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Rules

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Keith P. Sequeira ("Applicant") respectfully submits this Reply Brief in further support of his application to U.S. Securities and Exchange Commission ("SEC") for review of the action taken against him by Financial Industry Regulatory Authority ("FINRA").

I. Introductory Statement

The facts and arguments in Applicant's brief dated February 13, 2017 ("Brief") are repeated as if set forth at length herein.

FINRA's opposition dated March 13, 2017 ("Opposition") does not address the issue of jurisdiction and otherwise ignores, misstates, and falsifies relevant facts and controlling law. FINRA's Opposition thus constitutes legal fraud and frivolous litigation for reasons that are more fully discussed below and in the Brief.

II. Supplemental Statement of Material Facts

On April 28, 2014, Applicant filed multiple motions in Arbitration I¹ including Motion to Postpone Arbitration Hearings Pending the Appellate Division's Determination of the Issue of Arbitrability.

On May 12, 2014 (oral argument), and, on May 23, 2014 (motion), Applicant again requested that Arbitration I be stayed so that the Appellate Division could determine the arbitrability of Wells' Promissory Note Claims²

¹ "Arbitration I" refers to *Wells Fargo Advisors, LLC v. Sequeira*, No. 12-01869, 2014 FINRA Arb. LEXIS 698 (Aug. 5, 2014).

² Applicant respectfully requests that the SEC take administrative notice of a true and correct copy of the Promissory Note, which is attached hereto as Exhibit A.

against Applicant and Applicant's 4Front Contract Claims³ against Wells. Br. at 2, ¶¶ 1–4.

Applicant thus preserved the issue of arbitrability for the Courts. Id.

On August 5, 2014, FINRA nevertheless issued an Award against Applicant and in favor of Wells Fargo Advisors, LLC (“Wells”). Br. at 6.

On September 23, 2014, the New Jersey Supreme Court decided *Atalese v. U.S. Legal Serv. Group*, 219 N.J. 430 (2014), cert. denied, ___ U.S. ___, 135 S. Ct. 2804, 192 L. Ed. 2d 847 (2015). Br. at 3.

On September 23, 2014, FINRA was on notice, pursuant to *Atalese*, that it had no jurisdiction to arbitrate Wells' Promissory Note Claims and, further, that any Award in Arbitration I would be void and legally unenforceable.

On November 18, 2016, a decision constituting final action was nevertheless issued by FINRA, pursuant to which, Applicant was suspended from associating in any capacity with any FINRA member for failing to pay a void and therefore legally unenforceable Award (“Decision”). Br. at 1.

On December 16, 2016, Applicant requested that the SEC review the Decision.

On February 13, 2017, Applicant briefed his request for a review, and, among other grounds, cited to FINRA's lack of jurisdiction pursuant to *Atalese*. Br. at 3–4.

On March 13, 2017, FINRA opposed Applicant's request for a review. FINRA ignored *Atalese*. FINRA did not deny that it had violated Rule 150 by

³ Applicant respectfully requests that the SEC take administrative notice of a true and correct copy of the 4Front Contract, which is attached hereto as Exhibit B.

omitting relevant evidence from the record certified to the SEC.⁴ FINRA otherwise ignored, misstated, and falsified, material facts and controlling law. FINRA's Opposition thus constituted legal fraud and frivolous litigation.

On November 18, 2016, following his suspension by FINRA, Applicant was compelled to resign from Freedom Capital Management, LLC ("FCM"), and FCM's Broker–Dealer Royal Alliance Associates, Inc. ("Royal").⁵ FINRA is aware that Applicant has not found another job. FINRA's Br. at 3. FINRA was on actual notice that Applicant would suffer substantial and irreparable harm as a direct result of the loss of his livelihood. FINRA nevertheless suspended Applicant for failure to pay an Award that was known by FINRA to be void and legally unenforceable. Applicant respectfully reminds the SEC that FINRA does not have immunity from suit in the aforesaid circumstances of legal fraud and frivolous litigation.

FINRA must be sanctioned. The Decision must be set aside. The Award must be vacated. All adverse entries on Applicant's record must be expunged.

III. Legal Argument

It bears repeating that FINRA does not have — and did not have — jurisdiction to arbitrate Wells' Promissory Note Claims. FINRA's prolix musings in Opposition cannot and do not overcome this threshold fact. Applicant

⁴ FINRA does not deny that it violated Rule 150 by omitting documents such as the "Hearing Transcript, Dated September 15, 2016" Cr 363 et seq., that was uniquely in its possession. Rather, FINRA argues that Applicant "could have done so by filing a motion with the [SEC]". FINRA's Br. at 21, n.18.

⁵ FINRA misrepresents that Royal "terminated" Applicant in "November 2016". FINRA's Br. at 3. Applicant was not terminated. He was compelled to resign following FINRA's Decision.

respectfully submits that FINRA's lack of jurisdiction is the principal issue to be resolved by the SEC. No jurisdiction. No Award. No basis for suspension. No irreparable harm.

Applicant respectfully reminds the SEC that “[a]n agreement to arbitrate, like any other contract, ‘must be the product of mutual assent, as determined under customary principles of contract law.’” *Atalese, supra*, 219 N.J. at 442 (citation omitted). “Mutual assent requires that the parties have an understanding of the terms to which they have agreed.” *Id.* “This requirement of a ‘consensual understanding’ about the rights of access to the courts that are waived in the agreement has led our courts to hold that clarity is required.” *Moore v. Woman to Woman Obstetrics & Gynecology, L.L.C.*, 416 N.J. Super. 30, 37 (App. Div. 2010) (citation omitted). “By its very nature, an agreement to arbitrate involves a waiver of a party’s right to have her claims and defenses litigated in court.” *Atalese, supra*, 219 N.J. at 442 (citation omitted). However, “an average member of the public may not know — without some explanatory comment — that arbitration is a substitute for the right to have one’s claim adjudicated in a court of law.” *Id.*

FINRA claims that it had jurisdiction to arbitrate Wells’ Promissory Note Claims based upon the “Arbitration Clause” in the Promissory Note which provides that:

Wells Fargo Advisors and you agree that any action instituted as a result of any controversy arising out of this Note, or as a result of any interpretation thereof, shall be brought before the arbitration facility of the Financial Industry Regulatory Authority (“FINRA”) to the exclusion of all others. You agree that arbitration shall be your exclusive remedy and that the results of such arbitration shall be final and binding upon you. Judgment upon

any award rendered by an arbitration panel may be entered in any state or federal court of competent jurisdiction.

[Promissory Note at 8–9].

It is clear, however, that the Arbitration Clause does not contain any explanatory comment stating that arbitration is a substitute for Applicant's right to have his Promissory Note dispute with Wells adjudicated in a court of law.

Applicant respectfully reminds the SEC, further, that the consumer in *Atalese* sought debt relief and that she entered into a contract containing an arbitration provision which "made no mention that plaintiff waived her right to seek relief in court." *Atalese, supra*, 219 N.J. at 435, 437. The *Atalese* Court held "[t]he absence of any language in the arbitration provision that plaintiff was waiving her statutory right to seek relief in a court of law renders the provision unenforceable." *Id.* at 436.

Here, as in *Atalese*, the Arbitration Clause contains no language stating that Applicant was waiving his statutory right to seek relief in a court of law. *Atalese* therefore provides that the Arbitration Clause is rendered unenforceable.

Applicant respectfully reminds the SEC, further, that the *Atalese* Court "emphasize[d] that no prescribed set of words must be included in an arbitration clause to accomplish a waiver of rights." *Id.* at 447. "Whatever words" are chosen, "they must be clear and unambiguous that a consumer is choosing to arbitrate disputes rather than have them resolved in a court of law." *Id.* "[T]he parties must know that there is a distinction between resolving a dispute in arbitration and in a judicial forum." *Id.* at 445.

Here, the Arbitration Clause does not contain the clear and unambiguous words mandated by *Atalese*. Nor does the Arbitration Clause explain that there is a distinction between resolving disputes in arbitration and in a judicial forum.

Applicant respectfully reminds the SEC, further, that “[i]n *Atalese*, the Court provided several examples of language sufficient to meet these expectations.” *Barr v. Bishop Rosen & Co.*, 442 N.J. Super. 599, 606 (App. Div. 2015), certif. denied, 224 N.J. 244 (2016). The *Atalese* Court noted that the *Griffin* decision “upheld an arbitration clause, which expressed that ‘[b]y agreeing to arbitration, the parties understand and agree that they are waiving their rights to maintain other available resolution processes, such as a court action or administrative proceeding, to settle their disputes.’” *Atalese, supra*, 219 N.J. at 445 (quoting *Griffin v. Burlington Volkswagen, Inc.*, 411 N.J. Super. 515, 518 (App. Div. 2010)).

Unlike the arbitration clauses approved in *Griffin* and *Atalese*, however, the Arbitration Clause here is completely devoid of any language which states that Applicant was waiving his right to maintain a court action to solve his Promissory Note dispute with Wells.

Applicant respectfully reminds the SEC, further, that the *Atalese* Court also cited another example, where the arbitration clause stated “the plaintiff agreed ‘to waive [her] right to a jury trial,’” and a third example where the arbitration clause stated: “‘Instead of suing in court, we each agree to settle disputes . . . only by arbitration,’” where “[t]here’s no judge or jury.” *Id.* at 444–45 (citations omitted). The *Atalese* Court stated that an arbitration

"clause, at least in some general and sufficiently broad way, must explain that the plaintiff is giving up her right to bring her claims in court or have a jury resolve the dispute." Id. at 447.

The Arbitration Clause here contains none of the aforestated language.

FINRA thus had no jurisdiction to: arbitrate Wells' Promissory Note Claims; issue an Award against Applicant; suspend Applicant; and, thereby, cause Applicant irreparable harm.

IV. Conclusion

For the reasons discussed above, and in the Brief, Applicant respectfully requests that FINRA be sanctioned, that the Decision be set aside, that the Award be vacated, and that all adverse entries on his record be expunged.

Respectfully submitted.

Dated: 3/29/2017

Signed: Keith P. Sequeira

Keith P. Sequeira
Applicant

Exhibit A

Sequeira, Keith P.
Red Bank (Hwy 35)
A351133

CONFIDENTIAL

MEMORANDUM

TO: Keith P. Sequeira, Financial Advisor
Red Bank (Hwy 35)

SUBJ: Client Service and Loyalty Award – Level One

DATE: February 1, 2010

Attached is the Promissory Note for **Keith P. Sequeira**.

Please review this document carefully to ensure it reflects your understanding of the arrangement.

If everything is in order, please sign the Promissory Note and return the original to Wells Fargo Advisors, Private Client Group Administration at: 1 North Jefferson Avenue, St. Louis Missouri 63103 – Mail Code H0004-136.

Distribution of Loan proceeds will be made using your current method of receiving your compensation. If your compensation is received via direct deposit, then your Loan proceeds will be directly deposited into your primary account.

UNDER NO CIRCUMSTANCES SHOULD ANY CHANGES BE MADE TO THIS DOCUMENT

Sequeira, Keith P.
Red Bank (Hwy 35)
A351133

PROMISSORY NOTE

\$47,462.56

February 1, 2010

FOR VALUE RECEIVED, you, as the undersigned maker of this Note, unconditionally promise to pay to the order of Wells Fargo Advisors, LLC, its affiliates, successors and assigns (hereinafter "Wells Fargo Advisors"), which is located at 1 North Jefferson Avenue, St. Louis Missouri, 63103 Mail Code H0004-136, or at such other place as the holder hereof may designate, in lawful money of the United States of America, the principal sum of Forty Seven Thousand Four Hundred Sixty Two Dollars and Fifty Six Cents (\$47,462.56) with interest thereon at a rate of 2.450% per annum from the date the proceeds are disbursed. Initially, accrued interest on this Note shall be due and payable on the 1st day of September 2010. In addition, this Note shall be payable by you to Wells Fargo Advisors in 108 equal monthly installments of principal and interest in the amount of \$490.15, beginning on the 1st day of September 2010 and continuing on the 1st day of each month thereafter until paid in full. Unless sooner paid, the outstanding principal balance of this Note, together with any accrued and unpaid interest thereon, shall be due and payable on August 31, 2019.

You shall have the right to prepay this Note in full or in part at any time without penalty on any amounts so prepaid.

Events of Default. The occurrence of any one or more of the following events with respect to you shall constitute an event of default under this Note ("Event of Default"): (a) you fail to make payment of any installment of principal and interest on this Note within 15 days after the later of (i) the date such payment becomes due and payable or (ii) the date such payment is scheduled to be deducted from your monthly pay; (b) your employment with Wells Fargo Advisors ends for any reason or no reason; (c) you die or meet the definition of "totally disabled" (as hereinafter defined); (d) you default under any other outstanding obligation to Wells Fargo Advisors; (e) the appointment of a trustee or receiver for you or any of your property; or (f) the commencement of any proceeding by or against you under any bankruptcy, reorganization, insolvency, receivership, or similar law or statute; or (g) you no longer hold the functional title of Financial Advisor (or the equivalent) or Financial Consultant. Solely for purposes of this paragraph, you will be deemed to meet the definition of "totally disabled" if you meet the definition of "totally disabled" under the Wells Fargo & Company Long Term Disability Plan **and** you have been on an approved leave of absence due to such disability for at least two (2) consecutive years.

Remedies. Upon the occurrence of an Event of Default (unless all Events of Default have been cured or waived by Wells Fargo Advisors), Wells Fargo Advisors may, at its option, declare the entire unpaid principal balance of this Note immediately due and payable, regardless of any prior forbearance, and exercise any and all rights and remedies available to it under applicable law with respect to the enforcement and collection of this Note. Upon the occurrence of an Event of Default, this Note shall bear interest on the remaining unpaid principal balance at a default rate of interest equal to the interest rate stated in the first paragraph of this Note plus an additional three percent (3%). The rights and remedies of Wells Fargo Advisors under this Note shall be cumulative and not alternative.

Assignment of Wages and Right of Set-off. In addition to its other rights and remedies in connection with an Event of Default, Wells Fargo Advisors may, to the maximum extent permitted under applicable law and to the extent consistent with regulations issued under section 409A of the Internal Revenue Code, set-off and apply the following for the payment of any unpaid principal balance and accrued interest on this Note: (a)

Sequeira, Keith P.
Red Bank (Hwy 35)
A351133

any amount(s) outstanding to your credit; (b) any revenue, salaries, wages, bonuses or other compensation or amount(s) due you by Wells Fargo Advisors (collectively, "Compensation"); or (c) any sums or assets in which you have a direct or indirect interest that are held in any brokerage, deposit or other account at Wells Fargo & Company, or any other affiliate of Wells Fargo Advisors. You hereby authorize Wells Fargo Advisors to exercise this right of set-off, and you therefore assign and grant a security interest to Wells Fargo Advisors as security for repayment of any and all amounts due hereunder in all Compensation, and you consent to any payroll deductions by Wells Fargo Advisors. In the event your employment with Wells Fargo Advisors terminates for any reason, Wells Fargo Advisors is authorized to deduct from your Compensation an amount equal to the outstanding amount you owe Wells Fargo Advisors under the terms of this Note. In the event that such amount is not sufficient to pay Wells Fargo Advisors in full, you agree that you will immediately pay Wells Fargo Advisors the remaining balance owed.

Assignment and Security Agreement. In furtherance hereof, and as security for the repayment of all amounts due under this Note to Wells Fargo Advisors including expenses and attorneys' fees, you hereby assign to Wells Fargo Advisors and grant to Wells Fargo Advisors a security interest in all of your right, title and interest in any sums received or to be received, whether now owing or hereafter arising, from any future employer or other party which provides you with any form of compensation or contingent compensation commonly referred to as a Forgivable Loan, Loan/Bonus, Upfront Loan, Bonus, Transitional Compensation, Transitional Loan, Recruiting Bonus, Promissory Note amount, or account (as defined in Article 9 of the applicable Uniform Commercial Code ("UCC")), or any other sum or payment of every nature, type or description granted or provided to you or for your benefit as a result of accepting employment or other arrangement with such employer or party. In addition, you hereby agree to execute upon the request of Wells Fargo Advisors any documents including, but not limited to, Control Agreements as defined in the UCC, in such form and containing such terms and conditions as Wells Fargo Advisors shall require, and you hereby authorize Wells Fargo Advisors (i) to file all documents, including, without limitation, a UCC Financing Statement, in such offices or with such parties as Wells Fargo Advisors deems necessary or appropriate to perfect such security interest, and (ii) to notify such employer or other party of the assignment and security interest granted herein and to require that such employer or other party pay all amounts subject to the assignment and security interest described herein directly to Wells Fargo Advisors, whether or not you are in default under the terms of this Security Agreement or this Note. **This Assignment and Security Agreement covenant will terminate and be of no further force and effect after the remaining unpaid principal balance and accrued interest due under this Note have been paid in full pursuant to the terms hereof.**

Suspension of Payments. All monthly payments under this Note will be suspended for any period of time that you are on an approved leave of absence for a period of 30 days or more under Wells Fargo Advisors' policies, including, but not limited to approved medical/maternity leave (including eligibility for disability pay under any short-term or long-term disability plans), parental leave, family care leave, military leave or such other special circumstances which may be considered an approved leave of absence for purposes of the Program. In addition, the due date for this Note shall be extended by a period equal to the period of such approved leave of absence, and, if necessary, the interest rate under this Note may be adjusted to the extent required to avoid imputed compensation income to you under Internal Revenue Code Section 7872 for the extended term. Interest at the stated or adjusted rate will continue to accrue during any such period of suspended payments. Upon your return to active employment, payments shall resume under this Note as so adjusted. Failure to return from leave under company policy, resulting in termination of employment, will be considered an Event of Default under the terms of this Note.

Arbitration Clause. Wells Fargo Advisors and you agree that any action instituted as a result of any controversy arising out of this Note, or as a result of any interpretation thereof, shall be brought before the arbitration facility of the Financial Industry Regulatory Authority ("FINRA") to the exclusion of all others.

Sequeira, Keith P.
Red Bank (Hwy 35)
A351133

You agree that arbitration shall be your exclusive remedy and that the results of such arbitration shall be final and binding upon you. Judgment upon any award rendered by an arbitration panel may be entered in any state or federal court of competent jurisdiction.

Reimbursement of Expenses; Waiver of Presentment. You agree to pay all reasonable costs and expenses incurred by or on behalf of Wells Fargo Advisors in connection with its exercise of any or all of its rights and remedies under this Note, including, without limitation, reasonable attorneys' fees. You hereby waive presentment, demand, protest and notice of dishonor.

Waiver; Extensions or Renewals. Neither the failure nor any delay in exercising any right, power or privilege under this Note will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege by Wells Fargo Advisors will preclude any other or further exercise of such right, power or privilege. Any extension or renewals of this Note that may be permitted by Wells Fargo Advisors, from time to time in its sole discretion, shall not operate as a waiver or otherwise release you from liability under the terms of this Note.

Nonsolicitation Covenant. In consideration of the amounts advanced by Wells Fargo Advisors to you and evidenced by this Note, you agree that if your employment with Wells Fargo Advisors or any successor company ends for any reason before the entire amount of this Note has been paid in full, FOR A PERIOD OF ONE (1) YEAR THEREAFTER, you will not solicit, directly or indirectly, the business or accounts of any of the customers of Wells Fargo Advisors (a) serviced by you during your employment with Wells Fargo Advisors or (b) whose names became known to you while employed by Wells Fargo Advisors until such time as you have paid Wells Fargo Advisors the remaining unpaid principal balance and accrued interest then owed under this Note. **This nonsolicitation covenant will terminate and be of no further force and effect after the remaining unpaid principal balance and accrued interest due under this Note have been paid in full pursuant to the terms hereof.** You acknowledge that a breach of this nonsolicitation covenant may result in Wells Fargo Advisors or any successor company suffering immediate and irreparable harm, and you therefore consent to the issuance of a temporary restraining order or other injunctive relief to enforce the terms of such nonsolicitation covenant.

Severability. If any provision of this Note is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Note will remain in full force and effect. Any provision of this Note held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

Miscellaneous. This Note will bind you and your successors, heirs and assigns. You agree and consent to the assignment and transfer of this Note by Wells Fargo Advisors. This Note shall be governed by the laws of the State of Missouri (without regard to the choice of laws rules thereof).

Authorization for Payroll Deduction; Payment by Check. You hereby authorize and direct Wells Fargo Advisors, as your employer, to deduct the payments due under this Note from your net pay at each monthly pay period until the Note is repaid in full. The amount of such deduction shall be paid to Wells Fargo Advisors in repayment of this Note. In the event Wells Fargo Advisors' payroll practices are changed, you authorize Wells Fargo Advisors to adjust the amount of the foregoing payroll deduction. In the event it is determined by Wells Fargo Advisors that additional documentation is necessary to carry out the intent of this authorization, you hereby agree to execute and deliver such documentation. If your net pay in any month is less than the installment payment due on this Note, you agree that you will make up the deficiency immediately by delivering a check to Wells Fargo Advisors for such deficiency. You further agree that any deficit related to a monthly payment on this Note, if not sooner paid, may also be deducted from a subsequent month's pay or other compensation. You further acknowledge that failure to make payment of each

Sequeira, Keith P.
Red Bank (Hwy 35)
A351133

installment when due, whether by payroll deduction or delivery of any additional amounts required, will be an Event of Default under the terms of this Note.

You may revoke this authorization at any time and may elect to pay by check by giving written notice to Wells Fargo Advisors initially at: 1 North Jefferson Avenue, St. Louis Missouri, 63103 – Mail Code H0004-136 or such other address as you may be directed by Wells Fargo Advisors. Payments made by check rather than payroll deduction should be made for the amount of the payment PLUS a monthly processing fee of \$35.00 and must be received by Wells Fargo Advisors at the address above on or before the due date of each monthly payment. In the event Wells Fargo Advisors does not receive a check by the due date, or if such check is returned unpaid for any reason, you understand that will be an Event of Default under the terms of this Note.

IN WITNESS WHEREOF, you have executed and delivered this Note as of the date stated above with the following signature.

Keith P. Sequeira
Keith P. Sequeira

2/25/2010
Date

KEITH P. SEQUEIRA
Print Name

J. B.
Witness

2/25/10
Date

John Peris
Print Name

Exhibit B

Sequeira, Keith P.
Red Bank (Hwy 35)
A351133

CONFIDENTIAL

MEMORANDUM

**TO: Keith P. Sequeira, Financial Advisor
Red Bank (Hwy 35)**

SUBJ: Client Service and Loyalty Award – Level One

DATE: February 1, 2010

Enclosed you will find the Client Service and Loyalty Award – Level One Agreement for Keith P. Sequeira.

Please review this document carefully and make sure that the Award amount is correct based on the Client Service and Loyalty Award – Level One 4front Program Business Rules.

If everything is in order, please sign the Agreement and return the original to Wells Fargo Advisors, Private Client Group Administration at: 1 North Jefferson Avenue, St. Louis Missouri 63103 – Mail Code H0004-136.

UNDER NO CIRCUMSTANCES SHOULD ANY CHANGES BE MADE TO THIS DOCUMENT

CLIENT SERVICE and LOYALTY AWARD – LEVEL ONE AGREEMENT

This Client Service and Loyalty Award – Level One Agreement (the “Agreement”), dated as of February 19, 2010 (“Effective Date”), outlines the terms of the Level One 4front Award you are eligible to receive in the event you meet the criteria under the terms of the Wells Fargo Advisors Client Service and Loyalty Award – Level One 4front Program Business Rules currently in effect (the “Program”). Your eligibility for the Level One 4front Award is governed by the terms of the Program, as amended from time to time.

1. Level One Award¹.

- a. If you meet the criteria under the Program, you will be eligible to receive a Level One 4front Award of \$47,462.56 (the “Award”) payable from Wells Fargo Advisors, LLC (“Wells Fargo Advisors”). This Award shall be payable to you in 108 equal monthly installments of \$492.83 (each, a “Monthly Award Payment”), which includes additional compensation at a rate of 2.575% per annum, and will be paid beginning with the September 2010 revenue month and continue through and including the August 2019 revenue month. In addition, your initial Monthly Award Payment will include additional compensation for the period from the Effective Date through September 1, 2010.
- b. The payment of the Award is further subject to all the terms and conditions set forth in Paragraph 2.

2. Terms and Conditions Applicable to Award Payments. The Monthly Award Payments are subject to the following conditions and provisions:

- a. The amount of any installment payments related to your Award will be credited to your monthly compensation and will be subject to all applicable tax and other withholdings. The amount of the Monthly Award Payments will not be included as compensation for purposes of any applicable Wells Fargo Advisors employee benefit plans. While you must be a Financial Advisor in order to be eligible to receive an Award, if you subsequently become a Financial Consultant, you will be able to continue to receive Monthly Award Payments, provided that you continue to comply with the terms of this Agreement.
- b. Your receipt of Monthly Award Payments is conditioned upon you meeting all the criteria under the Program and your continued active employment in good standing with Wells Fargo Advisors and holding the functional title of Financial Advisor (or the equivalent). “Good standing” is defined as a Financial Advisor who adopts activities that build client loyalty and provide clients with the opportunity for achieving their long term goals, which includes regular client communication, portfolio reviews and updates to Envision plans as required under the Program, and who otherwise complies with the policies and procedures of the Program. All of your efforts in connection with the Program must be in accordance with Wells Fargo Advisors’ high professional standards and must be in the best interest of the client. Any action that is deemed by the Program Administrator to be contrary to the spirit of the Program and/or the best interest of the client may cause the loss of eligibility of Households accounted for, and/or your eligibility for, continued Monthly Award Payments, as noted in greater detail below. For instance, using accounting or sales practices for the sole purpose of earning an Award is not appropriate when such practices are not in the best interest of

¹ You agree that if you allocate any portion of your Award by signing the Allocation Form for Level One 4front Award for September 30, 2009 Snapshot Date, that allocation is irrevocable. You agree that your Award will be reduced by the amount equal to the amount of your allocation(s). All allocations will be paid to the recipients on the same schedule as your Level One 4front Award. The requested Allocation amount, once approved by Wells Fargo Advisors, is an irrevocable decision and under no circumstances will the Allocation be rescinded or the Allocation amount be returned to you.

our clients. In the event your employment terminates for any reason other than the special circumstances outlined in Paragraph 2(e), then you will no longer be eligible to receive any further Monthly Award Payments and you will not be eligible to receive any unpaid installments or other amounts due under the Award, to the extent allowed by applicable law. In the event you are determined not to be "in good standing" under the terms of the Program by the Program Administrator, your Monthly Award Payments may be suspended or reduced and/or you may be found ineligible for such awards entirely at the discretion of Wells Fargo Advisors, to the extent permitted by applicable law.

- c. Your receipt of Monthly Award Payments is conditioned upon you being current on all of your outstanding obligations to Wells Fargo Advisors. In the event you are in default under the terms of any promissory note or other obligations to Wells Fargo Advisors at the time any Monthly Award Payments become payable to you hereunder, Wells Fargo Advisors shall automatically apply those Award payments to the payment of the amounts in which you are default under such note or other obligations. Notwithstanding the foregoing, any such setoff must be permitted under applicable law and consistent with regulations issued under section 409A of the Internal Revenue Code.
- d. Monthly Award Payments will not be paid for any period during which you are on an approved leave of absence for a period of thirty (30) days or more days under corporate policies in effect at the time), including, but not limited to, approved medical/maternity leave (including eligibility for disability pay under any short-term or long-term disability plans), parental leave, family care leave, military leave or such other special circumstances which may be considered approved leave of absence for purposes of the Program. Upon your return to active service with Wells Fargo Advisors following such leave, Monthly Award Payments will resume, assuming you meet all other terms of eligibility, and you will have the opportunity to earn those unpaid Monthly Award Payments by continuing in the employ of Wells Fargo Advisors for an additional period and meeting the terms of eligibility, which additional period must be equal to the period of your approved leave, measured from the date you would have otherwise become entitled to the last of those Monthly Award Payments in the absence of the approved leave. Additional compensation as provided hereunder shall continue to accrue during the period those particular Monthly Award Payments are not paid. In the event you fail to return to active employment by reason of your Total Disability (as defined below), then Paragraph 2(e) shall govern your eligibility for any further Monthly Award Payments.
- e. In the event you "Retire with a Firm-Approved Sunset Agreement", as defined below in paragraph 2(e)(i), or meet the definition of "totally disabled" (both terms defined below) or die while a full-time employee of Wells Fargo Advisors, then all outstanding Monthly Award Payments will be accelerated, and you or your estate, as applicable, will be paid a lump sum equal to any remaining Monthly Award Payments; provided that (i) you, or your estate, as applicable, have paid or agree to pay (as hereafter described) all outstanding amounts owed by you to Wells Fargo Advisors under the terms of any promissory note or other obligation, and (ii) you, or your estate, as applicable, sign a waiver and release in the form designated by Wells Fargo Advisors. Otherwise, any remaining Monthly Award Payments as of the date of such event will be forfeited. Any accelerated Monthly Award Payments will become due and payable by Wells Fargo Advisors as soon as practical, but no later than seventy-five (75) days following execution of the required waiver and release. Any accelerated amounts may be offset and used to pay any outstanding balance due on any loans to the extent permitted by applicable law. Notwithstanding the foregoing, any such offset must be permitted under applicable law and consistent with regulations issued under section 409A of the Internal Revenue Code. The following definitions and additional terms shall apply to this Paragraph 2(e):

- (i) You will be deemed to "Retire with a Firm-Approved Sunset Agreement" if (a) at the time of your retirement, you are at least age fifty (50), have at least three (3) years' continuous length of service as an employee of Wells Fargo Advisors AND the sum of your age and such years of service equals at least sixty (60); (b) the date of your retirement does not occur earlier than August 31, 2016; and (c) you qualify and execute a Firm-Approved Sunset Agreement. If you Retire with a Firm-Approved Sunset Agreement and default under the terms of that Agreement, you must pay back to Wells Fargo Advisors an amount equal to the sum of the all Monthly Award Payments that were originally scheduled to be paid, had acceleration not occurred, from the date of such default through the end of the Award payment period outlined above.
 - (ii) For purposes solely of this Agreement, you will be deemed to meet the definition of "totally disabled" if you meet the definition of "totally disabled" as defined in the Wells Fargo & Company Long Term Disability Plan in effect at the time, and you have been on an approved leave of absence due to such disability for at least two (2) consecutive years.
3. **Licenses and Registrations; Regulatory Requirements; Policies and Procedures.** You will be required to retain and maintain all licenses and registrations from the Financial Industry Regulatory Authority ("FINRA"), securities exchanges, state securities commissions and other such regulatory bodies as Wells Fargo Advisors shall deem necessary or desirable in order to perform the principal duties of your job and to service any accounts assigned to you. You agree to abide by all existing and future federal and state laws, all rules and regulations set forth by all regulatory agencies, exchanges, and self-regulatory bodies, and Wells Fargo Advisors' own internal rules, regulations, policies and procedures, including the "Wells Fargo Team Member Code of Ethics and Business Conduct" in effect from time to time. You further specifically acknowledge and agree that this Agreement does not supersede or replace, in part or whole, the terms of the Program or any provisions of the Wells Fargo Team Member Handbook or any Wells Fargo Advisors compliance or regulatory guidelines, and that you will remain subject to such provisions and guidelines.
4. **Other Agreements; Modification; Employment at Will.** The Program does not in any respect alter or amend any of your rights and obligations as an employee of Wells Fargo Advisors, whether during or after termination of employment, or any other agreement(s) that you may have with Wells Fargo Advisors that are not related to the Award. Any alteration to, or modification of, this Agreement shall not be valid unless in writing and executed by you and the Program Administrator, or their delegate. Nothing in this Agreement, the Program, or any documents related to the Program is intended to constitute a contract of employment for any definite term. As with all employees of Wells Fargo Advisors, you are an employee at will, and your continued employment is based on mutual consent. You have the right to end your employment relationship with Wells Fargo Advisors at any time and for any reason you deem appropriate. Similarly, your employment can be terminated at the discretion of Wells Fargo Advisors or at any time for any reason.
5. **Arbitration; Choice of Law.** You agree that any action instituted as a result of any controversy arising out of this Agreement and/or the interpretation thereof shall be brought before the arbitration facility of FINRA to the exclusion of all others, unless the rules and/or the codes of FINRA provide otherwise. Both you and Wells Fargo Advisors agree that arbitration shall be the parties' exclusive remedy and that the results of such arbitration shall be final and binding upon them. Judgment upon any award rendered by an arbitration panel may be entered in any state or federal court of competent jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri without regard to the choice of laws rules thereof. Any controversy relating to your duty to arbitrate hereunder, or to the validity or enforceability of this arbitration clause, or to any defense to arbitration,

Sequeira, Keith P.
Red Bank (Hwy 35)
A351133

shall also be arbitrated before FINRA. In the event you violate any part of this paragraph, you agree to pay all attorneys' fees incurred by Wells Fargo Advisors to enforce its rights hereunder.

6. Assignment; Severability; Governing Law. You may not assign or transfer your rights in the Award or under this Agreement. The rights and benefits of Wells Fargo Advisors under this Agreement are transferable to, all agreements shall inure to the benefit of, be enforceable by, Wells Fargo Advisors' successors and assigns. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. This Agreement shall be governed by the laws of the State of Missouri (without regard to the choice of laws rules thereof).
7. Waiver; Entire Agreement; Survival. Wells Fargo Advisors' decision to forego enforcement of a breach of any covenant of this Agreement on any individual matter or matters will not constitute a waiver of its right to enforce any other breach of the same or of any other covenant. This Agreement constitutes the entire understanding between you and Wells Fargo Advisors regarding the matters addressed herein. All provisions of this Agreement that require survival of the provision upon termination of this Agreement in order to give full legal effect thereto shall survive termination of this Agreement.

If the above correctly sets forth our understanding related to the Program and your Award, please sign below and return this Agreement to 1 North Jefferson, St. Louis MO 63103, Mailcode H0004-136.

AGREED TO:

Signatures:

Keith P. Sequeira
Keith P. Sequeira

2/25/2010
Date

KEITH P. SEQUEIRA
Print Name

Wells Fargo Advisors, LLC

[Signature]
Branch Manager

2/25/10
Date

John Puzis
Print Name

United States of America
before the
Securities and Exchange Commission

Administrative Proceeding File No. 3-17734

In the Matter of the Application of:

Keith Patrick Sequeira

For Review of Action Taken by:

FINRA

.....

Certification of Service

Keith P. Sequeira

██████████
Middletown
NJ ██████████

Tel: ██████████
E-Mail: ██████████

I, the undersigned, Keith P. Sequeira, Applicant, hereby certify as follows:

1. On this 29th day of March, 2017, a true and correct copy of each of:

- (1) Cover Letter;
- (2) Applicant's Reply Brief;
- (3) Certification of Service.

was served by Fax & Certified Mail R.R.R. as follows:

- Office of the Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Mail Stop 1090 – Room # 10915, Washington, DC 20549; Fax No. (703) 813–9793;
- Alan Lawhead, Director – Appellate Group, FINRA, Office of General Counsel, 1735 K Street, NW, Washington, DC 20006; Fax No. (202) 728–8264.

2. The word count of Appellant's Reply Brief is 1728.

3. I certify that the forgoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: 3/29/2017

Signature: Keith P. Sequeira

Keith P. Sequeira
Applicant

HARD COPY

Keith P. Sequeira



• Middletown • NJ
Telephone: [REDACTED] • E-Mail: [REDACTED]

March 29, 2017

Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Mail Stop 1090 – Room # 10915
Washington
DC 20549

By Fax (703) 813–9793 & Certified Mail R.R.R.

Dear Sirs,

**Administrative Proceeding File No. 3–17734
Application for Review of Action Taken by FINRA**

Please find enclosed:

1. Cover Letter;
2. Applicant's Reply Brief; and
3. Certification of Service.

A copy of the above documents has been served on the SEC and FINRA by fax and Certified Mail R.R.R.

My address is [REDACTED], Middletown, NJ [REDACTED] My telephone number is [REDACTED]

Yours faithfully,

A handwritten signature in blue ink that reads "Keith P. Sequeira".

Keith P. Sequeira
Applicant

**Copy by Fax (202) 728–8264 & Certified Mail R.R.R to:
FINRA, Office of General Counsel.**