Parent] Company, its shareholders[,] and its [note] holders and in order to address changed circumstances or opportunities. As a result . . . [i]nvestors will be entrusting their funds to the [Parent] Company's management – upon whose judgment and discretion the investor must depend.

RP 3242, 3284, 3326, 3366.

In addition, while the Subsequent PPMs again disclosed that the Parent Company's officers and directors would not receive any compensation for selling the offering, they added that, "[n]either [the Parent Company] nor any associated person of [the Parent Company] will receive any compensation whatsoever in connection with the sale of any [n]otes in this offering." RP 3243, 3285, 3327, 3367. The fourth and sixth PPMs emphasized this point and specifically stated that Ahmed would not receive any compensation for his efforts in selling the offering. RP 3286, 3368.

b. <u>The Parent Company's Debt</u>

The Subsequent PPMs also disclosed a number of the Parent Company's debt obligations. These included:

- A $1.2 million "Revolving Master Borrowing Line." RP 3236, 3278, 3320, 3360. Ahmed personally guaranteed the Parent Company's repayment of the Revolving Master Borrowing Line. RP 3236, 3278, 3320, 3360.

- Two "Convertible Subordinated Notes," totaling $120,000, plus interest between eight and 10 percent, payable in 2011. RP 3236, 3278, 3320, 3360.

- Three loans, with a principal balance of $1.1 million, which incurred interest at rates between 7.5 and 15 percent and matured between 2008 and 2014. RP 3237, 3279, 3321, 3361. The Subsequent PPMs stated that the interest on the three loans was payable monthly, Ahmed personally guaranteed the loans, and the Parent Company's assets secured the loans. RP 3237, 3279, 3321, 3361.

- In 19 instances between June 2002 and November 2004, four individuals and two entities lent the Parent Company a total of $593,681. RP 3237-3238, 3279-3280, 3321-3322, 3361-3362. The loans had an annual interest rate of six percent, and they were payable on demand. RP 3237, 3279, 3321, 3361.

- The Parent Company also owed a clearing firm $45,416.91 on behalf of the Parent Company's software company, BP Trade, and $30,875.45 on behalf of itself. RP 3238, 3280, 3322, 3362.

4. The Supplement

The Parent Company issued the Supplement to the PPMs on June 30, 2010. RP 3393. The Supplement stated that it was intended to accompany the PPM dated November 30, 2009, but it did not distinguish between the three different versions of that PPM. RP 3393. The Supplement disclosed the Parent Company's loans to Jade Wealth, and it also added "supplemental information" about the size of the Parent Company's offering and the Parent Company's use of the offering's proceeds. RP 3393-3395.

a. The Parent Company's Loans to Jade Wealth

The Supplement disclosed that Jade Wealth provided "securities brokerage services" through STS, and that the Parent Company had made $590,000 in "business loans" to Jade Wealth. RP 3393. By the time the Parent Company issued the Supplement, however, the Parent Company had loaned Jade Wealth $619,576. RP 2869. The Supplement also failed to disclose that the source of the loans was the proceeds of the offering.

b. The Size of the Parent Company's Offering

Under the title, "Supplemental Information Regarding the Offering," the Supplement stated that the Parent Company had "discretion" to exceed the $5 million maximum offering size when it reached the maximum offering amount. RP 3393-3394.

The Supplement added, "[a]s of the date of this Supplement[,] the [Parent] Company has received approximately $3[.4 million] in proceedings from the [o]ffering." RP 3394. In fact, it

already had raised $4.7 million. RP 2869. The Parent Company exceeded $5 million in proceeds on August 13, 2010, two months after it issued the Supplement. RP 2639.

c. The Parent Company's Use of the Offering's Proceeds as of June 2010

Under the title, "Supplemental Information Regarding the Proposed Use of Proceeds from the Offering," the Supplement stated that the Parent Company had utilized the offering's proceeds "generally in conformity with its initial proposed use of proceeds." RP 3394. The Supplement, however, advised investors that, "in certain instances[, the Parent Company has] modified its use of proceeds as the [Parent] Company's business has demanded." RP 3394. Although the Supplement itemized how the Parent Company had used the $3.4 million of proceeds that it already received in the offering, its disclosures were false in numerous instances:

- The Supplement stated that the Parent Company had spent $165,000 on legal and accounting fees, but the actual amount was $279,606. RP 2869, 3394.
- The Supplement stated that the Parent Company had spent $195,000 on software programming for BP Trade, but the actual amount was $7,500. RP 2869, 3394.
- The Supplement stated that the Parent Company had spent $297,000 on a market data feed for BP Trade, but the actual amount was $174,334. RP 2869, 3394.
- The Supplement stated that the Parent Company had spent $324,000 on website development for STS, but the actual amount was $236,629. RP 2869, 3394.
- The Supplement stated that the Parent Company had spent $447,000 on data center infrastructure for BP Trade, but the actual amount was $293,284. RP 2869, 3394.
- The Supplement stated that the Parent Company had spent $705,000 on advertising for STS, but the actual amount was $210,331. RP 2869, 3394.
- The Supplement stated that the Parent Company had spent $950,000 to buy back the Parent Company's shares and retire the Parent Company's debt, but the actual amount was $984,007.[6] RP 2869, 3394.

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[6] The Supplement also stated that the Parent Company had spent $35,000 on offering expenses, $77,000 on equipment for BP Trade, and $250,000 on working capital. RP 3394. The

[Footnote Continued on Next Page]

The Parent Company spent an additional $1.8 million on certain items that were not disclosed in either the Initial PPMs, Subsequent PPMs, or Supplement:

- $56,900 on payments to Ahmed's brother, Faisal Mirza. RP 2869.
- $246,741 on "officer loans."[7] RP 2869.
- $307,411 on undocumented and unexplained payments to BP Trade. RP 2869.
- $531,545 on interest payments to existing investors. RP 2869.
- $619,576 on loans to Jade Wealth. RP 2869.

There is a $700,000 differential between the $4.7 million that the Parent Company raised in the offering by June 2010, and the $4 million that the Parent Company spent during that period. RP 2869. The record does not account for that $700,000.

d. <u>The Parent Company's Continued Use of the Offering's Proceeds Through February 2013</u>

By the time the offering ended in February 2013, the Parent Company had raised $19.4 million. RP 2641. The Parent Company had spent $2.2 million in accordance with the terms of Initial PPMs, Subsequent PPMs, and Supplement, and it had returned $5.7 million to the earliest investors. RP 2643-2644, 2869. The Parent Company, however, spent $7.4 million of the $19.4 million on items that were not disclosed in either the Initial PPMs, Subsequent PPMs, or Supplement:

- $4.9 million on interest to existing investors. RP 2845-2846.
- $1.3 million on loans to Jade Wealth. RP 2863-2864.

[Cont'd]

record does not disclose the actual amount that the Parent Company spent on these items as of June 2010.

[7] Ahmed testified that the officer loans were interest free funds that he used to pay personal expenses, such as food, clothing, credit card bills, personal travel, and the lease on his Range Rover. RP 1646-1648, RP 1658.

- $830,000 on officer loans. RP 2863-2864.
- $307,411 on undocumented and unexplained payments to BP Trade. RP 2869.
- $91,000 on payments to Ahmed's brother. RP 2863-2864.

There is a $4.1 million differential between the $19.4 million that the Parent Company raised by the end of the offering, and the $15.3 million that the Parent Company spent during that period. RP 2643-2644, 2845-2846, 2863-2864, 2869. The record does not account for that $4.1 million.

I. State Securities Regulators Instruct Ahmed and STS to Stop Selling the Parent Company's Promissory Notes

In October 2012, the District of Columbia's and Commonwealth of Virginia's Divisions of Insurance, Securities, and Banking (collectively, the "State Securities Regulators") provided Ahmed and STS with the results of an on-site examination. RP 10283-10304. The State Securities Regulators ordered STS to "[i]mmediately cease offering and selling [the Parent Company's notes] until such securities are registered[,] . . . the misstatement is corrected[,] and the [State Securities Regulators'] concerns are addressed." RP 10285-10286. Ahmed and STS, however, did not stop selling the Parent Company's promissory notes. RP 2256-2257.

The District of Columbia initiated a regulatory action against Ahmed, STS, and the Parent Company, which they settled in February 2015. *See Success Trade Sec., Inc.*, DC Department of Insurance, Securities and Banking, Administrative Consent Order SB-CO-03-15 (Feb. 19, 2015), attached as Appendix A. The District of Columbia determined that Ahmed's, STS's, and the Parent Company's sales of the notes violated the federal securities laws, the District of Columbia's rules and regulations, and FINRA's rules governing the purchase and sales of securities. Appendix A at 29-30. The District of Columbia barred Ahmed, STS, and the Parent Company from engaging in any securities business in the District of Columbia, ordered

them to pay, jointly and severally, $650,000 as a civil penalty, and ordered $12.5 million in restitution. Appendix A at 32.

J. Ahmed and STS Encourage Investors to Extend or Convert Promissory Notes as Their Financial Outlook Worsens

By August 2012, the Parent Company was funding all interest payments to current investors exclusively from infusions of capital from new investors. RP 2851-2852. By September 2012, the three-year promissory notes Ahmed and STS had sold in 2009 were set to mature, requiring the payment of approximately $3.2 million to investors. RP 2639. The Parent Company's balloon payment of $1.52 million to Riaz Khokhar also was coming due. RP 1931-1932, 9263.

By fall of 2012, Ahmed knew that the Parent Company did not have the ability to pay the principal and interest due on the promissory notes and the Parent Company's interest expenses were getting too high, and that he needed to restructure or refinance the Parent Company's debt for his businesses to remain solvent. RP 1669-1671. To rectify these issues, Ahmed convinced many of the noteholders to extend their notes at higher interest rates or convert their notes into shares of the Parent Company's stock. RP 1670-1673.

To convince investors to extend or convert their notes, Ahmed touted the valuation of the Parent Company's software subsidiary, BP Trade, informed investors that the Parent Company would gain additional capital through listing on a European exchange, and suggested that the Parent Company was in the process of acquiring an Australian broker-dealer that would enhance its market value.[8] The NAC found these statements to be fraudulent.

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[8] During this same period, Ahmed also began soliciting a new slate of investors who purchased shorter term notes, obtained notes by paying less than the minimum subscription price, and demanded (and obtained) significantly higher annualized interest rates on their note purchases. RP 2640-2641. Prior to April 2012, most of the promissory notes had a 36-month

[Footnote Continued on Next Page]

1. BP Trade's Valuation Report

In September 2012, Ahmed paid a consultant, Felix Danciu, $25,000 to prepare a report to estimate the market value of BP Trade (the "Valuation Report"). RP 1678-1679. Six days later, Danciu provided the Valuation Report, which was based solely on questionable assumptions that Ahmed provided to Danciu.[9] RP 1679, 1809, 10207-10275. It stated that BP Trade was worth $47.1 million.

The day after Ahmed received the Valuation Report from Danciu, he began disseminating it to investors.[10] RP 1690-1694, 10019. Ahmed emailed several investors, stating, "[a]ttached is the detailed [V]aluation [R]eport of my company done by an independent advisory firm. They have valued my company at $47.1 million." RP 10019. Ahmed similarly responded to investors' requests for the Parent Company's current financial information by sending them copies of BP Trade's Valuation Report. RP 10125-10216, 10133-10135.

In these communications, Ahmed failed to distinguish between the software company, BP Trade, the broker-dealer, STS, and the issuer of the promissory notes, the Parent Company.

[Cont'd]

term and an annualized interest rate of 12.5 percent, in accordance with the Initial PPMs and Subsequent PPMs. RP 2639-2640. As the notes from 2009 began to mature in early-2012, however, the Parent Company began selling promissory notes to new investors with maturity dates from one to eight months and annualized interest rates from 20 percent to 240 percent. RP 2640-2641.

[9] For example, Ahmed told Danciu that BP Trade would secure 25 licensing customers by the end of 2013, and that the company would have 135 customers by the end of 2017. RP 1679-1680, 1683-1685. BP Trade did not have any licensing customers since 2006 or 2007. RP 1679-1680.

[10] Ahmed used the Valuation Report to solicit new investors to participate in the offering and convince existing investors to extend their notes or convert their notes to shares of the Parent Company's stock. RP 2641, 10125-10126 (Dequam Wright invested $225,000), 10133-10135 (Greg Nickerson converted all of existing notes into shares and invested an additional $50,000).

RP 1690-1694, 10125-10216, 10133-10135. Ahmed also did not disclose that BP Trade's Valuation Report did not account for the Parent Company's financial distress because Ahmed had failed to provide Danciu with information concerning the Parent Company's liabilities. RP 1690-1694.

In January 2013, Danciu told Ahmed that the Valuation Report was out of date because BP Trade had been unable to secure licensing customers and failed to prepare promotional materials to market its software. RP 1821-1822. Despite this warning, Ahmed and STS continued using the Valuation Report to promote the sale of the Parent Company's promissory notes. RP 1730-1739. Ahmed and STS sold 12 additional notes, garnering $1.2 million, after Danciu informed Ahmed that the Valuation Report was outdated. RP 2641.

2. The Parent Company's Listing on a European Exchange

In late 2012, Ahmed's and STS's registered representatives began informing investors that the Parent Company's listing on a European exchange was imminent, and that the investors should take advantage of the "opportunity" to convert their promissory notes into shares of the Parent Company's stock. RP 1722-1723, 2125. Ahmed and the representatives informed investors that the listing would occur between April 2013 and June 2013, investors would double or triple their investment, and conversion would not be an option after the listing occurred. RP 1731, 2121-2126. Ahmed claimed that the Parent Company's stock would open between four or five Euros per share. RP 1722.

There was no documentation, analysis, or basis to support Ahmed's predicted listing price. RP 1723-1724, 1887-1894. To the contrary, Danciu testified that it was premature to predict a European exchange listing price, and that there was no basis to conclude that the Parent Company would be listed by June 2013. RP 1887-1894. As of March 2013, the Parent Company had not completed the preliminary steps necessary for listing – forming a European

holding company to acquire the Parent Company's stock, deciding on which exchange to be listed, submitting a listing application, registering the Parent Company's stock with European securities regulators, identifying a market maker for the Parent Company's stock, and raising the funds required to pay for the listing process. RP 1723-1724.

3. The Parent Company's Acquisition of an Australian Broker-Dealer

Ahmed also attempted to persuade investors to convert their notes into shares of the Parent Company's stock with information about the Parent Company's purchase of an Australian broker-dealer named CMC Markets Stockbroking Limited ("CMC Markets"). RP 1477-1480, 1741, 11179-11184. Ahmed and the registered representatives of STS began informing investors that the Parent Company was enhancing its market value through the acquisition of CMC Markets. RP 2138. Ahmed explained that CMC Markets was undervalued, and that once acquired, CMC Markets could increase the Parent Company's value by trading at four times its current per share price. RP 2465-2466. Although Ahmed offered to purchase CMC Markets for $15 million in 2013, the Parent Company did not have sufficient funds to pay the first installment for the proposed acquisition. Ahmed withdrew the offer without paying any money. RP 1744-1746, 11643-11651.

K. Ahmed and STS Stop Payments on the Promissory Notes

In March 2013, the Parent Company ceased making payments to Riaz Khokhar and the holders of its promissory notes. RP 2529-2531. The Parent Company did not have sufficient funds to meet its payment obligations. RP 2531. Only six of the 65 investors were repaid fully, a total of $5.7 million. RP 2643-2644. The remaining 59 investors are due $13.7 million. RP 2643-2644.

L. Ahmed and STS Make Misrepresentations About Selling STS

On April 11, 2013, a FINRA Hearing Panel imposed a temporary cease and desist order ("TCDO") against Ahmed and STS. RP 11-43, 12563-12569, 12585-12588. Approximately three weeks later, on May 6, 2013, Ahmed and Riaz Khokhar executed a letter of intent, documenting Khokhar's proposed purchase of the assets of STS and a 15 percent ownership in BP Trade for $10.7 million. RP 10327-10329.

Ahmed forwarded the letter of intent to FINRA's Membership Application Program Group. RP 10331. In a May 8, 2013 email, FINRA staff informed Ahmed that the transaction required the filing of a continuing membership application. RP 10331. The staff's email cautioned, "the contemplated transaction . . . is not per se approvable as presently constructed because the buyer is not a registered broker-dealer . . . . [h]owever, staff will reserve judgment until an actual application . . . is filed." RP 10331. Despite these warnings, on May 16, 2013, Ahmed emailed investors to inform them of STS's imminent sale. RP 10333-10334.

In a letter dated May 23, 2013, FINRA staff reiterated to Ahmed the requirement that STS file an application to obtain approval for Khokhar's proposed acquisition. RP 10335-10337. The staff stated, "FINRA has previously advised you . . . that the Firm has an obligation to file for and obtain approval for the transfer of assets, business or lines of operation of the Firm." RP 10335. The staff explained that it had "serious regulatory concerns" with Ahmed's email of May 16, 2013, including that it was false and misleading and violated FINRA's rules concerning communications with the public. RP 10336.

Ahmed responded by email on May 30, 2013. RP 10343-10345. Ahmed provided the staff with a list of investors that had received his May 16 email, and he added, "[STS] shall cease using the [i]nvestor [l]etter and any letter with letterhead identifying [STS] as a 'Member of

FINRA, SIPC.'" RP 10343-10345. Ahmed and STS never completed an application to obtain approval for the sale of STS.

III. PROCEDURAL HISTORY

A. The FINRA Hearing Panel Finds That Ahmed and STS Committed Fraud and Sold Unregistered Securities

On April 10, 2013, Enforcement filed a request for a temporary cease and desist order and the complaint contemporaneously. RP 11-43, 12563-12569. Ahmed and STS consented to the TCDO request, and a FINRA Hearing Panel approved and issued the TCDO on April 11, 2013. RP 12585-12588. The TCDO ordered Ahmed and STS to stop selling the Parent Company's promissory notes, extending the terms of the existing notes, and converting the notes into shares of the Parent Company's stock. RP 12586.

In a June 2014 decision, the Hearing Panel found that Ahmed and STS willfully misrepresented and omitted material facts in connection with their sales of the Parent Company's promissory notes to the investors and sold unregistered notes without the benefit of a registration exemption. RP 11962-11973. The Hearing Panel barred Ahmed, expelled STS, and imposed a $13.7 million restitution award for engaging in fraud. RP 11977-11980. Ahmed and STS appealed the Hearing Panel's decision to the NAC. RP 11991-12001.

B. The NAC Affirms That Ahmed and STS Committed Fraud and Sold Unregistered Securities

On September 25, 2015, the NAC affirmed the Hearing Panel's findings of fraud and sales of unregistered securities, in addition to the bar, expulsion, and restitution order. RP 12637-12656, 12667-12669, 12673-12674. The NAC, however, also barred Ahmed and expelled STS for their unregistered securities sales. RP 12670-12672.

The NAC found that Ahmed and STS orchestrated, implemented, and recruited others to participate in a pervasive fraudulent scheme. RP 12637-12656. The NAC determined that

Ahmed and STS violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10b-5, and FINRA's rules when they misrepresented and omitted numerous material facts in connection with their sales of the Parent Company's promissory notes to investors. RP 12637-12656.

For sanctions, the NAC determined that Ahmed's and STS's role in the fraud, the widespread impact of Ahmed's and STS's misconduct, the continuing nature of their wrongdoing, and their significant disciplinary history were highly aggravating factors that supported barring Ahmed and expelling STS. RP 12662-12670. The NAC also ordered Ahmed and STS to pay $13.7 million, plus interest, in restitution to the investors. RP 12673-12674.

The NAC's sanctions discussion for Ahmed's and STS's unregistered securities sales emphasized that Ahmed's and STS's misconduct furthered their fraudulent scheme, supported their efforts to evade regulatory oversight and detection of the fraud, and imposed an additional risk on the investors' already speculative investment in the Parent Company. RP 12670-12672. The NAC concluded that these factors warranted the imposition of an additional bar on Ahmed and the expulsion of STS. RP 12670-12672.

C. The Commission's Separate Disciplinary Proceeding

On August 14, 2015, the Commission initiated its own regulatory action against Ahmed, STS, and the Parent Company for the same conduct at issue in these proceedings. *See Success Trade, Inc.*, Exchange Act Release No. 75707, 2015 SEC LEXIS 3390, at *1 (Aug. 14, 2015). Ahmed, STS, and the Parent Company partially settled the Commission's regulatory action. *See id.* at *1-2. In so doing, Ahmed, STS, and the Parent Company consented to findings that they willfully engaged in securities fraud, in violation of the Exchange Act, and willfully sold unregistered securities without the benefit of an exemption in violation of the Securities Act. *See id.* at *20-21. This partial settlement was reached one month before the NAC issued its decision.

For the misconduct, the Commission ordered Ahmed, STS, and the Parent Company to cease and desist from committing future violations of the fraud provisions of the Securities Act and Exchange Act and the registration requirements of the Securities Act. *See id.* at *23. The Commission also revoked STS's broker-dealer registration and ordered Ahmed, STS, and the Parent Company to pay, jointly and severally, a civil penalty of $12.7 million, disgorgement of $12.7 million, and prejudgment interest of $1.5 million. *See id.* at *23-24. The Commission's action is pending to determine whether additional sanctions should be imposed against Ahmed. *See id.* at *21-22.

IV. ARGUMENT

The Commission must dismiss this application for review if it finds that Ahmed and STS engaged in conduct that violated FINRA rules, FINRA applied its rules in a manner consistent with the purposes of the Exchange Act, and FINRA imposed sanctions that are neither excessive nor oppressive and that do not impose an unnecessary or inappropriate burden on competition.[11] 15 U.S.C. § 78s(e).

The record, which contains the testimony of eight witnesses, including Ahmed, and a wealth of corroborating documentary evidence, conclusively supports that Ahmed and STS engaged in securities fraud and sold unregistered securities without a registration exemption. The NAC's findings of liability are sound, and a bar and expulsion for each cause of action are appropriately remedial. The Commission should dismiss Ahmed's and STS's application for review.

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[11] Ahmed and STS do not contend that FINRA applied its rules in a manner inconsistent with the Exchange Act, or that FINRA's sanctions impose an undue burden on competition.

A. Ahmed and STS Engaged in Fraud in Violation of the Exchange Act

Ahmed and STS defrauded purchasers of the Parent Company's promissory notes by misrepresenting and omitting material facts in connection with their sales of the notes to investors. Ahmed's and STS's misrepresentations and omissions in connection with the sales constitute fraud and a willful violation of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5.

Section 10(b) of the Exchange Act makes it "unlawful for any person . . . [t]o use or employ, in connection with the purchase or sale of any security . . . , any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe." 15 U.S.C. § 78j(b). Exchange Act Rule 10b-5 makes it unlawful "[t]o employ any device, scheme, or artifice to defraud [Exchange Act Rule 10b-5(a)]; [t]o make any untrue statement of material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading [Exchange Act Rule 10b-5(b)]; or [t]o engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security [Exchange Act Rule 10b-5(c)]." 17 C.F.R. § 240.10b-5.

For the Commission to sustain the NAC's findings of fraud, the evidence must demonstrate that Ahmed and STS: (1) misrepresented or omitted, (2) material facts, (3) with scienter, (4) in connection with the purchase or sale of securities, (5) by means of interstate commerce. *See SEC v. First Jersey Sec., Inc.*, 101 F.3d 1450, 1466-1467 (2d Cir. 1996). A preponderance of the evidence establishes each of these elements.[12]

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[12] Ahmed and STS do not contest that their statements or omissions were "in connection with the purchase or sale of securities," or that the purchases and sales of the securities were

[Footnote Continued on Next Page]

1. Ahmed and STS Misrepresented and Omitted Facts

The record amply supports that Ahmed and STS misrepresented or omitted facts when they sold the Parent Company's promissory notes to investors. The offering documents and Ahmed's subsequent solicitation emails are riddled with misrepresentations and omissions. Ahmed's and STS's misrepresentations and omissions fell into one of seven categories.

a. The Use of the Offering's Proceeds

Ahmed and STS misrepresented and omitted facts concerning the Parent Company's use of the offering proceeds. The Initial PPMs, Subsequent PPMs, and Supplement each detailed how the Parent Company intended to utilize the funds that the offering generated – 40 percent for advertising, 30 percent to buy out existing shareholders and retire debt, 22 percent for improvements in technology, and eight percent for offering expenses, commissions, and legal and accounting fees. RP 3158, 3192, 3243, 3285, 3327, 3367, 3394.

In actuality, the bulk of the offering's proceeds – $11.5 million (59 percent) – was used for undisclosed purposes: $4.9 million (25 percent) in interest paid to existing investors, $4.1 million (21 percent) in unaccounted funds, $1.3 million (6 percent) in loans to Jade Wealth,[13]

[Cont'd]

completed "by means of interstate commerce." As an initial matter, the Parent Company's promissory notes constitute securities under the Exchange Act. *See Dep't of Enforcement v. Gebhart*, Complaint No. C02020057, 2005 NASD Discip. LEXIS 40, at *25-32 (NASD NAC May 24, 2005) (citing *Reves v. Ernst & Young*, 494 U.S. 56, 62-63 (1990) (applying the *Reves* factors to promissory notes to determine whether they are securities under the Exchange Act)), *aff'd*, 58 S.E.C. 1133 (2006), *aff'd in relevant part*, 255 F. App'x 254 (9th Cir. 2007). Moreover, the jurisdictional element is satisfied because Ahmed and STS communicated with the investors via telephone and email and sent them the Initial PPMs, Subsequent PPMs, and other offering documents via US mail.

[13] The Initial PPMs and Subsequent PPMs did not mention the Parent Company's loans to Jade Wealth. RP 3153-3164, 3187-3198, 3227-3246, 3269-3288, 3311-3329, 3351-3370. Ahmed and STS did not disclose the loans to Jade Wealth until they issued the Supplement in June 2010, which was 16 months after the offering began. RP 3393-3395. Even then, Ahmed

[Footnote Continued on Next Page]

$830,000 (4 percent) in officer loans, $307,411 (2 percent) in undocumented and unexplained payments to BP Trade, and $91,000 (1 percent) in payments to Ahmed's brother.[14] RP 2643-2644, 2845-2846, 2863-2864, 2869. Instead of using the offering's proceeds for the purposes listed in the Initial PPMs, Subsequent PPMs, and Supplement, Ahmed and STS utilized the investments to bank roll Ahmed and his family and friends, and fund and perpetuate the fraud itself by paying existing investors with cash infusions from new investors. These actual uses of the proceeds were not disclosed to the purchasers of the Parent Company's promissory notes.

On appeal, Ahmed and STS argue that the Initial PPMs, Subsequent PPMs, and Supplement provided them with the "sole discretion [to] use the proceeds [of the offering] for the general operation and expenses of the [Parent Company]." Applicants' Br. at 14-17. In connection with this argument, Ahmed and STS assert that the "officer loans were in the best interest of the Parent Company, its shareholders, and its noteholders," Ahmed's "Range Rover [was] a vehicle used for [the Parent Company's] business," and the loans to Ahmed's brother were part of the Parent Company's share buy back program.[15] Applicants' Br. at 14-16.

[Cont'd]

and STS misrepresented the amount of the loans. The Supplement stated that the principal due was $590,000, although the total due was reaching $620,000. RP 2869, 3393.

[14] From the $19.4 million in offering proceeds, $5.7 million (30 percent) were returned to investors, and Ahmed and STS used $2.2 million (11 percent) in accordance with the terms of the offering documents. The $2.2 million included $984,007 to buy back shares and retire debt, $475,118 in capital investments to BP Trade, $446,960 in capital investments to STS, and $279,606 in legal and accounting fees. RP 2643-2644, 2869.

[15] Ahmed and STS did not advance these arguments before the NAC, and, consequently, they failed to preserve their ability to raise them during this appeal. *See Mayer A. Amsel*, 52 S.E.C. 761, 767 (1996) (holding that arguments are waived where raised for the first time on appeal).

The record, however, only serves to reinforce the falsity of Ahmed's and STS's claims. The Initial PPMs, Subsequent PPMs, and Supplement failed to disclose that the offering's proceeds would provide Ahmed, his brother, and the representatives registered with STS and Jade Wealth with interest-free and unsecured loans to pay their personal expenses, and the offering documents similarly failed to inform the purchasers of the promissory notes that they intended to use the investors' funds to pay interest to existing noteholders.

b. The Parent Company's Financial Condition

Ahmed and STS misrepresented and omitted facts concerning the Parent Company's financial condition. The Initial PPMs did not provide the investors with any information concerning the Parent Company's debt or disclose that the Parent Company had posted net losses in four of the five years prior to the initiation of the offering.[16] RP 3153-3164, 3187-3198.

In addition, while the Subsequent PPMs and Supplement added disclosures about the Parent Company's financial condition, the additional information was woefully inadequate and misrepresented the significance and increasing depth of the Parent Company's financial hardship. RP 3227-3246, 3269-3288, 3311-3329, 3351-3370, 3393. For example, the Subsequent PPMs and Supplement did not disclose the effect of the mounting cost of the Parent Company's payment of interest to the existing holders of the promissory notes. The Subsequent PPMs and Supplement also did not reflect the Parent Company's mounting annual losses – $899,626 in 2009, $1.6 million in 2010, $1.8 million in 2011, and $2.1 million in 2012. RP

[16] The disclosures made in the Subsequent PPMs suggest that the Initial PPMs drastically misrepresented and omitted information concerning the amount of the Parent Company's debt. The Subsequent PPMs report that the Parent Company owed, at a minimum, $3 million in convertible notes, lines of credit, loans, and other payables when it issued the Initial PPMs in January and February 2009. RP 3236-3238, 3278-3280, 3320-3322, 3360-3362. This information was not disclosed in the Initial PPMs. RP 3153-3164, 3187-33198.

2843. Finally, the Subsequent PPMs and Supplement stated that the Parent Company's outstanding notes totaled $1.7 million, but the documents did not disclose that the Parent Company had issued an additional $1.5 million in notes between March 2009 and September 2009 as part of the offering. RP 2639, 3236-3238, 3278-3280, 3320-3322, 3360-3362.

c. The Size of the Parent Company's Offering

Ahmed and STS misrepresented and omitted facts concerning the size of the Parent Parent Company's offering. When Ahmed and STS issued the Supplement to investors in June 2010, the Parent Company's offering already had raised $4.7 million.[17] Two months later, in August 2010, the Parent Company exceeded $5 million in proceeds. RP 2639.

Despite this fact, Ahmed and STS did not update the Supplement or amend the Subsequent PPMs to reflect that the Parent Company had exceeded the maximum offering amount. To the contrary, Ahmed testified that he instructed STS's registered representatives to continue disseminating the outdated (and false) Subsequent PPMs and Supplement to investors, even after he knew the offering had raised more than $5 million, $10 million, and $15 million. RP 1634-1636. In the end, the Parent Company raised nearly quadruple the amount disclosed in the Initial PPMs, Subsequent PPMs, and Supplement. RP 3153, 3187, 3227, 3269, 3311, 3351, 3393.

d. The Terms of the Offering

Ahmed and STS misrepresented and omitted facts concerning even the most basic aspects of the offering. When Ahmed and STS issued the Initial PPMs, Subsequent PPMs, and

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[17] The Subsequent PPMs failed to disclose the Parent Company's receipt of $1.5 million in offering proceeds. RP 2639. The Supplement stated that the Parent Company had already raised $3.4 million in the offering, but the Parent Company had actually raised $4.7 million. RP 2869, 3394.

Supplement, they represented that the Parent Company offered only 50 promissory notes, the minimum subscription price was $100,000 per note, investors were required to purchase a minimum of one note, the annual rate of return on each note was 12.5 percent, and the term of each note was 36 months. RP 3187, 3227, 3269, 3311, 3351, 3393. Ahmed and STS also represented that participation in the Parent Company's offering was limited to accredited investors, and that the offering was exempt from registration pursuant to Rule 506. Each of these facts turned out to be false. RP 3153, 3187, 3227, 3269, 3311, 3351, 3393.

The Parent Company issued 152 notes (not 50), permitted 14 investors to purchase fractional portions of notes for amounts between $18,500 and $50,000 (not $100,000), and in 18 note sales, promised investors returns in excess of 20 percent. RP 2639-2641. There were also 44 notes sold with terms that were less than the 36 months, and at least 23 of the 65 individuals who purchased the Parent Company's promissory notes were not accredited investors. RP 2639-2641, 2867-2868.

e. BP Trade's Valuation

In the fall of 2012, as the first set of investors' notes matured and the Parent Company's financial outlook began growing increasingly dim, Ahmed and STS forged a new set of misrepresentations and omissions to convince existing noteholders to extend the terms of their notes or convert their notes into the Parent Company's stock. A significant number of Ahmed's and STS's misrepresentations and omissions focused on the valuation of BP Trade, the Parent Company's software subsidiary.

Ahmed and STS falsely informed investors that they had an objective valuation showing that BP Trade was valued at $47.1 million. RP 1817-1818, 10208, 10272. Ahmed and STS, however, failed to disclose to investors that BP Trade's valuation was based on a number of suspect and non-objective assumptions, all of which were provided by Ahmed. RP 1809.

Ahmed and STS also falsely told investors that BP Trade's revenues would double between 2013 and 2014, and that the company would post a profit of 32 percent by 2014. RP 1817-1818, 10208, 10272. Ahmed and STS did not disclose that the projections of revenues and profits were based on the assumption that BP Trade would increase its software licensing customers by 440 percent – from no customers in 2006 and 2007, to 25 customers in 2013, and 135 customers in 2017. RP 1679-1680, 1683-1685. Finally, Ahmed and STS failed to inform investors that BP Trade's valuation did not include the Parent Company's substantial debt obligations, or that Ahmed funded BP Trade's $11.5 million purchase price primarily through the issuance of the Parent Company's stock. RP 1690-1694.

f. The Listing on a European Exchange

Shortly after receiving the Valuation Report, Ahmed and STS began falsely telling investors that the Parent Company would be listing its stock on a European exchange between April 2013 and June 2013, and that the opening stock price would be between four or five Euros. RP 1722-1723, 1731, 2121-2126. Ahmed and STS urged investors to convert their notes into shares of the Parent Company, claiming that the conversion was a "now-or-never" opportunity for investors to double or triple their investment. RP 2121-2126. They also falsely stated that the conversion of the Parent Company's notes into stock would not be an option after the Parent Company went public. RP 2121-2126.

There were no documents, no analysis, no basis – nothing – to support Ahmed's and STS's claims that the Parent Company would be listed on a European exchange, let alone the claims about the timing of the purported listing or the opening stock price. RP 1723-1724, 1887-1894. In fact, as of March 2013, the Parent Company still had not completed any of the preliminary steps needed to do so. RP 1723-1724. Despite this fact, Ahmed and STS systematically informed investors about the public listing and anticipated pricing of the Parent

Company's stock without disclosing the Parent Company's dire financial condition or its inability to make interest or principal payments without the infusion of additional capital. RP 2121-2126.

g. The Acquisition of CMC Markets

Finally, Ahmed and STS misrepresented and omitted facts concerning the Parent Company's acquisition of CMC Markets. In February 2013, Ahmed and STS began informing investors that the Parent Company was in the process of acquiring CMC Markets. RP 1741, 2138. Ahmed and STS explained that the acquisition of CMC Markets would enhance the Parent Company's market value and increase the Parent Company's opening price when it listed on the European exchange. RP 2138, 2465-2466.

Ahmed and STS omitted a number of facts concerning the Parent Company's acquisition of CMC Markets. For example, Ahmed and STS did not disclose that the Parent Company was in no position, financial or otherwise, to execute a deal to acquire CMC Markets. RP 1744-1746, 11643-11651. They also failed to inform investors that the Parent Company did not have sufficient cash or assets on hand to buy CMC Markets, and it did not have any confirmed source of financing. RP 1744-1746, 11643-11651.

2. Ahmed's and STS's Misrepresentations and Omissions Were Material

The seven categories of misrepresented and omitted information were material. Misstated or omitted facts are "material" if there is a substantial likelihood that a reasonable investor would have considered the misrepresentation or omission important in making an investment decision, and if disclosure of the misstated or omitted fact "would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available." *Basic Inc. v. Levinson*, 485 U.S. 224, 231-32 (1988).

Ahmed's and STS's misrepresentations and omissions were material and altered the total mix of information available to investors. *See, e.g., SEC v. Bravata*, 3 F. Supp. 3d 638, 644-648, 657-658 (E.D. Mich. 2014) (finding that defendant misrepresented material facts when he stated that offering proceeds would be used to acquire real estate, but the funds were used for personal purchases and "loans" that were not repaid); *SEC v. The Better Life Club of Am., Inc.*, 995 F. Supp. 167, 176-77 (D.D.C. 1998) (finding that defendant misrepresented material facts when he failed to disclose he used the proceeds of the offering to pay existing investors and misrepresented the rate of return on the investment); *Riedel v. Acutote of Colorado LLP*, 773 F. Supp. 1055, 1063 (S.D. Ohio 1991) ("[A] company's 'financial condition, solvency, and profitability' [are] clearly material."); *Kevin M. Glodek*, Exchange Act Release No. 60937, 2009 SEC LEXIS 3936, at *9-10, *15-16 (Nov. 4, 2009) (representations about issuer's imminent listing on stock exchange was materially misleading when issuer had not filed necessary listing application). To be sure, a reasonable investor would have found the information that Ahmed and STS misrepresented and omitted important, if not crucial, to his or her investment decision.

3. Ahmed and STS Acted with Scienter

The NAC correctly concluded that Ahmed and STS acted with scienter. Scienter is defined as "a mental state embracing [an] intent to deceive, manipulate, or defraud." *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976). Ahmed and STS misrepresented and omitted material facts about the Parent Company and the offering, and they did so with the intent to deceive, manipulate, and defraud the investors who purchased, or intended to purchase, the Parent Company's promissory notes.

When Ahmed and STS initiated the offering, the Parent Company had five employees. RP 3099. The Parent Company's limited size allowed Ahmed to control every aspect of the business, including the company's operations, financial matters, capital-raising efforts, and the

offering. Ahmed devised the offering. RP 1619-1620. And he oversaw the offering's implementation, marketing, and sale. RP 1619-1620, 2863-2864, 2869. Ahmed also managed the finances of the Parent Company, in addition to the proceeds and expenditures associated with the offering. RP 1612-1613.

Given this intimate familiarity, Ahmed knew that the Initial PPMs, Subsequent PPMs, and Supplement misrepresented and omitted material information concerning the Parent Company and the offering. Ahmed therefore intentionally deceived, manipulated, and defrauded the purchasers of the Parent Company's promissory notes, and he acted with the requisite scienter to establish securities fraud. *See Kenneth R. Ward*, 56 S.E.C. 236, 258-60 (2003) (finding scienter established when representative was aware of material information and failed to disclose the material information to customers), *aff'd*, 75 F. App'x 320 (5th Cir. 2003).

STS acted with scienter based on Ahmed's intentional acts. *See Kirk A. Knapp*, 50 S.E.C. 858, 860 n.7 (1992) (explaining that FINRA properly attributed scienter of firm's owner to firm and thereby found primary antifraud violation by firm based on owner's conduct).

4. FINRA Properly Exercised Jurisdiction over Ahmed and STS

On appeal, Ahmed and STS argue that they are not subject to FINRA's jurisdiction, that they are not responsible for the representations made to the purchasers of the promissory notes because the Parent Company offered the notes, and that the individuals associated with Jade Wealth solicited and sold the notes to investors. Applicants' Br. at 3-4. Ahmed and STS are mistaken.

As an initial matter, STS was a FINRA member, and consequently, subject to FINRA's jurisdiction when Enforcement filed the complaint. *See* Article I of FINRA's By-Laws (the term "member" means any broker or dealer admitted to FINRA membership). Ahmed was subject to FINRA's jurisdiction because he was registered with STS when Enforcement filed the

complaint, and the complaint charged Ahmed with misconduct committed while he was registered with STS. *See* Article V, Section 4 of FINRA's By-Laws.

5. Ahmed Had Ultimate Authority over the Parent Company's Statements

Moreover, to the extent Ahmed's and STS's arguments concerning FINRA's jurisdiction concern their authority over the statements in the Initial PPMs, Subsequent PPMs, and Supplement, the NAC properly determined that Ahmed (not STS) had ultimate authority over the statements at issue, and that Ahmed is liable under Exchange Act Rule 10b-5(b).[18] *See Janus Capital Grp. v. First Derivative Traders*, 131 S. Ct. 2296, 2301-02 (2011) (holding that the "maker" of a misleading statement is liable under Exchange Act Rule 10b-5(b) when the "maker of a statement is the person or entity with ultimate authority over the statement, including its content and whether and how to communicate it").

Ahmed was the Parent Company's CEO, President, and largest shareholder. RP 1612. Ahmed reviewed, authorized, and approved the contents of the Initial PPMs, Subsequent PPMs, and Supplement, approved all sales of the notes to the investors, including the terms of the sales, and directly communicated with investors to convince them to renew, extend, or convert the notes into shares of the Parent Company's stock as the notes matured. RP 1619-1621, 1669-1673. Ahmed therefore exercised ultimate authority over the representations made during the course of the offering. *See Janus Capital Grp.*, 131 S. Ct. at 2301-02.

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[18] Ahmed's and STS's arguments concerning Exchange Act Rule 10b-5(b) ignore other applicable parts of the rule, Exchange Act Rule 10b-5(a) and (c). *See John P. Flannery*, Exchange Act Release No. 73840, 2014 SEC LEXIS 4994, at *37, 40 (Dec. 15, 2014) (explaining that Exchange Act Rule 10b-5(a) and (c) proscribe conduct that "employs *any* manipulative or deceptive device or engages in *any* manipulative or deceptive act," and it includes "the drafting or devising of fraudulent misstatements"), *rev'd*, 2015 U.S. App. LEXIS 21244 (1st Cir. Dec. 8, 2015).

6. Ahmed's and STS's Fraud Does Not Implicate the Standards for Control Person Liability

Ahmed and STS argue that they "had no control person liability because they acted in good faith and did not induce any wrongdoing by [Jade Wealth]." Applicants' Br. at 3-4. Ahmed and STS, however, drastically underestimate their role in this fraud.

The NAC did not find Ahmed and STS liable as control persons. The NAC decision, consistent with the allegations in the complaint, focuses on whether Ahmed and STS, themselves, misrepresented and omitted material facts in connection with the Parent Company's offering. The NAC found that they did.

Moreover, Ahmed's and STS's reliance on the affirmative defenses provided in the control person liability provisions of the Exchange Act is faulty. Ahmed and STS did not act "in good faith," and they directly and indirectly induced the fraud in this case, by recruiting and registering the individuals associated with Jade Wealth to solicit and sell the Parent Company's promissory notes to investors based on the misrepresentations and omissions that they supplied. The Commission should reject Ahmed's and STS's arguments and affirmative defenses concerning control person liability.

* * *

The record in this case amply supports that Ahmed and STS: (1) misrepresented and omitted, (2) material facts, (3) with scienter, (4) in connection with the purchase or sale of securities, and (5) by means of interstate commerce. Ahmed and STS therefore engaged in securities fraud and willfully violated Section 10(b) of the Exchange Act and Exchange Act Rule

10b-5.[19] The Commission should affirm the NAC's findings that Ahmed and STS engaged in fraud in violation of the Exchange Act.

B. Ahmed and STS Engaged in Fraud in Violation of FINRA's Antifraud Rule

The Commission should also affirm the NAC's findings that Ahmed's and STS's misconduct independently violated FINRA's antifraud rule, FINRA Rule 2020. FINRA Rule 2020 prohibits members from "effect[ing] any transaction in, or induc[ing] the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance."[20] While FINRA Rule 2020 is generally construed as being similar to Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5, the rule "captures a broader range of activity than [Exchange Act] Rule 10b-5(b)." *Dep't of Enforcement v. Fillet*, Complaint No. 2008011762801, 2013 FINRA Discip. LEXIS 26, at *38 (FINRA NAC Oct. 2, 2013), *aff'd in relevant part*, Exchange Act Release No. 75054, 2015 SEC LEXIS 2142, at *1 (May 27, 2015).

The record demonstrates that Ahmed and STS engaged in fraud, in violation of FINRA Rule 2020, because they induced investors to purchase the Parent Company's notes by means of misrepresentations and omissions of material fact concerning the Parent Company and the offering. The Commission therefore should affirm the NAC's findings that Ahmed and STS engaged in fraud in violation FINRA Rule 2020.

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[19] Ahmed's and STS's violation of Section 10(b) of the Exchange Act and Exchange Act 10b-5 was willful and results in their statutory disqualification. *See Robert Marcus Lane*, Exchange Act Release No. 74269, 2015 SEC LEXIS 558, at *3 n.2 (Feb. 13, 2015) (stating that applicants were statutorily disqualified because they willfully violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5).

[20] Conduct that violates the Commission's or FINRA's rules, including the antifraud rules, is inconsistent with "high standards of commercial honor and just and equitable principles of trade" and violates FINRA Rule 2010. *See Everest Sec., Inc.*, 52 S.E.C. 958, 959 (1996), *aff'd*, 116 F.3d 1235 (8th Cir. 1997). FINRA Rules 2020 and 2010, which generally apply to FINRA "members," are applicable to associated persons pursuant to FINRA Rule 0140(a).

C. Ahmed and STS Sold Unregistered Securities, in Violation of Section 5 of the Securities Act and FINRA Rule 2010

The NAC correctly determined that Ahmed and STS sold unregistered securities, in violation of Section 5 of the Securities Act and FINRA Rule 2010.[21] Section 5 makes it unlawful for any person to make a sale, or any offer for sale, of a security for which no registration statement is in effect, unless there is an exemption from registration. *See* 15 U.S.C. §77e(a) and (c); *see also Jacob Wonsover*, 54 S.E.C. 1, 8 (1999), *aff'd*, 205 F.3d 408 (D.C. Cir. 2000). The requirement that all persons refrain from selling unregistered securities, unless an exemption applies, serves a fundamental aim of the Securities Act, i.e., that distributions of securities be accompanied with disclosures about the issuer. *See SEC v. Ralston Purina Co.*, 346 U.S. 119, 124 (1953) ("The design of the statute is to protect investors by promoting full disclosure of information thought necessary to informed investment decisions.").

To establish a *prima facie* case of a violation of Section 5, Enforcement had to show that: (1) no registration statement was in effect as to the Parent Company's promissory notes, (2) Ahmed and STS sold or offered to sell the notes, and (3) interstate transportation or communication was used in conjunction with the sale or offer of sale. *See SEC v. Cont'l Tobacco Co. of S. Carolina, Inc.*, 463 F.2d 137, 155 (5th Cir. 1972). It is undisputed that Ahmed and STS sold the Parent Company's notes using interstate means, and that no registration statement was in effect for the securities at the time of the sale. Applicants' Br. at 19-21 (explaining that Ahmed and STS intended to rely on an exemption from securities registration).

Consequently, unless Ahmed and STS can establish that an exemption to Section 5's registration requirements applies, Ahmed's and STS's sale of the Parent Company's promissory

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[21] A violation of Section 5 is a violation of FINRA Rule 2010. *See World Trade Financial Corp.*, Exchange Act Release No. 66114, 2012 SEC LEXIS 56, at *2 n.3 (Jan. 6, 2012).

notes violated Section 5. Here, Ahmed and STS have not come close to meeting their burden of establishing a registration exemption.[22] *See SEC v. Blazon Corp.*, 609 F.2d 960, 968 (9th Cir. 1979) (stating that "[t]he burden of proof is on the person who would claim [a Section 5] exemption"). On appeal before the Commission, as they did before the NAC, Ahmed and STS contend that their sales of unregistered securities qualified for an exemption under Rule 506.[23] Applicants' Br. at 19-21. The exemption, however, does not apply.

Rule 506 is a "safe harbor" exemption under Regulation D of the Securities Act. *See Donald J. Anthony, Jr.*, Initial Decisions Release No. 745, 2015 SEC LEXIS 707, at *254 (Feb. 25, 2015). Under Rule 506, an issuer may claim an exemption and sell its securities to an unlimited number of "accredited investors," and up to 35 non-accredited investors, without regard to the dollar amount of the offering. 17 C.F.R. § 230.506(b)(2)(i).

In order for the exemption to apply, however, each of the 35 non-accredited investors also must be "sophisticated." 17 C.F.R. § 230.506(b)(2)(ii); *see Russell C. Schalk, Jr.*, Exchange Act Release No. 74753, 2015 SEC LEXIS 1479, at *17 (Apr. 17, 2015) (in the context of a settlement, explaining that an exemption under Rule 506 was not available because some of the non-accredited investors were not sophisticated). In this case, Ahmed and STS sold the Parent Company's promissory notes to at least 23 non-accredited investors who also were not sophisticated. RP 2867-2868.

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[22] "Exemptions from the registration requirements of the Securities Act are construed narrowly." *Blazon Corp.*, 609 F.2d at 968. The evidence in support of an exemption also must be "explicit, exact, and not built on mere conclusory statements." *Robert G. Weeks*, 56 S.E.C. 197, 1322 (2003).

[23] Ahmed and STS also suggest that their "problems" with claiming an exemption from securities registration are technical in nature and relate to the filing of a Form 505, in lieu of a Form 506. Applicants' Br. at 19-20. But as the NAC found, Ahmed's and STS's violation was substantive, not technical.

1. Ahmed and STS Sold the Parent Company's Promissory Notes to Unaccredited Investors

The term "accredited investor" is defined in Rule 501(a) as including any person "whose individual net worth, or joint net worth with that person's spouse, exceeds $1,000,000. 17 C.F.R. § 230.501(a)(5). The definition also extends to any person "who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year." 17 C.F.R. § 230.501(a)(6). At a minimum, 23 of the 65 investors who purchased the Parent Company's notes had a net worth of less than $1 million and income of less than $200,000 in each of the two years prior to the offering. RP 2867-2868 (summary exhibit listing unaccredited investors).

2. Ahmed and STS Sold the Parent Company's Promissory Notes to Unsophisticated Investors

These 23 individuals were non-accredited investors, and, consequently, they had to be sophisticated for the Rule 506 exemption to apply. *See* 17 C.F.R. § 230.506(b)(2)(ii) (stating that non-accredited investors must have "such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment."). The record, however, demonstrates that the 23 non-accredited investors also were not sophisticated.

Most of the non-accredited investors were under 23 years of age. RP 2867-2868. They typically left the "investment history" portion of their account documents blank, or they noted that their investment history was limited to the purchase or sale of "marketable securities." RP 2867-2868. All of the non-accredited investors stated that their "investment experience" was "seldom" or "occasional." RP 2867-2868. The non-accredited investors were not sophisticated

and did not have the financial or business knowledge and experience to evaluate the merits and risks of investing in the Parent Company.

3. Ahmed and STS Cannot Shift Their Compliance Obligations to the Representatives Associated with Jade Wealth and Registered with STS

On appeal, Ahmed and STS state that the individuals associated with Jade Wealth, and registered with STS, determined the investors' accreditation and sophistication, and that the investors who purchased the Parent Company's promissory notes completed "Accredited Investor Questionnaires," attesting to their accreditation and sophistication. Applicants' Br. at 7. Accordingly, Ahmed and STS argue that they are not responsible for the unaccredited and unsophisticated investors' participation in the offering. Applicants' Br. at 7. Ahmed's and STS's blame-shifting arguments must fail. *See Justine Susan Fischer*, 53 S.E.C. 734, 741 & n.4 (1998).

As an initial matter, the investors' completion of the accreditation questionnaires is irrelevant. It was Ahmed's and STS's responsibility to determine whether the investors who purchased notes satisfied the accreditation and sophistication requirements of Rule 506. Neither Ahmed nor STS may foist that responsibility onto the investors. *See id.* (stating that it was the applicant's responsibility to determine whether the customers could engage in margin trading).

The "completed" accreditation questionnaires are also unreliable. Amandeep Basi, a representative formerly registered with STS, testified that investors would sign blank accreditation questionnaires, and he would fill in missing demographic, profile, or income information. RP 1765-1767. The Commission should reject the untrustworthy evidence.

Finally, to the extent that Ahmed and STS argue that STS's and Jade Wealth's representatives were responsible for the determination of whether the investors were accredited and sophisticated, their argument is faulty. Rule 506 states that a purchaser "either alone or with

his purchaser representative" must be sophisticated. 17 C.F.R. § 230.506(b)(2)(ii). In order to qualify as a "purchaser representative," however, a person must satisfy four specific conditions, which are outlined in Rule 501(i) of Regulation D of the Securities Act. *See* 17 C.F.R. § 230.501(i) (stating that a person must satisfy *all* four conditions to qualify as a purchaser representative under Rule 501(i)).

The individuals associated with Jade Wealth and registered with STS did not satisfy all four conditions in Rule 501(i). Most notably, they did not meet the first condition under the rule, which prohibits purchaser representatives from being "an affiliate, director, officer or other employee of the issuer." 17 C.F.R. § 230.501(i)(1). Jade Wealth's advisers were employees of STS, which in turn, made them employees of the issuer, i.e., Parent Company. Because the individuals associated with Jade Wealth did not satisfy all four conditions in Rule 501(i), they did not qualify as purchaser representatives for purposes of the Rule 506 exemption.

* * *

The record in this case amply supports that Ahmed and STS sold the Parent Company's promissory notes to unaccredited, unsophisticated investors, and that they may not claim an exemption from securities registration based on Rule 506 of the Securities Act. Ahmed and STS therefore sold unregistered securities without the benefit of an exemption, in contravention of Section 5 of the Securities Act and violation of FINRA Rule 2010. The Commission should affirm the NAC's findings.

D. Ahmed and STS Were Not the Subject of Bias or Selective Prosecution

Ahmed and STS assert that Ahmed and one of the Hearing Panelists, David Alsup, had a prior business relationship, that Alsup failed to disclose the relationship, and that Alsup's nondisclosure and continuation in the case warrant a "retrial." Applicants' Br. at 2-3. Ahmed's and STS's argument fails on several levels.

As an initial matter, the Hearing Officer informed the parties of the prior relationship between Ahmed and Alsup, and Ahmed did not object to Alsup's participation in the disciplinary proceeding. On April 10, 2013, Enforcement filed the complaint and a request for an expedited hearing and a TCDO. RP 12563-12569. On April 11, 2013, the Hearing Officer provided the parties with the names and associations of the two individuals who would preside over the TCDO proceeding. RP 12581. Alsup was one of these individuals. RP 12581. On that same day, the Hearing Officer held a prehearing conference call with the parties to discuss the TCDO. RP 12590-12607. The Hearing Officer, once again, provided the parties with the name and affiliation of Alsup, and the Hearing Officer disclosed that Alsup was currently registered with FINRA. RP 12596-12599. Ahmed did not object to Alsup's participation in the TCDO proceeding. Rather, Ahmed specifically stated, "I don't have any objection." RP 12599.

Alsup also served as a Hearing Panelist in the disciplinary proceeding. RP 539. On July 24, 2013, the Hearing Officer provided the parties with the names and associations of the two Hearing Panelists, including Alsup. RP 539. When the hearing in the disciplinary matter occurred, the parties were afforded another opportunity to object to Alsup's participation in the proceeding. On August 26, 2013, the first day of the hearing, the Hearing Officer repeated the disclosures concerning Alsup, and the Hearing Officer asked the parties whether they had "any issues" that should be addressed before the first witness testified. RP 1114-1115, 1122. In response, Ahmed, through counsel, stated, "[n]one from [the] Respondent[s]." RP 1122.

Ahmed and STS were informed of Alsup's prior business relationship with Ahmed and presented with several opportunities to seek Alsup's disqualification, including at the start of the TCDO or disciplinary proceeding, but they failed to do so. Their failure waived the issue of Alsup's purported bias. *See Robert Fitzpatrick*, 55 S.E.C. 419, 431 (2001) ("We have required that objections to the composition of the Hearing Panel be raised first to the Hearing Panel so

that the situation can be considered and, if appropriate, remedied as soon as possible"), *aff'd*, 63 F. App'x 20 (2d Cir. 2003).

Not only have Ahmed and STS waived the issue of bias, the record also demonstrates that the Hearing Panel did not exhibit bias against them. The evidence demonstrates that the Hearing Panel formulated their opinion based on the extensive record before them, and they imposed liability against Ahmed and STS based on the overwhelming testimony and documentary evidence. *See Scott Epstein*, Exchange Act Release No. 59328, 2009 SEC LEXIS 217, at *62 (Jan. 30, 2009) ("[B]ias by a hearing officer is disqualifying only when it stems from an extrajudicial source and results in a decision on the merits based on matters other than those gleaned from participation in a case."), *aff'd*, 416 F. App'x 142 (3d Cir. 2010). And, to the extent that any bias may have occurred, the NAC's de novo review ensured that the overall disciplinary proceeding conducted against Ahmed and STS was fair and without bias. *See Robert E. Gibbs*, 51 S.E.C. 482, 484-85 (1993) (discussing how de novo review insulates against bias), *aff'd*, 25 F.3d 1056 (10th Cir. 1994) (Table).

Ahmed's and STS's claims of selective prosecution similarly fail. To establish a claim of selective prosecution, an applicant must demonstrate that he was singled out unfairly for prosecution "based on improper considerations such as race, religion, or the desire to prevent the exercise of a constitutionally protected right." *Epstein*, 2009 SEC LEXIS 217, at *53. The record, however, is devoid of any evidence to support Ahmed's and STS's claims, and Ahmed and STS have made no such showing. Accordingly, the Commission should reject Ahmed and STS claims of bias and selective prosecution.

E. Ahmed and STS Failed to Meet the Heavy Burden Necessary to Admit the Excluded Expert Testimony

Ahmed and STS argue that they required the testimony of an expert witness, Brian Henderson, to refute "the existence of a Ponzi scheme" and inform the Hearing Panel about

Ahmed's and STS's business practices.[24] Applicant's Br. at 2. Ahmed and STS, however, fail to satisfy the "heavy burden" necessary to demonstrate that the Hearing Officer abused her discretion in excluding the expert witness. *See Dep't of Enforcement v. Mullins*, Complaint Nos. 20070094345 and 20070111775, 2011 FINRA Discip. LEXIS 61, at *50-51 (FINRA NAC Feb. 24, 2011), *aff'd*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464, at *1 (Feb. 10, 2012).

FINRA Rule 9263(a) authorizes the Hearing Officer to "receive relevant evidence, and . . . exclude all evidence that is irrelevant, immaterial, unduly repetitious, or unduly prejudicial." The Hearing Officer is granted broad discretion to accept or reject evidence under the rule. *See Mullins*, 2011 FINRA Discip. LEXIS 61, at *50-51. "Because this discretion is broad, the party arguing abuse of discretion assumes a *heavy burden* that can be overcome only upon showing that the Hearing Officer's reasons to admit or exclude the evidence were 'so insubstantial as to render . . . [the admission or exclusion] an abuse of discretion.'" *Dep't of Enforcement v. Strong*, Complaint No. E8A2003091501, 2008 FINRA Discip. LEXIS 19, at *17-18 (FINRA NAC Aug. 13, 2008) (emphasis added).

In the disciplinary proceeding before the Hearing Panel, Ahmed and STS filed a motion to permit expert testimony. RP 675-697. The Hearing Officer examined Ahmed's and STS's motion, but denied it because Ahmed and STS failed to establish a reasonable basis for the testimony. RP 981-987. The Hearing Officer explained the proposed expert's opinions were not

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[24] The label of Ahmed's and STS's fraud as a Ponzi scheme is irrelevant to the Commission's inquiry. The focus of the Commission's appellate review is whether Ahmed and STS misrepresented and omitted material facts in connection with their sales of the Parent Company's promissory notes, whether Ahmed and STS acted with the requisite scienter when making the misrepresentations and omissions, and, consequently, whether Ahmed and STS violated the Commission's and FINRA's antifraud rules. *See First Jersey Sec.*, 101 F.3d at 1467. The documentary and testimony evidence in the record compels an affirmative response to each prong of the analysis.

relevant, reliable, or helpful because the opinions had "nothing to do with what disclosures Ahmed and STS gave investors and whether those disclosures were false and misleading in light of the particular circumstances of this particular issuer."[25] RP 984. The NAC, after its de novo review of the matter, arrived at the same conclusion, and, on appeal, Ahmed and STS have offered no reason to disturb these findings. RP 12661-12662. The Commission should reject Ahmed's and STS's baseless argument and dismiss their application for review.

F. The Bars and Expulsions That the NAC Imposed Are Warranted and Neither Excessive Nor Oppressive

Section 19(e)(2) of the Exchange Act governs the Commission's review of FINRA's sanctions, and provides that the Commission may eliminate, reduce, or alter a sanction if it finds that the sanction is excessive, oppressive, or imposes a burden on competition not necessary or appropriate to further the purposes of the Exchange Act. *See Jack H. Stein*, 56 S.E.C. 108, 120-21 (2003).

In considering whether sanctions are excessive or oppressive, the Commission gives significant weight to whether the sanctions are within the allowable range of sanctions under the Guidelines. *See Vincent M. Uberti*, Exchange Act Release No. 58917, 2008 SEC LEXIS 3140, at *22 (Nov. 7, 2008) (noting that Guidelines serve as "benchmark" in Commission's review of sanctions). The Commission considers the principles articulated in the Guidelines and has

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[25] Although the formal rules of evidence do not apply to FINRA disciplinary proceedings, the Hearing Officer properly consulted Federal Rule of Evidence 702 for guidance concerning expert testimony. *See* FINRA Rule 9145(a) (the formal rules of evidence do not apply in FINRA disciplinary proceedings); *see also* Fed. R. Evid. 702 ("A witness who is qualified as an expert . . . may testify in the form of an opinion . . . if: (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.").

regularly affirmed sanctions that are within the recommended ranges contained in the relevant Guidelines. *See Robert Tretiak*, 56 S.E.C. 209, 233 n.46 (2003).

To assess sanctions for Ahmed's and STS's fraud and sales of unregistered securities, the NAC consulted the Guidelines for each violation at issue,[26] applied the principal and specific considerations outlined in the Guidelines, and considered all relevant evidence of aggravating and mitigating circumstances, including Ahmed's and STS's abundant disciplinary history and continuing fraudulent misconduct during the course of the disciplinary proceedings. RP 12667-12672. The resulting sanctions are neither excessive nor oppressive.

1. Ahmed's and STS's Fraud Warranted a Bar and Expulsion

For intentional misrepresentations or material omissions of fact, the Guidelines recommend a fine of $10,000 to $100,000. The Guidelines also advise adjudicators to suspend an individual or firm in any or all capacities for 10 business days to two years, and in egregious cases, the Guidelines suggest barring the individual and expelling the firm.

Over the course of four years, Ahmed and STS orchestrated, implemented, and recruited others to participate in a profound fraud, through which they gathered $19.4 million from 65 investors, a number of whom were young and financially unsophisticated. Ahmed's and STS's fraud resulted in substantial investor losses, and it continued despite regulators' instructions to cease sales of the Parent Company's promissory notes to investors. Ahmed's and STS's fraud also epitomized the troubling conflicts of interest that may arise in offerings involving affiliated issuers and broker-dealers.

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[26] *See FINRA Sanction Guidelines* (2013 ed.). The cited sections of the Sanction Guidelines are attached as Appendix B.

Finally, Ahmed's and STS's fraud was wrought with other acts of dubious conduct, such as the incomplete and untimely production of some documents, the suspect origin and validity of other documents, the ad hoc preparation of documents in anticipation of the disciplinary case, and the location of $4.1 million in unaccounted proceeds received during the course of the offering. Based on the circumstances, the NAC correctly concluded that barring Ahmed, and expelling STS, were necessary sanctions to remedy Ahmed's and STS's fraudulent conduct and protect the investing public.[27] The Commission should affirm the NAC's sanctions for Ahmed's and STS's fraud.

2. Ahmed's and STS's Unregistered Securities Sales Warranted a Bar and Expulsion

The NAC brought a similarly thoughtful analysis to the sanction imposed for Ahmed's and STS's unregistered securities sales. For sales of unregistered securities, the Guidelines recommend a fine of $2,500 to $50,000, and in egregious cases, the Guidelines recommend a higher fine and a suspension of up to two years or a bar.[28]

Contrary to Ahmed's and STS's assertion, their sales of unregistered securities is not a minor or technical violation of the Securities Act or FINRA's rules. Applicants' Br. at 19-21. Rather, the duration of Ahmed's and STS's misconduct (four years), the dollar amount of the

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[27] The NAC determined that Ahmed violated Exchange Act Rule 10b-5(a), (b), and (c) and FINRA Rule 2020, and the NAC determined that a bar was the appropriate sanction for Ahmed's misconduct. Although the NAC concluded that STS was not liable for fraud under Exchange Act Rule 10b-5(b), the NAC found that STS's violation of Exchange Act Rule 10b-5(a) and (c) and FINRA Rule 2020 was egregious and merited expulsion.

[28] The Guidelines related to sales of unregistered securities also set forth five specific considerations to analyze violations involving the sales of unregistered securities: (1) whether the respondent attempted to comply with an exemption from registration, (2) whether the respondent sold before the effective date of a registration statement, (3) the share volume and dollar amount of transactions involved, (4) whether the respondent had implemented reasonable procedures to ensure that it did not participate in an unregistered distribution, and (5) whether the respondent disregarded "red flags" suggesting the presence of an unregistered distribution.

sales ($19.4 million), and the number of transactions involved (152 notes sold) present significant aggravating factors.

The NAC stressed that Ahmed's and STS's goal in not registering the Parent Company's promissory notes was the pointed avoidance of regulatory oversight. As the NAC explained, "[a]ny level of regulatory scrutiny of the Parent Company and the offering would have revealed the facts established in the case – a fledgling enterprise with severe financial distress, no real operations or business plan, unsupportable financial statements, mythical records and bookkeeping, and near-phantom transactions and business arrangements used to divert funds from the Parent Company to Ahmed, his other 'businesses,' and family and friends whom he wanted to support." RP 12672. The NAC determined that the sanctions the Hearing Panel proposed for Ahmed's and STS's sales of unregistered securities, a one-year suspension in all capacities, were insufficient to serve the Guidelines' remedial goals, and the NAC decided to bar Ahmed and expel STS for selling unregistered securities without the benefit of an exemption. The Commission should affirm the NAC's sanctions for Ahmed's and STS's unregistered securities sales.[29]

V. CONCLUSION

The Commission should affirm the NAC's decision and dismiss Ahmed's and STS's application for review.

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[29] The NAC ordered Ahmed and STS to pay restitution of $13.7 million to 59 investors listed on an addendum to the Hearing Panel's decision. In a January 5, 2016 Order Directing Additional Briefing, the Commission has ordered the parties to submit additional briefing to "address whether and to what extent [the Commission's and District of Columbia's restitution] orders have an effect on whether FINRA's restitution order is 'excessive or oppressive' as defined by Exchange Act Section 19(e)(2)." FINRA will explain why the Commission should affirm FINRA's restitution order in the supplemental brief.

Respectfully Submitted,

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January 20, 2016

APPENDIX A

Government of the District of Columbia
Muriel Bowser, Mayor
Department of Insurance, Securities and Banking

Chester A. McPherson
Acting Commissioner

IN THE MATTER OF:	)	
	)	
SUCCESS TRADE SECURITIES, INC.,	)	ADMINISTRATIVE CONSENT ORDER SB-CO-03-15
	)	
SUCCESS TRADE INC., and	)	
	)	
FUAD AHMED	)	
	)	
Respondents.	)	

WHEREAS, Success Trade Securities, Inc. ("STS") is a former broker-dealer registered in the District of Columbia ("CRD# 46027) located at 1900 L. STREET NW, SUITE 301, WASHINGTON, DC 20036; and

WHEREAS, Success Trade Inc. ("STI") is a holding company that operates in the District of Columbia;

WHEREAS, Fuad Ahmed ("Ahmed") is a former registered broker-dealer agent in the District of Columbia ("CRD# 2404244), and is the President and Owner of Success Trade Securities and Success Trade Inc.;

WHEREAS, the Department of Insurance, Securities and Banking ("Department") conducted an examination of Success Trade Securities, and began an investigation of Success Trade Inc., Success Trade Securities, and Fuad Ahmed (collectively, "Respondents");

WHEREAS, Respondents have cooperated with the Department by responding to inquiries, providing documentary evidence and other materials, and providing the Department with access to facts relating to the query; and

WHEREAS, Respondents have advised the Department of its agreement to resolve the Department's investigation relating to activities of Respondents outlined in this Administrative Consent and Settlement Agreement ("Order"); and

WHEREAS, Respondents agree that the Department has sufficient evidence to substantiate the allegations contained in its Notice of Intent (No. SB-NOI-02-14) and in the Statement of Facts and Conclusions of Law contained therein; and

WHEREAS, Respondents elect to permanently waive any right to a hearing and appeal under the District of Columbia Administrative Procedure Act, D.C. Official Code §§ 2-509(a) and 2-510(a) (2001); the Rules of Practice and Procedures for Hearings in the District of Columbia, 26 DCMR §§ B300 *et seq.*; D.C. Official Code § 31-5602.02; D.C. Official Code § 31-5602.03 and sections 602(b) and 803(a) of the Securities Act of 2000, effective September 29, 2000 (D.C. Law 13-203, D.C. Official Code § 31-5601.01 *et seq.* (2001)) ("Act"), D.C. Official Code §§ 31-5606.02(b) and 31-5608.03(a) with respect to this Order; and

WHEREAS, solely for the purposes of settlement of the issues, Respondents, consent to this Order;

NOW, THEREFORE, the Commissioner of the Department ("Commissioner"), as administrator of the Act pursuant to D.C. Official Code § 31-5607.01 hereby enters this Order:

I.
STATEMENT OF FACTS

A. Success Trade, Inc., Success Trade Securities, Inc., and Fuad Ahmed

1. STS was established in 1999 and operates as an online deep discount brokerage firm through two subdivisions: Just2Trade.com and LowTrades.com.

2. STS conducts transactions in a mix of equities, options, mutual funds, variable annuities and life products, and low-priced securities.

3. Except for purchases of the private securities offerings described below, all of STS's client transactions are self-directed and many of the clients are day traders. STS is a wholly-owned subsidiary of STI.

4. STI operates as a holding company for STS and BP Trade, Inc., a Canadian software developer that provides trading applications for STS, including order-entry, routing, execution, and risk management solutions.

5. STI has no business function other than acting as a holding company for STS and BP Trade, Inc.

6. STS maintains its principal place of business in Washington, DC. STS maintained a branch office in McLean, Virginia that was located at the offices of Jade Private Wealth Management, LLC ("JADE") from July 3, 2009 to April 23, 2013 pursuant to an independent contractor agreement between STS and the broker-dealer agents located at JADE.

7. JADE is an investment adviser licensed with Virginia since November 10, 2009. The District initially approved JADE's investment adviser license on January 4, 2010.

8. At JADE's request, the District terminated JADE's investment adviser license on December 20, 2010.

9. JADE provided personal and financial management services to professional athletes. JADE also provides financial planning services, portfolio management, and selection of other advisers for individuals and high net worth clients.

10. Four of JADE's employees were registered as broker-dealer agents for STS. Those STS broker-dealer agents split their brokerage commissions with STS so that STS received 11% of the commission and the agents received 89% of the commission.

11. All of JADE's advisory clients maintained brokerage accounts with STS and STS provides all of JADE's broker-dealer services.

12. STI funded JADE's operations from approximately March 2009 through June 2012.

13. Ahmed is the President, Chief Executive Officer, and sole board member of both STS and STI.

14. Ahmed is the majority shareholder of STI.

15. Chae Yi was the supervisor and person-in-charge at STS's branch office at JADE.

16. Ahmed makes all decisions on behalf of both STS and STI.

17. At all relevant times herein, STI and STS acted by and through Ahmed and STI's and STS's employees.

18. STS acted by and through Ahmed and its licensed broker-dealer agents.

19. Ahmed was an employee and officer of STI and STS and was acting in the course and scope of his duties when he committed the violations set forth herein.

STI Notes and Offering

20. From March 2009 to February 2013, STI sold at least 138 promissory notes to 68 investors and raised a total of approximately $22.1 million from the sale of STI notes. From March 2009 to February 2013, STI made approximately $4.4 in principal repayments to note holders and approximately $4 million in interest payments to note holders.

21. STI sold its notes through STS broker-dealer agents located at JADE to investors, most of which are JADE clients, who were also STS brokerage clients.

22. About three-fourths of the investors are aspiring, current, or former professional athletes with the NFL and NBA.

23. The STI notes were sold to investors in Arizona, California, Connecticut, Florida, Georgia, Illinois, Indiana, Maryland, Missouri, New Jersey, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia.

24. During the course of selling the STI notes, STI used at least four private placement memoranda dated January 1, 2009 ("January 2009 PPM"), February 1, 2009 ("February 2009 PPM"), September 29, 2009 ("September 2009 PPM"), and November 30, 2009 ("November 2009 PPM") (collectively, "PPMs").

25. STI also used a supplement dated June 30, 2010 ("June 2010 PPM Supplement") that was provided in conjunction with the November 2009 PPM.

26. The PPMs included a Subscription Agreement, Accredited Investor Questionnaire, and Promissory Note.

27. The PPMs did not include a balance sheet, income and expense statement, statement of cash flows, or other information regarding STI's or STS's financial condition.

28. Respondents provided STI PPMs to investors in connection with the sale of 87 notes, 72 of which were issued pursuant to the November 2009 PPM.

29. A June 2010 PPM Supplement was provided in connection with the sale of at least 9 notes.

30. STI did not provide PPMs or other disclosure document in connection with 51 sales of STI notes.

31. STI's PPMs offered $100,000 unsecured promissory notes from STI at an annual rate of 12.5% simple interest, paid monthly, and a maturity date of 36 months from the date of commencement.

32. STI notes were convertible into STI common stock at $2.00 per share on the note holder's request.

33. STI's PPMs stated that the offering was exempt from securities registration utilizing the exemption provided by Rule 506 of Regulation D, 17 C.F.R. § 230.506. Sales were to only be made to "accredited investors," as defined by Rule 501(a) of Regulation D, 17 C.F.R. § 230.501(a).

34. STI's PPMs stated that funds would be used for the following purposes: offering expenses, commissions, capital investments in STS (advertising and website developments), capital investment in BP Trade (data center infrastructure, software programming, and equipment), share buyback and debt retirement, legal and accounting expenses, and working capital.

35. The June 2010 PPM Supplement also disclosed that investor proceeds would be used for capital investments in BP Trade for a market data feed.

36. STI's PPMs did not disclose STI's or STS's relationship with JADE or that STI had made loans to that company and was funding JADE's operations.

37. The June 2010 PPM Supplement amended the November 2009 PPM to notify investors of STI's and STS's relationship with JADE and of STI's business loans to JADE of $590,000, comprised of a $300,000 revolving line of credit due and payable by November 5, 2012 and four promissory notes maturing November 11, 2011.

38. STI's January 2009 PPM stated that STI would raise $7.5 million through the offering. The February 2009 PPM, September 2009 PPM, and November 2009 PPM stated that STI would raise a maximum of $5 million through the offering. The June 2010 PPM

Supplement also stated that STI would raise a maximum of $5 million through the offering, but that STI may in its discretion elect to exceed the $5 million limit.

39. STI's January 2009 PPM stated that the offering period would last through February 27, 2009.

40. The September 2009 PPM and November 2009 PPM also allowed STI to extend the offering period up to an additional 90 days without notice. STI's June 2010 PPM Supplement did not amend or extend the offering period provided by the November 2009 PPM.

Examination of STS

41. The Examinations Division of the Securities Bureau of the Department conducted an on-site examination of STS's books and records on June 12 and 13, 2012 in cooperation with the Virginia State Corporation Commission Division of Securities and Retail Franchising.

42. STS submitted additional documentation to the Examinations Division by email and courier from June 12 to July 2, 2012. The Department's Examinations Division ("Examinations Division") reviewed STS's books and records pursuant to routine examination procedures designed to ensure compliance with the Act and applicable broker-dealer rules.

43. As a result of this Examination, the Examinations Division provided STS with its written findings detailing violations of the Act and areas of concern on October 9, 2012.

44. The Examinations Division also instructed STS to cease certain conduct, take actions to remedy violations, and provide additional information to the Examinations Division.

45. In particular, the Examinations Division made a preliminary finding that STS offered and sold approximately $7 million in unregistered promissory notes in violation of D.C. Official Code § 31-5603.01; that STS sold the promissory notes to unsuitable investors in violation of 26 DCMR § B119.2(bb) and FINRA Rule 2111(a); and that the sales of the

promissory notes were not in compliance with STS's written supervisory procedures in violation of 26 DCMR § B119.2(bb) and FINRA Rule 3010(b)(1).

46. The Examinations Division notified STS that the STI notes were unregistered and instructed STS to immediately cease offering and selling the notes and to offer repayment to investors.

47. During the course of the Examination, the Examinations Division requested that STS provide investor lists, private placement memoranda, subscription agreements, accredited investor questionnaires, and notes associated with the sale of STI notes. The Examinations Division also requested the STS brokerage account application for each investor.

48. At the on-site examination, STS provided an investor list that contained only 42 of the 68 investors and identified approximately $7 million of the $22.1 Million in investments from June 2009 to March 2012.

49. STS provided copies of the November 2009 PPM and the June 2010 PPM Supplement, but did not also provide copies of the January 2009 PPM, February 2009 PPM, or September 2009 PPM.

50. In response to another request, STS provided private placement memoranda, accredited investor questionnaires, subscription agreements, and promissory notes for the sale of 76 of the 138 notes.

STI's Financial Condition

51. STI's primary source of operating revenue is STS.

52. STI receives approximately $25,000 in management fees from STS each month.

53. STS has generated approximately half of the business necessary to be profitable at the commission rates it charges to customers.

54. STI has relied primarily on money raised from the sale of STI notes to keep the company in business. STI has only been able to meet its monthly interest obligations on STI notes by selling additional STI notes and using those proceeds to make payments to existing note holders.

55. On August 15, 2012, STI deposited $100,000 into its bank account, which came from Respondents' sale of an STI note.

56. At the time of the deposit, STI had only $9,055.47 in its bank account. On August 17, 2012, STI deposited an additional $100,000 into its bank account, which came from Respondents' sale of another STI note, for a total of $209,055.47 in available cash. These funds did not include funds available to success trade securities.

57. On August 17, 2012, STI used the proceeds from these two investors to make interest payments to 42 investors totaling $121,294.82.

58. On August 31, 2012, STI deposited $50,000 into its bank account, which came from the sale of an STI note.

59. At the time of the deposit, STI had only $4,647.75 in its bank account. On September 4, 2012, STI used the investment principle from one investor to make $16,000 in interest payments to another investor.

60. On September 17, 2012, STI had an initial bank account balance of $2,568.04. STI made interest expense payments of $106,097.61 on September 17 and 19, 2012 to 40 investors. After interest payments to investors and other expenses, STI had a negative balance of $143,781.11.

61. On September 18, 2012, STI sold a $300,000 promissory note. STI deposited a total of $225,000 in funds from the sale of that note on September 19, 21, and 24, 2012.

62. The proceeds from that sale brought STI's bank account from a negative balance to a positive balance of $50,918.89 on September 24, 2012.

Material Misrepresentations and Omissions in the Offer and Sale of STI Notes

63. The PPMs and June 2010 PPM Supplement contained a chart identifying how offering proceeds would be used – offering expenses, commissions, capital investments in STS (advertising and website developments), capital investment in BP Trade (data center infrastructure, software programming, and equipment), share buyback and debt retirement, legal and accounting expenses, and working capital.

64. The June 2010 PPM Supplement also disclosed that investor proceeds would be used for capital investments in BP Trade for a market data feed.

65. The PPMs and June 2010 PPM Supplement were misleading because they did not disclose that Respondents intended to and did use investor funds for purposes other than what was described in the PPMs and June 2010 PPM Supplement. Those undisclosed purposes included:

a. Paying approximately $4 million for note holder interest;

b. Paying approximately $1 million for Ahmed's personal expenditures through what he referred to as "officer loans." These purported loans were undocumented, unsecured, and interest-free. These "officer loans" were used to pay for, among other things, the balances on Ahmed's personal credit cards, his personal travel, and his clothes;

c. Making car payments on Ahmed's Range Rover lease at approximately $1,300 per month; Pay approximately $91,000 to Ahmed's brother through undocumented, interest-free loans;

d. Making approximately $1.25 million in payments to JADE to finance JADE's operations;

e. Trading in STI's brokerage account; and Providing the funds for loans to JADE.

f. The June 2010 PPM Supplement disclosed that STI had made loans to JADE, but did not disclose that the loans were funded, in part, from the proceeds of sales of STI notes. The June 2010 PPM Supplement provided a chart identifying how the proceeds were to be used, but did not identify that the investor proceeds were used to pay for these loans.

66. On June 12, 2009, STI deposited $50,000 into its bank account from the sale of an STI note to Investor E. By June 16, 2009, STI used the proceeds from that investment to provide $10,000 to Ahmed's brother, pay note holder interest of $1,041, provide $7,800 to JADE for its payroll, and provide Ahmed with a $1,860 "officer loan."

Misleading Statements and Omissions on the Size and Dates of the Offering

67. Respondents' June 2010 PPM Supplement had numerous misstatements concerning the size and dates of the offering of STI notes.

68. STI's January 2009 PPM provided to investors stated that the offering period would last through February 27, 2009, unless extended by STS without notice to the investor.

69. STI's February 2009 PPM provided to investors stated that the offering period would last through March 31, 2009, unless extended by STS without notice to the investor.

70. STI's September 2009 PPM provided to investors stated that the offering period would last through February 19, 2010, unless extended by STS for an additional 90 days (May 20, 2010) without notice to the investor.

71. STI's November 2009 PPM stated that the offering period would last through June 30, 2011, unless extended by STS for an additional 90 days (September 28, 2011) without notice to the investor.

72. However, some investors received a November 2009 PPM that stated that the offering period would last through December 31, 2010, unless extended by STS for an additional 90 days (March 31, 2011) without notice to the investor.

73. STI's June 2010 PPM Supplement did not amend or extend the offering period provided by the November 2009 PPM. Despite the fact that the offering periods stated in the PPMs were to end no later than September 28, 2011, STI continued to offer and sell STI notes until at least February 2013, raising approximately $14.7 million from the sale of 62 notes after September 28, 2011.

74. STI's January 2009 PPM provided to investors stated that STI would raise $7.5 million through its offering. STI's February 2009 PPM, September 2009 PPM, and November 2009 PPM stated that STI would raise a maximum of $5 million through the offering.

75. The PPMs did not disclose that STI might exceed the stated offering limits, however the amendment did.

76. STI's June 2010 PPM Supplement dated June 30, 2010 also stated that STI would raise a maximum of $5 million through the offering, but stated for the first time that "STI may in its discretion elect to exceed the $5 million limit."

77. STI raised approximately $22.1 million through the offering. By the end of May 2010, STI had already raised over $5 million from the sale of STI notes, exceeding the maximum offering amount stated in the February 2009 PPM, September 2009 PPM, and November 2009 PPM.

78. There were no notes or documentation in investor files that demonstrated that investors were told about or received updated information regarding STI's outstanding debt or that the information contained in the PPMs was stale or out-of-date.

79. STI'S November 2009 PPM provided to investors contained materially misleading information about STI's outstanding notes and indebtedness.

80. In three sections of the November 2009 PPM, STI falsely indicated that it had outstanding note obligations of approximately $1.7 million.

81. As of November 30, 2009, STI owed approximately an additional $2.32 million to investors who purchased STI notes from March 2009 through November 2009.

82. As such, Respondents misrepresented to investors that STI had only $1.7 million in outstanding debt, when it actually had approximately $4 million in outstanding debt.

83. Respondents continued to use the November 2009 PPM through at least February 2013, even though STI raised more capital and increased its outstanding debt by at least $19.8 million from November 30, 2009 through February 2009.

84. STI's June 2010 PPM Supplement contained materially misleading information about STI's outstanding notes and indebtedness.

85. The June 2010 PPM Supplement, dated June 30, 2010, stated that STI had raised $3,445,000 from the sale of STI notes. This statement is inaccurate.

86. By June 30, 2010, STI had raised approximately $5.1 million from the sale of STI notes.

87. The size and dates of the offering of promissory notes are material to an investor's determination of whether to invest. The amount of a firm's outstanding debt directly affects the firm's ability to pay off new debt. By falsely representing to investors that STI had significantly

less debt than what it actually had, Respondents misrepresented to investors that STI was in a better position to repay new debt.

Misleading Statements and Omissions on Interest Rates and Terms of the Notes

88. Respondents made material misrepresentations and omitted material facts in the PPMs and June 2010 PPM Supplement concerning the interest rates and terms of STI notes.

89. The PPMs and June 2010 PPM Supplement stated that the STI notes were being offered at $100,000 per note at an annual interest rate of return of 12.5% simple interest, paid monthly, a maturity date of 36 months from the date of commencement, and that they were convertible into STI common stock at $2.00 per share on the note holder's request.

90. Contrary to statements in the PPMs, STI sold promissory notes to investors that purported to pay annual interest rates of 10% to 24%.

91. Most STI notes required interest to be paid monthly; however, some notes only provided for a final interest payment at the end of the term of the note.

92. Most STI notes sold to investors provided a maturity date of 36 months; however, some notes provided shorter maturity dates.

93. Some STI notes were convertible into STI common stock at less than $2.00 per share and some notes did not provide any conversion option.

94. One note only provided the purchaser with the right to convert the principal to STI common stock at $1.75 per share at maturity and did not pay any interest.

95. Respondents contend that JADE negotiated the rates and terms of each promissory note for STI.

96. The PPMs and June 2010 PPM Supplement did not disclose that some note holders may receive a different interest rate than what was stated in the PPM or June 2010 PPM Supplement.

97. STI had little or no ability to pay these interest rates from operations. Respondents misrepresented to investors that STI had the ability to pay those interest rates and that those funds to support those payments were being generated from STI's business activities and its subsidiaries, STS and BP Trade, and not from the sale of additional notes.

Misleading Statements and Omissions on the Notes' Registration Status

98. Respondents made material misrepresentations and omitted material facts in the PPMs and June 2010 PPM Supplement concerning the registration and exemption from registration status of offering.

99. STI's PPMs stated that the STI notes were being offered under the exemption from registration set forth in § 4(2) and Rule 506 of Regulation D of the Securities Act of 1933.

100. Rule 506 provides a safe harbor for the private offering exemption of Section 4(2) of the Securities Act where the private offering does not involve more than 35 non-accredited investors. Rule 506(b)(2)(ii) requires that when the investor is not an accredited investor, the investor must otherwise be a sophisticated investor, meaning that the investor has such knowledge and experience in financial and business matters that the investor is capable of evaluating the merits and risks of the prospective investment, or the issuer reasonably believes immediately prior to making any sale that such purchaser comes within this description.

101. Accordingly, if there are any sales to unaccredited investors who are not "sophisticated investors," the issuer is not eligible for the safe harbor of Rule 506.

102. The PPMs were accompanied by an Accredited Investor Questionnaire, which asked questions to ascertain whether the purchaser is an accredited investor and sophisticated investor.

103. At least 20 investors out of 68 investors who purchased STI notes did not complete an Accredited Investor Questionnaire.

104. For 19 of these investors, there was no other information showing that the investors were either accredited or sophisticated.

105. For the other investor without an Accredited Investor Questionnaire, the STS brokerage account application, a separate document completed by investors that were also STS brokerage clients, stated that the investor did not have sufficient net worth or annual income to be an accredited investor and that the investor had no investment experience and limited investment knowledge, thus indicating that the investor was not a "sophisticated investor."

106. At least 48 investors completed Accredited Investor Questionnaires, with most stating that they were accredited and sophisticated investors.

107. At least five investors stated on the Accredited Investor Questionnaire that they were not accredited investors, but that they considered themselves to be sophisticated investors.

108. Those five investors, however, provided conflicting information on their STS brokerage account applications, stating that they had little or no investment experience and/or limited investment knowledge, thus indicating that they were not sophisticated investors.

109. Another eight investors indicated on their Accredited Investor Questionnaires that they were accredited and sophisticated investors.

110. Those eight investors, however, provided contradictory information on their STS brokerage account applications, stating that the investors did not have sufficient net worth or

annual income to be accredited investors and that they had limited or no investment experience and knowledge, thus indicating that they were not sophisticated investors.

111. The STS broker-dealer agents who sold the STI notes to investors had access to the STS brokerage account applications.

112. Many of STS brokerage account applications were completed only a few months before the investors purchased STI notes.

113. At least one investor completed the Accredited Investor Questionnaire and the STS Brokerage Account Application on the same day.

114. D.C. Official Code § 31-5604.02 (11A) provides an exemption for the sale of a security by an issuer to an accredited investor.

115. This exemption is not available to STI due to sales to investors that were unaccredited and unsophisticated.

116. The Rule 506 federal exemption that it referred to is also not available when sales are made to non-accredited investors.

117. Additionally, 26 DCMR § B242 requires issuers offering and selling securities in the District using the exemption provided by Rule 506 to submit a notice filing with the Commissioner containing the following information and accompanied by the following documents and fee: (a) Securities and Exchange Commission Form D; (b) Form U-2, consent to service of process, within 15 days of the first sale of a federal covered security in the District; and (c) a filing fee. At no time did STI did submit the required notice filing and fee to the Department.

118. Respondents filed a Form D notice with the Securities and Exchange Commission on June 4, 2009; however, Respondents disclosed on that form that offering was exempted from federal securities laws under Rule 505 of Regulation D.

119. The Form D notice was not filed with the Department, as required pursuant to 26 DCMR §B242.

120. The Examinations Division notified STS that the STI notes were not properly registered or exempt from registration in a letter dated October 9, 2012 and instructed STS and STI to stop offering and selling the STI notes until the registration issues could be resolved. Despite the Examinations Division's instruction, STI continued to offer and sell STI notes and raised approximately $3.8 million from 27 investors from October 14, 2012 to February 15, 2013.

Misleading Statements to Induce Investors to Extend or Convert Notes

121. Respondents induced investors to extend or roll over existing STI notes into new notes with later maturity dates or to convert their principal obligations into STI common stock, and in some instances failed to provide significant information.

122. STI notes that were sold in 2009 began to approach their maturity dates in 2012.

123. Ahmed knew that STI did not have the funds to pay back the principal on mature notes or to cover monthly interest payments.

124. From October 2012 through at least February 2013, Ahmed and the STS agents located at the JADE office solicited note holders to roll over or extend the terms of their STI notes, typically at higher interest rates, convert principal into STI common stock, or both.

125. Ahmed offered some note holders higher interest rates as a means to induce the note holders to agree to short term extensions of their original notes, typically by two to three months.

126. Ahmed was responsible for negotiating the rates of returns on the STI notes and extensions.

127. JADE also contacted note holders who had notes coming due in 2013 to discuss possible extension of the notes.

128. Due to STI's financial condition, STI did not have the ability to pay the notes' principal or the higher interest rates at the time that these note holders were contacted to extend or roll over the notes.

129. Ahmed did not disclose this fact to STI note holders.

130. Ahmed discussed with some note holders that he intended to publicly list STI stock on European and/or Canadian exchanges.

131. Ahmed stated that STI could be publicly listed by June 2013. Ahmed told note holders that STI was valued at $48-50 million and that STI was projected to list on a European exchange at approximately €4 to €5 per share, or approximately $6.40 per share.

132. Ahmed communicated this information to STS agents at the JADE office. Ahmed offered note holders to convert their principal to STI common stock at $1.25 to $2.50 per share.

133. Better conversion rates were offered to note holders with larger investments as a means to induce those note holders to convert their principal to common stock. JADE discussed with note holders the value of their investment and that by converting their principal to STI common stock they would be able to obtain liquidity and an exit strategy when STI became publicly listed.

134. Ahmed also told note holders that by converting their principal to STI common stock, they would be able to participate on the upside as STI grew.

135. In conjunction with the discussion of opportunity for the listing of STI common stock, Ahmed also discussed with some note holders a business opportunity for STI to purchase an Australian online broker for approximately $15 million.

136. Ahmed told note holders that the purchase of the Australian online broker would increase STI's company value, which could then increase the value of STI's common stock when it got listed on the European or Canadian exchange in order to create a liquidity event.

137. Ahmed also told note holders that STI was seeking a $6 million line of credit from an Australian bank and potentially raising the additional $9 million from secondary sources such as other banks, private equity funds, or investment banks.

138. Ahmed estimated that the acquisition could be completed by the end of April 2013. By March 2013, the $6 million line of credit was not yet open and STS had not secured the additional financing needed to purchase the Australian online broker.

139. Ahmed discussed with at least five investors that STI was unable to pay the principal on their upcoming maturing notes and sought to have those investors extend their notes and/or convert their principal. Ahmed did not disclose to at least two of those investors, Investor F and Investor G, STI's poor financial condition and its inability to repay principal or make future interest payments without raising new capital. STS agents at the JADE office also had discussions about extending or converting STI notes with additional note holders whose notes were set to mature in 2013.

140. Additionally, STI's general ledger states that on December 31, 2012, some or all of the principal investors' notes was converted into STI common stock.

Unsuitable Sales of STI Notes to STS Customers

141. STS, through JADE, made unsuitable recommendations to STS clients to purchase STI notes based on the brokerage clients' stated investment objectives, lack of investment experience, and risk tolerance.

142. 26 DCMR § 119.2(bb) and FINRA Rule 2111(a) require that when recommending a transaction to a client, broker-dealers and their agents must have reasonable grounds to believe that such transaction is suitable for the customer based on the customer's investment profile, including the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation.

143. At least 44 note holders maintained brokerage accounts with STS and completed brokerage account applications to open their accounts at STS.

144. The brokerage account application asks for information about the client's age, marital status, employment, annual income, net worth, liquid net worth, tax bracket, primary source of income, investment objectives, investment experience, risk exposure, investment knowledge, and time horizon.

145. This information is used to create a customer's investment profile and is designed to form the basis of STS's suitability analysis for each recommended transaction.

146. Separately, the Accredited Investor Questionnaire is designed to determine if an investor meets the criteria to be an accredited investor as defined by Rule 501(a) of Regulation D

and to establish that the investor is eligible to receive an offer as such from the issuer of a private offering.

147. The Accredited Investor Questionnaire asks the investor to respond to certain questions that establish investor's sophistication, ability to understand the risks of the offering and to absorb the loss, if any, that may be sustained if the investment is unprofitable, including questions to regarding liquidity, investment experience, and investment strategy. Most of STS's clients who invested in STI notes indicated on the Accredited Investor Questionnaire that they were aware that the investments were long term, low-liquidity investments and that the investments were consistent with their overall strategy.

148. At least 41 purchasers of STI's promissory notes from STS agents indicated on their STS brokerage applications that they had no or limited investment experience, low to moderate risk tolerance, and/or no or limited investment knowledge.

149. These investors also indicated an investment objective of current income or growth and current income.

150. These investors indicated on their Accredited Investor Questionnaires, however, that they were sophisticated investors and that the STI notes were consistent with their overall strategy.

151. Client files did not contain any explanation or notations indicating that STS had considered the conflicting account information or documented that STI notes were suitable for these clients in these transactions.

152. The sales of the STI notes by STS to these clients were unsuitable based on their investment objectives, lack of investment experience, and low risk tolerance as stated in their account opening information.

STS Supervision

153. STS failed to enforce its written supervisory procedures relating to the recommendation and sale of STI notes.

154. STS's broker-dealer agents at the JADE branch office were subject to STS's supervision in their recommendations to and transactions with STS clients.

155. 26 DCMR § B199.2(bb) and NASD Rule 3010(b)(1) requires STS to establish, maintain, and enforce written procedures to supervise its business and to supervise the activities of its registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable NASD/FINRA rules.

156. STS created policies and procedures regarding the suitability of recommendations of private placements to its brokerage clients, which required STS, prior to the recommending a transaction to a customer, to have reasonable grounds for the recommendation based on the information disclosed by the customer that the recommendation is suitable for the customer.

157. STS also created policies and procedures requiring the Chief Compliance Officer to review any and all subscription documents received from prospective investors to determine whether such subscribers meet the requirements of the offering with respect to suitability and "accredited investor" status.

158. STS made at least 41 recommendations to clients to purchase STI notes where information contained on the client's STS brokerage application indicated that the recommendation was unsuitable based on the brokerage clients' investment experience, risk tolerance, investment knowledge, and investment objectives.

159. STS did not obtain sufficient information from at least one client that would form the basis of a suitability determination. STS made at least 17 recommendations to purchase STI notes where information contained on the client's STS brokerage application and/or Accredited Investor Questionnaire indicated that the client lack accredited investor status.

160. STS client files did not contain any explanation or notations resolving or updating the conflicting suitability or accredited investor information or documenting that STI notes were suitable for the client under the circumstances for those transaction.

161. Ahmed represented to FINRA during on-the-record testimony that he was frequently unaware of or unable to determine whether the STS agents at the JADE office engaged in discussions with STI note holders or potential investors and what information those agents had provided to STI note holders or potential investors when recommending the purchase of STI notes or discussing rolling over or converting STI notes.

162. Ahmed represented to FINRA during on-the-record testimony that he reviewed a few STI note holder subscription agreements, accredited investor questionnaires, and STS brokerage account agreements to assess the investor's suitability and accredited investor status.

163. Ahmed otherwise relied on STS agents at the JADE office to conduct suitability analysis and determine whether the note holder was an accredited and sophisticated investor.

164. There was no documentation that Ahmed, the Chief Compliance Officer, or any other person at STS otherwise supervised the sales activities of STS agents at the JADE office when they recommended the purchase, extension, or conversion of STI notes.

165. STS did not enforce its written supervisory procedures regarding the suitability of recommendations of private placements.

166. STS created insufficient policies and procedures requiring the Chief Compliance Officer to conduct a due diligence investigation of the issuer and securities to be offered in a private placement when STS recommends a private offering.

167. The procedures stated only that such due diligence "may" include, in part, insuring the offering is properly registered in all relevant jurisdictions.

168. STS did not have any written policies or procedures to address conflicts of interests that arise when the issuer of the private placement is affiliated with broker-dealer.

169. A broker-dealer that is affiliated with the issuer of a private placement must take steps to ensure that its affiliation does not compromise an independent due diligence investigation of the offering and that the broker-dealer resolve conflicts of interest that could impair the ability to conduct an independent investigation.

Lack of Due Diligence

170. STS failed to conduct reasonable due diligence on the offer and sale of STI notes.

171. Broker-dealers are obligated to conduct a reasonable investigation of the issuer and private securities offerings in order to comply with applicable anti-fraud provisions and FINRA Rules 2010 and 2020 regarding standards of commercial honor and principles of trade and the use of manipulative, deceptive or other fraudulent devices.

172. STI notes were offered and sold without registration or pursuant to an exemption. STI did not take any actions to register the offering in the District or take appropriate steps to ensure that the offering was exempt from registration in the District and make the required filings with the District.

173. There is no indication that STS's Chief Compliance Officer reviewed the offering of STI notes to determine whether it was properly registered or exempt from registration in all jurisdictions where it was offered.

174. The Department notified STS that the STI notes were not properly registered or exempt from registration in a letter dated October 9, 2012 and instructed STS and STI to stop offering and selling the STI notes until the registration issues could be resolved.

175. Despite the Department's instruction, STS agents continued to offer and sell STI notes, raising approximately $3.8 million from 27 investors from October 14, 2012 to February 15, 2013.

176. At least seven of those investors had completed STS brokerage applications indicating that they were not accredited investors.

177. STI, the issuer of the STI notes and sole owner of STI, is affiliated with STS. Additionally, Ahmed was STS's Chief Compliance Officer when STS first began recommending STI notes to STS clients and is also STI's President, Chief Executive Officer, sole board member, and majority shareholder.

178. STS did not attempt to conduct an independent due diligence of the offering of STI notes or otherwise address the conflicts of interest raised by STS's affiliation with STI.

179. D.C. Official Code § 31-5603.01, makes it unlawful for a person to offer or sell a security in the District of Columbia unless that security is registered under D.C. Official Code § 31-5603.01, the security or transaction is exempt under D.C. Official Code § 31-5604.01, or the security is federally covered under D.C. Official Code § 31-5604.02.

180. D.C. Official Code § 31-5605.01(1), makes it unlawful for a person to offer or sell a security except in accordance with the Act.

181. D.C. Official Code § 31-5605.02(a)(1)(A), makes it unlawful, in connection with the offer, sale, or purchase of an investment or security, including a security exempt under § 31-5604.01 or sold in a transaction exempt under § 31-5604.02, directly or indirectly, to employ any device, scheme or artifice to defraud.

182. D.C. Official Code § 31-5605.02(a)(1)(B), makes it unlawful, in connection with the offer, sale, or purchase of an investment or security, including a security exempt under § 31-5604.01 sold in a transaction exempt under § 31-5604.02, directly or indirectly, to obtain money or property by means of an untrue statement of a material fact or an omission to state a material fact in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

183. D.C. Official Code § 31-5602.06(a), allows the Commissioner, in a manner reasonable under the circumstances, to examine, audit, or inspect the books and records, within or without the District, of a licensed broker-dealer, agent, investment adviser, or investment adviser representative as the Commissioner considers necessary or appropriate in the public interest or for the protection of investors or to determine compliance with the Act. All licensed broker-dealers, agents, and investment advisers shall make their books and records available to the Commissioner in legible form.

184. D.C. Official Code § 31-5602.07(a)(9), allows the Commissioner, by order, to deny, suspend, or revoke a license if the Commissioner finds that the order is in the public interest and the applicant or licensed person or, in the case of a broker-dealer or investment adviser, a partner, officer, or director, or a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment

adviser has engaged in an unethical or dishonest practice in the securities business as the Commissioner may, by rule, define.

185. 26 DCMR § B119.2(bb), for the purposes of D.C. Official Code § 31-5602.07(a)(9), deems that it is an unlawful, unethical, or dishonest conduct or practice by a broker-dealer to violate any standard in the conduct rules promulgated by FINRA.

186. FINRA Rule 2111(a) requires each FINRA member or associate person to have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile. A customer's investment profile includes, but is not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation.

187. NASD Rule 3010(b)(1) requires each FINRA member to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD.

188. FINRA Rule 2010 requires each FINRA member, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade.

189. FINRA Rule 2020 prohibits each FINRA member from effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.

II.
CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to D.C. Official Code § 31-5606.01(a)(1).

2. Respondents sold STI Notes to purchasers that were unaccredited and unsophisticated. Respondents' belief that purchasers of STI Notes were accredited and/or sophisticated was unreasonable in light of the information available to the Respondents at the time sale. Respondents did not meet the requirements to exempt the offering of STI Notes from registration pursuant to Rule 506 of the Securities Act. Respondents did not meet the requirements to exempt the offering of pursuant to Rule 505 of the Securities Act. Respondents offered and sold securities in the District of Columbia in violation of the registration requirements of D.C. Official Code §§ 31-5603.01 and 31-5605.01(1).

3. Respondents made misleading statements and omitted to state material facts in order to make the statements made, in the light of the circumstances under which they were made, not misleading to investors in STI notes concerning the issuer's financial condition, the use of proceeds from the sale of STI notes, the size and scope of the offering, interest rates and note terms offered, and the exemption of the offering from the District and federal registration in violation D.C. Official Code § 31-5605.02(a)(1)(B).

4. Respondents made misleading statements and omitted to state material facts in order to make the statements made, in the light of the circumstances under which they were

made, not misleading, to investors regarding the offeror's business opportunities to purchase another broker and publicly list the company on a European or Canadian exchange and were used to induce investors to purchase STI notes, extend or roll over those investments, and convert principal payments into common stock and operated as a device, scheme, or artifice to defraud in violation of D.C. Official Code § 31-5605.02(a)(1)(A).

5. During the course of the Department's examination of STS's brokerage activities for compliance with the Act, Respondent STS failed to produce accurate investor lists and copies of all available brokerage account applications, PPMs, Subscription Agreements, Accredited Investor Questionnaires, promissory notes, and other related documentation associated with the offer and sale of STI notes upon the Department's request, all in violation of D.C. Official Code § 31-5602.06(a).

6. Respondent STS and its agents made unsuitable recommendations to its brokerage clients to purchase STI notes in violation of D.C. Official Code § 31-5602.07(a)(9) and in violation of 26 DCMR § B119.2 (bb) and FINRA Rule 2111(a).

7. Respondent STS failed to establish and enforce reasonable written supervisory procedures relating to making suitable recommendations of sales of private offerings and conducting appropriate due diligence of sales private offerings in violation of D.C. Official Code § 31-5602.07(a)(9) and 26 DCMR § B119.2(bb) and NASD Rule 3010(b)(1).

8. Respondent STS failed to conduct a reasonable due diligence of STI and the STI Note offering in violation of D.C. Official Code §§ 31-5605.02(a) and 31-5602.07(a)(9) and 26 DCMR § B119.2(bb) and FINRA Rules 2010 and 2020.

9. The Department finds the following relief appropriate and in the public interest.

III.

ORDER

On the basis of the Statement of Facts, Conclusions of Law, and Respondents consent to the entry of this Order,

IT IS HEREBY ORDERED that:

1. This Order concludes the investigation by the Department and any other action that the Department could commence under the Act on behalf of the Department as it relates to activities outlined in the Agreement.

2. Pursuant to § 31-5606.02 (b) (1), Respondents, together with their employees, agents, affiliates, assignees, successors, and associated entities, shall CEASE AND DESIST from offering or selling unregistered and non-exempt securities in or from the District of Columbia, and from directly or indirectly aiding or assisting other individuals or entities from offering or selling unregistered and non-exempt securities from the District of Columbia.

3. Pursuant to D.C. Official Code § 31-5606.02 (b)(3), Success Trade Securities will, upon execution of the Order, be prohibited from engaging in securities business in the District of Columbia.

a. Respondents shall be permitted to sell Success Trade Securities, and effectuate the transfer of its accounts.

b. Success Trade Securities must notify its clients of the sale of the business, and provide them with information related to the purchaser of their brokerage accounts.

c. Success Trade Securities shall withdraw its application for a new broker-dealer license in the District; and shall not re-apply for a broker-dealer license.

d. The terms of Section III (3) shall not be interpreted to impede the sale of Success Trade Securities.

4. Pursuant to D.C. Official Code § 31-5606.02 (b)(3), Fuad Ahmed will, upon execution of the Order, be prohibited from engaging in securities business in the District of Columbia and shall withdraw his application for a broker-dealer agent license in the District, except to the extent necessary to effectuate Section III(3) above; and shall not reapply for a broker-dealer agent license.

5. Pursuant to D.C. Official Code § 31-5606.02 (b)(3), Success Trade Inc. shall be prohibited from engaging in securities business in the District of Columbia, except to the extent necessary to effectuate the sale of Success Trade Securities and the transfer of brokerage accounts pursuant to Section III (3) above.

6. Pursuant to D.C. Official Code § 31-5606.02(b)(4), Success Trade Inc. and Fuad Ahmed are ordered to pay a CIVIL PENALTY in the amount of SIX HUNDRED AND FIFTY THOUSAND DOLLARS ($650,000.00) to the Department, made payable to the D.C. Treasurer, pursuant to D.C. Official Code § 1-204.50, and in accordance with D.C. Official Code § 31-5606.02(b)(4), for the violations outlined in Section II above. Such payment shall be made within sixty (60) days from the date this Order is signed by the Department.

7. Pursuant to D.C. Official Code § 31-5606.02 (b)(5), Respondents are ordered to pay RESTITUTION in the amount of TWELVE MILLION FIVE HUNDRED TWENTY NINE THOUSAND EIGHT HUNDRED AND FOUR DOLLARS AND THIRTY FOUR CENTS ($12,529,804.34) for violations specified in Section II above, and shall pay each investor the full amount as enumerated in Attachment A. Such payment shall be made within sixty (60) days from the date this Order is signed by the Department.

8. This Order shall be binding upon Respondents and its successors and assigns as well as to successors and assigns of relevant affiliates with respect to the conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

9. Except as set forth above, the Department agrees to take no action adverse to Respondents based solely on the same conduct addressed in this Order. However, nothing in this Order shall preclude the Department from: (a) taking adverse action based on other conduct not referenced in this Order; (b) taking adverse action on behalf of additional victims not specified in Attachment A; (c) taking this Order and the conduct described above into account in determining the proper resolution of action based on other conduct; (d) taking any and all available steps to enforce this Order; (e) taking action against the Respondents if any portion of this Order is violated; or (f) taking any action against other entities or individuals, regardless of any affiliation or relationship between Respondents and the entities or individuals.

10. Respondents shall be jointly and severally liable for all fees imposed under this Order.

11. This Order constitutes the entire agreement between the Department and the Respondents, and supersedes all prior understandings, if any, whether oral or written, relating to the subject matter herein.

12. This Order cannot be modified except in writing, signed by the Respondents and a representative of the Department.

13. In the event an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto.

In consideration and acceptance of the foregoing terms:

DEPARTMENT OF INSURANCE,
SECURITIES AND BANKING

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this Department in the District of Columbia, this 19th day of February, 2015.

Chester A. McPherson,
Acting Commissioner

IV.
CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY SUCCESS TRADE INC., SUCCESS TRADE SECURITIES AND FUAD AHMED

1. Respondents hereby acknowledge that they have been served with a copy of this Administrative Order ("Order"), have read the entire Order, are aware of their right to a hearing and appeal in this matter, and have waived the same.

2. Respondents admit to the jurisdiction of the Department of Insurance, Securities and Banking ("Department").

3. Respondents consent to the entry of this Order by the Department as settlement of the issues contained in this Order, and waive all rights to contest any enforcement action for violation of this Order.

4. Respondents agree that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for administrative monetary penalty that Respondents pay pursuant to this Order.

5. Respondents state that no promise of any kind or nature was made to induce them to enter into this Order and that they have entered into this Order voluntarily.

6. Fuad Ahmed certifies that he is the President and CEO of Success Trade Securities and Success Trade Inc. and is authorized to enter into this Order for and on behalf of Respondents.

Dated this 19 day of Feb, 2015.

RESPONDENTS

SUCCESS TRADE SECURITIES, INC.
SUCCESS TRADE INC.
FUAD AHMED

Fuad Ahmed on behalf of Respondents

ATTACHMENT A

	Last Name	First Name	Restitution Amount
1	[redacted]	[redacted]	$ 50,000.00
2	[redacted]	[redacted]	$ 148,177.46
3	[redacted]		$ 558,012.50
4	[redacted]	[redacted]	$ 18,417.20
5	[redacted]	[redacted]	$ 103,553.98
6	[redacted]	[redacted]	$ 457,491.70
7	[redacted]	[redacted]	$ 91,093.75
8	[redacted]	[redacted]	$ 280,277.72
9	[redacted]	[redacted]	$ -
10	[redacted]	[redacted]	$ 97,500.00
11	[redacted]	[redacted]	$ 247,395.84
12	[redacted]	[redacted]	$ 305,729.11
13	[redacted]	[redacted]	$ 28,593.75
14	[redacted]	[redacted]	$ 461,545.19
15	[redacted]	[redacted]	$ 82,291.66
16	[redacted]	[redacted]	$ 131,926.35
17	[redacted]	[redacted]	$ -
18	[redacted]	[redacted]	$ 87,460.00
19	[redacted]	[redacted]	$ 48,437.51
20	[redacted]	[redacted]	$ 184,999.97
21	[redacted]	[redacted]	$ 364,236.13
22	[redacted]	[redacted]	$ 759,789.96
23	[redacted]	[redacted]	$ 227,083.29
24	[redacted]	[redacted]	$ 142,708.42
25	[redacted]	[redacted]	$ 167,326.33

ATTACHMENT A

	Last Name	First Name	Restitution Amount
26	[redacted]	[redacted]	$ 255,937.50
27	[redacted]	[redacted]	$ 4,033.09
28	[redacted]	[redacted]	$ 181,354.16
29	[redacted]	[redacted]	$ -
30	[redacted]	[redacted]	$ 500,833.32
31	[redacted]	[redacted]	$ -
32	[redacted]	[redacted]	$ 514,731.98
33	[redacted]	[redacted]	$ 49,479.17
34	[redacted]	[redacted]	$ 295,651.16
35	[redacted]	[redacted]	$ -
36	[redacted]	[redacted]	$ 22,031.26
37	[redacted]	[redacted]	$ 189,322.86
38	[redacted]	[redacted]	$ -
39	[redacted]	[redacted]	$ 93,749.98
40	[redacted]	[redacted]	$ 96,875.00
41	[redacted]	[redacted]	$ 73,958.33
42	[redacted]	[redacted]	$ 15,588.71
43	[redacted]	[redacted]	$ 147,135.43
44	[redacted]	[redacted]	$ 61,458.28
45	[redacted]	[redacted]	$ 379,156.26
46	[redacted]	[redacted]	$ 128,819.94
47	[redacted]	[redacted]	$ 218,923.57
48	[redacted]	[redacted]	$ 510,758.98
49	[redacted]	[redacted]	$ 292,320.82

ATTACHMENT A

	Last Name	First Name	Restitution Amount
50	[redacted]	[redacted]	$ 268,229.18
51	[redacted]	[redacted]	$ 79,652.72
52	[redacted]	[redacted]	$ 48,437.51
53	[redacted]	[redacted]	$ 30,000.00
54	[redacted]	[redacted]	$ 60,416.54
55	[redacted]	[redacted]	$ 48,437.51
56	[redacted]	[redacted]	$ 48,958.34
57	[redacted]	[redacted]	$ 11,947.86
58	[redacted]	[redacted]	$ 63,348.84
59	[redacted]	[redacted]	$ 133,756.90
60	[redacted]	[redacted]	$ 87,916.66
61	[redacted]		$ 1,884,999.95
62	[redacted]	[redacted]	$ -
63	[redacted]	[redacted]	$ 180,763.88
64	[redacted]	[redacted]	$ 225,000.00
65	[redacted]	[redacted]	$ 281,770.83
	TOTAL:		**$ 12,529,804.34**

APPENDIX B

FINRA

Financial Industry Regulatory Authority

Sanction Guidelines

Table of Contents

Overview

The regulatory mission of FINRA is to protect investors and strengthen market integrity through vigorous, even-handed and cost-effective self-regulation. FINRA embraces self-regulation as the most effective means of infusing a balance of industry and non-industry expertise into the regulatory process. FINRA believes that an important facet of its regulatory function is the building of public confidence in the financial markets. As part of FINRA's regulatory mission, it must stand ready to discipline member firms and their associated persons by imposing sanctions when necessary and appropriate to protect investors, other member firms and associated persons, and to promote the public interest.

The National Adjudicatory Council (NAC), formerly the National Business Conduct Committee, has developed the *FINRA Sanction Guidelines* for use by the various bodies adjudicating disciplinary decisions, including Hearing Panels and the NAC itself (collectively, the Adjudicators), in determining appropriate remedial sanctions. FINRA has published the *FINRA Sanction Guidelines* so that members, associated persons and their counsel may become more familiar with the types of disciplinary sanctions that may be applicable to various violations. FINRA staff and respondents also may use these guidelines in crafting settlements, acknowledging the broadly recognized principle that settled cases generally result in lower sanctions than fully litigated cases to provide incentives to settle.

These guidelines do not prescribe fixed sanctions for particular violations. Rather, they provide direction for Adjudicators in imposing sanctions consistently and fairly. The guidelines recommend ranges for sanctions and suggest factors that Adjudicators may consider in determining, for each case, where within the range the sanctions should fall or whether sanctions should be above or below the recommended range. These guidelines are not intended to be absolute. Based on the facts and circumstances presented in each case, Adjudicators may impose sanctions that fall outside the ranges recommended and may consider aggravating and mitigating factors in addition to those listed in these guidelines.

These guidelines address some typical securities-industry violations. For violations that are not addressed specifically, Adjudicators are encouraged to look to the guidelines for analogous violations.

In order to promote consistency and uniformity in the application of these guidelines, the NAC has outlined certain **General Principles Applicable to All Sanction Determinations** that should be considered in connection with the imposition of sanctions in all cases. Also included is a list of **Principal Considerations in Determining Sanctions**, which enumerates generic factors for consideration in all cases. Also, a number of guidelines identify potential principal considerations that are specific to the described violation.

General Principles Applicable to All Sanction Determinations

1. **Disciplinary sanctions are remedial in nature and should be designed to deter future misconduct and to improve overall business standards in the securities industry.** The overall purposes of FINRA's disciplinary process and FINRA's responsibility in imposing sanctions are to remediate misconduct by preventing the recurrence of misconduct, improving overall standards in the industry, and protecting the investing public. Toward this end, Adjudicators should design sanctions that are significant enough to prevent and discourage future misconduct by a respondent, to deter others from engaging in similar misconduct, and to modify and improve business practices. Depending on the seriousness of the violations, Adjudicators should impose sanctions that are significant enough to ensure effective deterrence. When necessary to achieve this goal, Adjudicators should impose sanctions that exceed the range recommended in the applicable guideline.

   When applying these principles and crafting appropriate remedial sanctions, Adjudicators also should consider firm size[1] with a view toward ensuring that the sanctions imposed are not punitive but are sufficiently remedial to achieve deterrence.[2] (Also see General Principle No. 8 regarding ability to pay.)

2. **Disciplinary sanctions should be more severe for recidivists.** An important objective of the disciplinary process is to deter and prevent future misconduct by imposing progressively escalating sanctions on recidivists beyond those outlined in these guidelines, up to and including barring registered persons and expelling firms. Adjudicators should always consider a respondent's disciplinary history in determining sanctions. Adjudicators should consider imposing more severe sanctions when a respondent's disciplinary history includes (a) past misconduct similar to that at issue; or (b) past misconduct that evidences disregard for regulatory requirements, investor protection or commercial integrity. Even if a respondent has no history of relevant misconduct, however, the misconduct at issue may be so serious as to justify sanctions beyond the range contemplated in the guidelines; *i.e.*, an isolated act of egregious misconduct could justify sanctions significantly above or different from those recommended in the guidelines.

   Certain regulatory incidents are not relevant to the determination of sanctions. Arbitration proceedings, whether pending, settled or litigated to conclusion, are not "disciplinary" actions. Similarly, pending investigations or the existence of ongoing regulatory proceedings prior to a final decision are not relevant.

   In certain cases, particularly those involving quality-of-markets issues, these guidelines recommend increasingly severe monetary sanctions for second and subsequent disciplinary actions. This escalation is consistent with the concept that repeated acts of misconduct call for increasingly severe sanctions.

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1 Factors to consider in connection with assessing firm size are: the firm's financial resources; the nature of the firm's business; the number of individuals associated with the firm; the level of trading activity at the firm; other entities that the firm controls, is controlled by, or is under common control with; and the firm's contractual relationships (such as introducing broker/clearing firm relationships). **This list is included for illustrative purposes and is not exhaustive. Other factors also may be considered in connection with assessing firm size.**

2 Adjudicators may consider firm size in connection with the imposition of sanctions with respect to rule violations involving negligence. With respect to violations involving fraudulent, willful and/or reckless misconduct, Adjudicators should consider whether, given the totality of the circumstances involved, it is appropriate to consider firm size and may determine that, given the egregious nature of the fraudulent activity, firm size will not be considered in connection with sanctions.

3. **Adjudicators should tailor sanctions to respond to the misconduct at issue.** Sanctions in disciplinary proceedings are intended to be remedial and to prevent the recurrence of misconduct. Adjudicators therefore should impose sanctions tailored to address the misconduct involved in each particular case. Section 15A of the Securities Exchange Act of 1934 and FINRA Rule 8310 provide that FINRA may enforce compliance with its rules by: limitation or modification of a respondent's business activities, functions and operations; fine; censure; suspension (of an individual from functioning in any or all capacities, or of a firm from engaging in any or all activities or functions, for a defined period or contingent on the performance of a particular act); bar (permanent expulsion of an individual from associating with a firm in any or all capacities); expulsion (of a firm from FINRA membership and, consequently, from the securities industry); or any other fitting sanction.

   To address the misconduct effectively in any given case, Adjudicators may design sanctions other than those specified in these guidelines. For example, to achieve deterrence and remediate misconduct, Adjudicators may impose sanctions that: (a) require a respondent firm to retain a qualified independent consultant to design and/or implement procedures for improved future compliance with regulatory requirements; (b) suspend or bar a respondent firm from engaging in a particular line of business; (c) require an individual or member firm respondent, prior to conducting future business, to disclose certain information to new and/or existing clients, including disclosure of disciplinary history; (d) require a respondent firm to implement heightened supervision of certain individuals or departments in the firm; (e) require an individual or member firm respondent to obtain a FINRA staff letter stating that a proposed communication with the public is consistent with FINRA standards prior to disseminating that communication to the public; (f) limit the number of securities in which a respondent firm may make a market; (g) limit the activities of a respondent firm; or (h) require a respondent firm to institute tape recording procedures. **This list is illustrative, not exhaustive, and is included to provide examples of the types of sanctions that Adjudicators may design to address specific misconduct and to achieve deterrence. Adjudicators may craft other sanctions specifically designed to prevent the recurrence of misconduct.**

   The recommended ranges in these guidelines are not absolute. The guidelines suggest, but do not mandate, the range and types of sanctions to be applied. Depending on the facts and circumstances of a case, Adjudicators may determine that no remedial purpose is served by imposing a sanction within the range recommended in the applicable guideline; *i.e.*, that a sanction below the recommended range, or no sanction at all, is appropriate. Conversely, Adjudicators may determine that egregious misconduct requires the imposition of sanctions above or otherwise outside of a recommended range. For instance, in an egregious case, Adjudicators may consider barring an individual respondent and/or expelling a respondent member firm, regardless of whether the individual guidelines applicable to the case recommend a bar and/or expulsion or other less severe sanctions. Adjudicators must always exercise judgment and discretion and consider appropriate aggravating and mitigating factors in determining remedial sanctions in each case. In addition, whether the sanctions are within or outside of the recommended range, Adjudicators must identify the basis for the sanctions imposed.

4. **Aggregation or "batching" of violations may be appropriate for purposes of determining sanctions in disciplinary proceedings.** The range of monetary sanctions in each case may be applied in the aggregate for similar types of violations rather than per individual violation. For example, it may be appropriate to aggregate similar violations if: (a) the violative conduct was unintentional or negligent (*i.e.*, did not involve manipulative, fraudulent or deceptive intent); (b) the conduct did not result in injury to public investors or, in cases involving injury to the public, if restitution was made; or (c) the violations resulted from a single systemic problem or cause that has been corrected.

   Depending on the facts and circumstances of a case, however, multiple violations may be treated individually such that a sanction is imposed for each violation. In addition, numerous, similar violations may warrant higher sanctions, since the existence of multiple violations may be treated as an aggravating factor.

5. **Where appropriate to remediate misconduct, Adjudicators should order restitution and/or rescission.** Restitution is a traditional remedy used to restore the status quo ante where a victim otherwise would unjustly suffer loss. Adjudicators may determine that restitution is an appropriate sanction where necessary to remediate misconduct. Adjudicators may order restitution when an identifiable person, member firm or other party has suffered a quantifiable loss proximately caused by a respondent's misconduct.[3]

   Adjudicators should calculate orders of restitution based on the actual amount of the loss sustained by a person, member firm or other party, as demonstrated by the evidence. Orders of restitution may exceed the amount of the respondent's ill-gotten gain. Restitution orders must include a description of the Adjudicator's method of calculation.

   When a member firm has compensated a customer or other party for losses caused by an individual respondent's misconduct, Adjudicators may order that the individual respondent pay restitution to the firm.

   Where appropriate, Adjudicators may order that a respondent offer rescission to an injured party.

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3 Other avenues, such as arbitration, are available to injured customers as a means to redress grievances.

6. **To remediate misconduct, Adjudicators should consider a respondent's ill-gotten gain when determining an appropriate remedy.** In cases in which the record demonstrates that the respondent obtained a financial benefit[4] from his or her misconduct, where appropriate to remediate misconduct, Adjudicators may require the disgorgement of such ill-gotten gain by ordering disgorgement of some or all of the financial benefit derived, directly or indirectly.[5] In appropriate cases, Adjudicators may order that the respondent's ill-gotten gain be disgorged and that the financial benefit, directly and indirectly, derived by the respondent be used to redress harms suffered by customers. In cases in which the respondent's ill-gotten gain is ordered to be disgorged to FINRA, and FINRA collects the full amount of the disgorgement order, FINRA's routine practice is to contribute the amount collected to the FINRA Investor Education Foundation.

7. **Where appropriate, Adjudicators should require a respondent to requalify in any or all capacities.** The remedial purpose of disciplinary sanctions may be served by requiring an individual respondent to requalify by examination as a condition of continued employment in the securities industry. Such a sanction may be imposed when Adjudicators find that a respondent's actions have demonstrated a lack of knowledge or familiarity with the rules and laws governing the securities industry.

8. **When raised by a respondent, Adjudicators are required to consider ability to pay in connection with the imposition, reduction or waiver of a fine or restitution.** Adjudicators are required to consider a respondent's *bona fide* inability to pay when imposing a fine or ordering restitution. The burden is on the respondent to raise the issue of inability to pay and to provide evidence thereof.[6] If a respondent does not raise the issue of inability to pay during the initial consideration of a matter before "trial-level" Adjudicators, Adjudicators considering the matter on appeal generally will presume the issue of inability to pay to have been waived (unless the inability to pay is alleged to have resulted from a subsequent change in circumstances). Adjudicators should require respondents who raise the issue of inability to pay to document their financial status through the use of standard documents that FINRA staff can provided. Proof of inability to pay need not result in a reduction or waiver of a fine, restitution or disgorgement order, but could instead result in the imposition of an installment payment plan or another alternate payment option. In cases in which Adjudicators modify a monetary sanction based on a *bona fide* inability to pay, the written decision should so indicate. Although Adjudicators must consider a respondent's *bona fide* inability to pay when the issue is raised by a respondent, monetary sanctions imposed on member firms need not be related to or limited by the firm's required minimum net capital.

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4 "Financial benefit" includes any commissions, concessions, revenues, profits, gains, compensation, income, fees, other remuneration, or other benefits the respondent received, directly or indirectly, as a result of the misconduct.

5 Certain guidelines specifically recommend that Adjudicators consider ordering disgorgement in addition to a fine. These guidelines are singled out because they involve violations in which financial benefit occurs most frequently. These specific references should not be read to imply that it is less important or desirable to order disgorgement of ill-gotten gain in other instances. The concept of ordering disgorgement of ill-gotten gain is important and, if appropriate to remediate misconduct, may be considered in all cases whether or not the concept is specifically referenced in the applicable guideline.

6 *See In re Toney L. Reed*, Exchange Act Rel. No. 37572 (August 14, 1996), wherein the Securities and Exchange Commission directed FINRA to consider financial ability to pay when ordering restitution. In these guidelines, the NAC has explained its understanding of the Commission's directives to FINRA based on the *Reed* decision and other Commission decisions.

Principal Considerations in Determining Sanctions

The following list of factors should be considered in conjunction with the imposition of sanctions with respect to all violations. Individual guidelines may list additional violation-specific factors.

Although many of the general and violation-specific considerations, when they apply in the case at hand, have the potential to be either aggravating or mitigating, some considerations have the potential to be only aggravating or only mitigating. For instance, the presence of certain factors may be aggravating, but their absence does not draw an inference of mitigation.[1] The relevancy and characterization of a factor depends on the facts and circumstances of a case and the type of violation. This list is illustrative, not exhaustive; as appropriate, Adjudicators should consider case-specific factors in addition to those listed here and in the individual guidelines.

1. The respondent's relevant disciplinary history (see General Principle No. 2).
2. Whether an individual or member firm respondent accepted responsibility for and acknowledged the misconduct to his or her employer (in the case of an individual) or a regulator prior to detection and intervention by the firm (in the case of an individual) or a regulator.
3. Whether an individual or member firm respondent voluntarily employed subsequent corrective measures, prior to detection or intervention by the firm (in the case of an individual) or by a regulator, to revise general and/or specific procedures to avoid recurrence of misconduct.
4. Whether the respondent voluntarily and reasonably attempted, prior to detection and intervention, to pay restitution or otherwise remedy the misconduct.
5. Whether, at the time of the violation, the respondent member firm had developed reasonable supervisory, operational and/or technical procedures or controls that were properly implemented.
6. Whether, at the time of the violation, the respondent member firm had developed adequate training and educational initiatives.
7. Whether the respondent demonstrated reasonable reliance on competent legal or accounting advice.
8. Whether the respondent engaged in numerous acts and/or a pattern of misconduct.
9. Whether the respondent engaged in the misconduct over an extended period of time.
10. Whether the respondent attempted to conceal his or her misconduct or to lull into inactivity, mislead, deceive or intimidate a customer, regulatory authorities or, in the case of an individual respondent, the member firm with which he or she is/was associated.
11. With respect to other parties, including the investing public, the member firm with which an individual respondent is associated, and/or other market participants, (a) whether the respondent's misconduct resulted directly or indirectly in injury to such other parties, and (b) the nature and extent of the injury.

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1 *See, e.g., Rooms v. SEC*, 444 F.3d 1208, 1214-15 (10th Cir. 2006) (explaining that while the existence of a disciplinary history is an aggravating factor when determining the appropriate sanction, its absence is not mitigating).

12. Whether the respondent provided substantial assistance to FINRA in its examination and/or investigation of the underlying misconduct, or whether the respondent attempted to delay FINRA's investigation, to conceal information from FINRA, or to provide inaccurate or misleading testimony or documentary information to FINRA.

13. Whether the respondent's misconduct was the result of an intentional act, recklessness or negligence.

14. Whether the member firm with which an individual respondent is/was associated disciplined the respondent for the same misconduct at issue prior to regulatory detection. Adjudicators may also consider whether another regulator sanctioned a respondent for the same misconduct at issue and whether that sanction provided substantial remediation.

15. Whether the respondent engaged in the misconduct at issue notwithstanding prior warnings from FINRA, another regulator or a supervisor (in the case of an individual respondent) that the conduct violated FINRA rules or applicable securities laws or regulations.

16. Whether the respondent member firm can demonstrate that the misconduct at issue was aberrant or not otherwise reflective of the firm's historical compliance record.

17. Whether the respondent's misconduct resulted in the potential for the respondent's monetary or other gain.

18. The number, size and character of the transactions at issue.

19. The level of sophistication of the injured or affected customer.

Applicability

These guidelines supersede prior editions of the *FINRA Sanction Guidelines*, whether published in a booklet or discussed in *FINRA Regulatory Notices* (formerly *NASD Notices to Members*). These guidelines are effective as of the date of publication, and apply to all disciplinary matters, including pending matters. FINRA may, from time to time, amend these guidelines and announce the amendments in a *Regulatory Notice* or post the changes on FINRA's website *(www.finra.org)*. Additionally, the NAC may, on occasion, specifically amend a particular guideline through issuance of a disciplinary decision. Amendments accomplished through the NAC decision-making process or announced via *Regulatory Notices* or on the FINRA website should be treated like other amendments to these guidelines, even before publication of a revised edition of the *FINRA Sanction Guidelines*. Interested parties are advised to check FINRA's website carefully to ensure that they are employing the most current version of these guidelines.

Unregistered Securities—Sales of

FINRA Rule 2010 and Section 5 of the Securities Act of 1933

Principal Considerations in Determining Sanctions	Monetary Sanction	Suspension, Bar or Other Sanctions
See Principal Considerations in Introductory Section 1. Whether the respondent attempted to comply with an exemption from registration. 2. Whether the respondent sold before effective date of registration statement. 3. Share volume and dollar amount of transactions involved. 4. Whether the respondent had implemented reasonable procedures to ensure that it did not participate in an unregistered distribution. 5. Whether the respondent disregarded "red flags" suggesting the presence of unregistered distribution.	Fine of $2,500 to $50,000.[1] In egregious cases, consider a higher fine.	*Individual* In egregious cases, consider a lengthier suspension in any or all capacities for up to two years or a bar. *Firm* In egregious cases, consider suspending the firm with respect to any or all activities or functions for up to 30 business days or until procedural deficiencies are remedied.

1 As set forth in General Principle No. 6, Adjudicators may also order disgorgement.

Misrepresentations or Material Omissions of Fact

FINRA Rules 2010 and 2020[1]

Principal Considerations in Determining Sanctions	Monetary Sanction[2]	Suspension, Bar or Other Sanctions
See Principal Considerations in Introductory Section	*Negligent Misconduct* Fine of $2,500 to $50,000. *Intentional or Reckless Misconduct* Fine of $10,000 to $100,000.	*Negligent Misconduct* Suspend individual in any or all capacities and/or suspend firm with respect to any or all activities or functions for up to 30 business days. *Intentional or Reckless Misconduct* Suspend individual in any or all capacities and/or suspend firm with respect to any or all activities or functions for a period of 10 business days to two years. In egregious cases, consider barring the individual and/or expelling the firm.

1 This guideline also is appropriate for violations of MSRB Rule G-17.

2 In cases involving misrepresentations and/or omissions as to two or more customers, the Adjudicator may impose a set fine amount per investor rather than in the aggregate. As set forth in General Principle No. 6, Adjudicators may also order disgorgement.

CERTIFICATE OF SERVICE

I, Jante C. Turner, certify that on January 20, 2016, I caused a copy of FINRA's Brief in Opposition to the Application for Review, Administrative Proceeding File No. 3-16900, to be served via courier on:

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

and via Federal Express Overnight Delivery and Electronic Mail on:

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Different methods of service were used because courier service could not be provided to the applicant's counsel.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

I, Jante C. Turner, certify that this brief complies with the length limitation set forth in Commission's Extension Order, which is dated January 19, 2016. I have relied on the word count feature of Microsoft Word in verifying that this brief contains 14,146 words, exclusive of the pages containing the table of contents, table of authorities, and any addendum that consists solely of copies of applicable cases, pertinent legislative provisions, or rules and exhibits.

Respectfully Submitted,

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