

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C.**

In the Matter of the Application of

Thaddeus J. North

For Review of

FINRA Disciplinary Action

File No. 3-18150

**BRIEF OF THE FINANCIAL INDUSTRY REGULATORY AUTHORITY IN
OPPOSITION TO APPLICATION FOR REVIEW**

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**BRIEF OF THE FINANCIAL INDUSTRY REGULATORY AUTHORITY IN
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I. INTRODUCTION

This is a straightforward case in which Thaddeus J. North, a former chief compliance officer (“CCO”), failed to enforce his member firm’s written supervisory procedures (“WSPs”) regarding the firm’s oversight of electronic communications. Nothing more. North served as the CCO of Ocean Cross Capital Markets, LLC (“Ocean Cross”) during his entire tenure with the firm. (RP 1146, 1769.)¹ Ocean Cross’s procedures required among other things that an appropriately-sized sample of the firm’s electronic correspondence be reviewed daily and that the review be recorded by initialing and dating an electronic correspondence review log. (RP 1340, *see also* RP 1221, 1280 (daily review of email).) North admitted in his hearing testimony that he was responsible for enforcing the firm’s WSPs and that he reviewed the firm’s electronic

¹ References to “Br. at ___” are to North’s Opening Brief in the Appeal of Disciplinary Proceeding No. 2012030527503, dated November 10, 2017. “RP” refers to the record page numbers in the certified record of this case.

communications “at least once a week” because he knew that no one else at the firm was doing it. (RP 1150, 1172-73, 1191, 1193, 1198.) By North’s own admissions, he did not conduct the required daily review of electronic correspondence or follow the WSPs regarding the methodology for documenting that review. As a result, North failed to discharge his responsibilities adequately and violated NASD Rule 3010 and FINRA Rule 2010.

North raises no cogent issue on appeal. Instead, North seeks to divert attention away from his supervisory failures and his own candid admissions by making fanciful assertions of conspiracy and misdeeds by the Hearing Officer, FINRA staff, and Ocean Cross’s electronic message retention and review subcontractor, Smarsh, Inc. Rather than address his admittedly inadequate review of Ocean Cross’s electronic communications, the NAC’s findings, and the law and evidence supporting them, North continues to argue that FINRA conspired with Smarsh to “spoliate” the content of Ocean Cross’s electronic communications. North’s effort to distract from his inadequate supervision knows no bounds. North repeatedly raised these arguments not only throughout the pendency of this disciplinary matter, but also in another FINRA disciplinary matter against him and in actions he initiated in the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia. The Hearing Panel, the NAC, and the federal courts rejected these spurious claims and so too should the Commission.

The NAC explicitly rejected North’s email spoliation arguments because North’s testimony provided sufficient evidence to hold that he failed to enforce the firm’s WSPs and violated NASD and FINRA rules. Moreover, FINRA’s Department of Enforcement (“Enforcement”) did not rely on the content of the electronic communications to prove the allegations against North. In addition, the NAC properly concluded that North did not present

persuasive evidence that the Smarsh records were unreliable or supportable arguments on appeal to disturb the Hearing Panel's credibility findings or procedural rulings concerning North's proffered experts and attendant evidence. North claims that these sound and reasoned evidentiary rulings were biased and designed to hide a conspiracy between Smarsh and FINRA to intentionally destroy and alter electronic communications in order to create the appearance of noncompliance by North. North's arguments have no basis in reality and no relevance to the limited scope of the allegations against him. In comparison, the record amply supports the NAC's findings.

The record also amply supports the NAC's imposition of a \$5,000 fine for North's misconduct—a sanction that North does not directly challenge. The NAC weighed all relevant factors and imposed a fine that is consistent with FINRA's Sanction Guidelines (the "Guidelines"), fully supported by the facts and circumstances of this case, and neither excessive nor oppressive. The Commission should reject all of North's arguments and dismiss his application for review.

II. FACTUAL BACKGROUND

A. North's Background

North was the CCO for Ocean Cross during his entire tenure with the firm, from August 2011 until January 2013. (RP 1146, 1769.) North was registered in numerous capacities, including in multiple categories of principal registrations, while associated with Ocean Cross: general securities representative and principal, registered options representative and principal,

equity trader limited representative, and limited representative investment banking. *See* Central Registration Depository (“CRD,”² at 4 (attached as Exhibit 1)).²

Ocean Cross received FINRA approval to operate in August 2011.³ Ocean Cross had approximately 15 associated persons and three principals: its president, William E. Schloth (“Schloth”); North; and its municipal securities principal. (RP 1114.) Ocean Cross generated a significant amount of its revenue from its municipal securities business. Ocean Cross’s largest producer, Leslie King (“King”), was the source of the firm’s municipal securities business. King worked out of the firm’s Plano, Texas office and was the only registered representative to use Bloomberg instant messaging. (RP 1115-16, 1158.)

B. Ocean Cross’s WSPs and North’s Role in Reviewing the Firm’s Electronic Communications

North admittedly was responsible for reviewing and enforcing the firm’s WSPs and was the person at the firm who “makes sure or tries to make sure that all the rules and regs are followed.” (RP 1191-92, 1198.) North did not draft the firm’s WSPs, but instead purchased a generic version from a third-party compliance business. (RP 1172.) North modified slightly the generic WSPs to require the firm’s president or another designated principal to conduct the review of electronic communications. (RP 1172, 1340.) North testified, “I did not put myself in as the supervisor to review emails because I knew what it was like to do that.” (RP 1172.)

² The Commission has stated numerous times that it takes official notice of information contained in CRD. *See* 17 C.F.R. § 201.323 (“Official notice may be taken of any material fact which might be judicially noticed by a district court of the United States, any matter in the public official records of the Commission, or any matter which is peculiarly within the knowledge of the Commission as an expert body.”); *Aliza A. Manzella*, Exchange Act Release No. 77084, 2016 SEC LEXIS 464, at *2 n.3 (Feb. 8, 2016).

³ Ocean Cross was not operational in August 2011 because several states where it planned on doing business had not approved the firm’s registration. (RP 1174, 1288-89.) The firm was fully operational beginning in September 2011. (RP 1174.)

In relevant part, the WSPs required that the president or designated principal perform a “daily” “[r]eview [of] an appropriately sized sample of incoming and outgoing e-mail / IM [instant message] correspondence; OR review any e-mails / IMs flagged by filtering software (if utilized).” (RP 1340, *see also* RP 1221, 1280 (daily review of email).) Notably, in reviewing the WSPs, North elected not to modify the requirement of a daily review of electronic correspondence. (RP 1213.) The WSPs also required the president or designated principal, in conducting the review of the firm’s electronic correspondence, to “[m]aintain all reviewed e-mails / IM in a separate folder (electronic or hardcopy); initial and date electronic correspondence review log; [and] initial and maintain record of any findings and actions taken.” (RP 1340.)

North admitted in his hearing testimony that he reviewed the firm’s electronic communications when he knew that no one else at the firm was doing so. North specifically knew that the firm’s president, Schloth, was routinely not reviewing the firm’s emails prior to April 30, 2012. Instead, North himself “would step in and do it” “at least once a week.” (RP 1150, 1152, 1172-73, 1182, 1191-93, 1198-99.) North reviewed no Bloomberg messages until FINRA conducted its first on-site examination of Ocean Cross beginning on January 30, 2012, and lasting for one week. (RP 1113, 1329-33.) North testified that he relied upon the Smarsh system to record his review of electronic communications and did not create a separate record of his reviews as directed by the firm’s WSPs. (RP 1214-15, 1340.)

C. Electronic Communications at Ocean Cross

Ocean Cross used Smarsh to retain its electronic communications, including email and Bloomberg instant messages.⁴ (RP 839-40, 850, 1165-66, 1176-77.) Smarsh provides software and systems that compliance or supervisory personnel at broker-dealers use to produce reports that evidence the extent of supervision activity, including the review of electronic correspondence such as emails and instant messages. (RP 838, 840.) The Smarsh platform permitted designated staff at Ocean Cross to log onto the system, run searches, view the search results, and open the messages for review. (RP 845-46.) Smarsh's system recorded, among other things, the identity of the user who logged onto the system, the searches run by the user, the search history, the message review history, and the number of messages located through the search. (RP 837-38, 847-48, 853, 855-59, 862-65, CX 9, CX 10, CX 11, CX 12.) Smarsh recorded all of this information, including a user's search activity, in Smarsh's computer database automatically. (RP 841-42, 847.)

North was provided log-in credentials to use the Smarsh system to review the firm's archived emails and Bloomberg instant messages. (RP 862, 872, 1125-26, 1166.) In order to review Bloomberg instant messages, North was required to conduct a separate search of the Smarsh archive because Bloomberg messages are a different file type than emails and stored in a separate database. (RP 839-42, 846, 1166.) Ocean Cross's WSPs required the person reviewing electronic correspondence to store all reviewed email and Bloomberg messages in a separate folder and initial and date an electronic correspondence review log. (RP 1340.) North did not do this and instead relied upon Smarsh. (RP 1214-15, 1340.) North stated that he knew from prior

⁴ Smarsh is an archiving company that specifically caters to the financial services industry and archives electronic correspondence to comply with SEC and FINRA rules. (RP 832.)

experience using Smarsh that “somewhere in the system, it’s recorded . . . [as] an electronic initial.” (RP 1214-15.)

D. The Evidentiary Hearing and Admissibility and Reliability of the Smarsh Reports

As part of its investigation, Enforcement requested that Smarsh submit reports (“Smarsh Reports”) that reflected North’s review of the firm’s electronic communications during the seven-month period from September 8, 2011, through April 30, 2012 (the “Review Period”). The Hearing Officer in this matter conducted a two-day evidentiary hearing on November 5 and 25, 2014, in advance of the disciplinary hearing to determine the admissibility and reliability of the Smarsh Reports. When ordering the evidentiary hearing, the Hearing Officer stated that “evidence regarding North’s logging into the Smarsh system to review emails, the number of emails available for North’s review, the number of emails he reviewed, the number and content of North’s word searches of emails, and the dates of his email reviews is potentially relevant to this proceeding.” (RP 483-85.)

Enforcement offered the telephonic testimony of Smarsh’s Director of Web Services, Jimmy Douglas (“Douglas”), to explain and authenticate the Smarsh Reports. North’s counsel, who has represented North throughout these proceedings and continues to represent him now, extensively cross-examined Douglas during the evidentiary hearing. (RP 878-908, 998-1032.) The Hearing Panel determined that Douglas’s testimony was credible and that the Smarsh Reports were reliable and admissible evidence. (RP 1355.) The NAC upheld these findings. (RP 1771-72 n.5.) The Hearing Panel expressly found that Douglas credibly testified that “every action that is taken inside Smarsh’s archiving system is attributed to the specific user who logged onto the system, and Smarsh’s system can generate a report to demonstrate supervisory search and review activity.” (RP 847, 1355.)

With respect to the Smarsh Reports, the Hearing Panel found that Douglas credibly testified that Ocean Cross's review of its electronic communications was stored in a Smarsh database, which recorded the actions taken within the Smarsh web-based application. (RP 882, 1355.) Thus, reliable and credible evidence shows that the Smarsh Reports were generated from North's electronic communications review activity recorded by Smarsh's database. (RP 882-83, 1355.)

III. PROCEDURAL HISTORY

FINRA conducted on-site examinations of Ocean Cross in January 2012 and March 2012, which led to Enforcement filing its complaint against North in this matter. (RP 1113, 1123.) Enforcement in its complaint alleged that during the Review Period, North failed to enforce Ocean Cross's WSPs regarding the oversight of the firm's electronic correspondence and the recording of that review, in violation of NASD Rule 3010 and FINRA Rule 2010. (RP 7-11.)

During the course of this disciplinary matter, North made numerous motions to present testimony and documents related to evidence spoliation and filed actions in federal court against FINRA and Smarsh in an effort to do the same. Both the Hearing Panel and the NAC determined that North fell short of meeting his burden to show that the information he sought to adduce was material or relevant or both to the simple issue before them (i.e., whether North failed to enforce Ocean Cross's WSPs regarding the firm's oversight of electronic communications). The federal courts also found North's actions meritless and dismissed them.

A. North's Serial Motions to Present Expert Testimony and Related Evidence Regarding Spoliation of Electronically Stored Information

1. North's August 29, 2014 Motion

In what would be the first of five motions before the Hearing Officer or the NAC to adduce evidence, North on August 29, 2014, moved to offer testimony of proposed expert Andy Thomas ("Thomas"). North argued that Thomas examined all of the electronically-stored evidence that Enforcement provided to North during discovery and that Thomas would testify to the spoliation of that evidence. North asserted that Thomas had reviewed King's Bloomberg emails and that Thomas would testify that some of those emails were missing from information that Enforcement produced in discovery. North further asserted that Thomas would testify that the format of the emails produced by Enforcement did not match the Bloomberg native format and the appearance of the produced emails in this matter appear different from those in other proceedings involving the same individuals. (RP 307-11.)

North's prehearing submissions that were due on August 21, 2014, did not specify Thomas's qualifications nor his prior expert testimony. The Hearing Officer determined that as a result, North had failed to comply with FINRA Rule 9242(a)(5) by timely providing a statement of Thomas's qualifications and failing to provide a list of Thomas's publications and other proceedings in which Thomas had given expert testimony. (RP 413.) The Hearing Officer further determined that North had failed to meet his burden of showing that Thomas's testimony would be relevant and that it would assist the Hearing Panel in adjudicating this matter. (RP 414.) The Hearing Officer determined that the issues raised by North were not relevant to whether the electronic communications culled from Ocean Cross's system and archived by Smarsh were reviewed and documented according to the firm's WSPs. (RP 415-16.) And

accordingly, the Hearing Officer correctly denied North's motion to offer Thomas's testimony and declaration. (RP 415-16.)

2. North's September 11, 2014 Motion

On September 11, 2014, North filed a motion to stay these proceedings to enable North to petition the United States Court of Appeals for the District of Columbia Circuit for injunctive relief due to the alleged spoliation of the electronic information that Enforcement produced in discovery and offered as proposed exhibits. (RP 419-28.) These were the same underlying issues that North had identified in his August 29 motion. The Hearing Officer denied North's motion for a stay, but continued the hearing to allow the parties to participate in the evidentiary hearing to resolve North's challenges to the electronic information provided by Smarsh and determine the admissibility and reliability of the Smarsh Reports. (RP 483-85); *see supra* Part II.D. North then petitioned the United States Court of Appeals for the District of Columbia Circuit for an emergency petition for writ of mandamus, temporary and permanent injunctive relief, and stay of proceedings before FINRA. The court denied North's petition. *In re North*, No. 14-1274, 2014 U.S. App. LEXIS 23348 (D.C. Cir. Dec. 11, 2014).

3. North's October 7, 2014 Filing

On October 7, 2014, North filed a "Brief Respecting Evidentiary Issues Related to Alleged Spoliation, Admissibility of Evidence and Testimony, and Motion to Compel Production of CDJob Requests and Smarsh Event Logs." (RP 537-700.) North again offered Thomas's testimony on alleged spoliation of electronic records. The Hearing Officer granted in part North's motion to present Thomas's testimony. (RP 780.) While the Hearing Officer precluded Thomas from testifying about alleged spoliation and other matters previously deemed not relevant, the Hearing Officer permitted Thomas to testify at the evidentiary hearing regarding:

“North’s logging into the Smarsh system during the review period; . . . the number of any such Smarsh-archived emails available for North’s review during that period; the number of Smarsh-archived emails that North reviewed during the review period; the number and content of North’s word searches of Smarsh-archived emails during the review period; and the dates of North’s email reviews during the review period.” (RP 780-81.)

Despite the Hearing Officer allowing North to present Thomas’s testimony regarding North’s review of emails at the evidentiary hearing, North withdrew his request on October 31, 2014, and chose not to call Thomas as a witness. (RP 821-910, 987-1035.) North instead elected an alternative strategy file additional motions in an effort to adduce the testimony of three other purported experts (Jonathan Gibney, Tom McCay, and Frank Huber).

4. North’s November 24, 2014 Motion

Under the case’s scheduling order, the parties’ exhibits and witnesses were required to be filed by August 21, 2014. (RP 1039.) The Hearing Officer subsequently amended the scheduling order in which the parties were given until October 7, 2014, to submit motions for leave to offer witness testimony. (*Id.*) The Hearing Officer did not amend or extend the August 21, 2014 deadline for the submission of proposed exhibits. (*Id.*)

On November 24, 2014, well after the filing deadlines had passed, North filed a motion to supplement his proposed hearing exhibits and submitted a declaration seeking to offer the expert testimony of either Jonathan Gibney, the Chief Executive Officer of Southridge Technology, LLC (“Southridge Technology”), or Tom McCay, Senior Services Technician at Southridge Technology. The Hearing Officer denied the motion and determined that North’s motion to supplement the record was untimely pursuant to the case’s scheduling order and North’s proposed exhibits and witnesses could have been included by the filing deadlines. In addition,

the Hearing Officer determined that the proposed testimony of the Southridge Technology employees was not relevant to the issues in this matter. The Hearing Officer explained that “[t]estimony or evidence suggesting that Southridge maintained backup files that included more or different emails and messages from those archived by Smarsh for Ocean Cross is not relevant to this proceeding.” (RP 1037-41.) In correctly concluding that evidence of spoliated email was irrelevant, the Hearing Officer determined that the central issue in this case is “whether North was responsible during the relevant period for reviewing Ocean Cross’s electronic correspondence and, if so, whether he conducted the daily review required by the firm’s written procedures and documented the review, as also required by the firm’s procedures.” (RP 415.)

B. FINRA’s Separate Disciplinary Action Against North and North’s Doomed Lawsuit Against Smarsh and FINRA

FINRA filed a separate disciplinary action against North in July 2013, involving North’s misconduct while he was associated with a different member firm, Southridge Investment Group LLC (“Southridge”). *See Dep’t of Enforcement v. North*, Complaint No. 2010025087302, 2017 FINRA Discip. LEXIS 7, at *7-9 (FINRA NAC Mar. 15, 2017), *appeal docketed*, SEC Admin. Proceeding No. 3-17909 (Apr. 6, 2017). The NAC determined in that case that North failed to report a relationship with a statutorily disqualified person, in violation of NASD Rule 3070(a)(9) and FINRA Rules 4530(A)(1)(H) and 2010. *Id.* at *10-16. North also failed to establish and maintain a reasonable supervisory system related to the review of electronic correspondence and failed to adequately review email correspondence, in willful violation of MSRB Rules G-27 and G-17 and violation of NASD Rule 3010 and FINRA Rule 2010. *Id.* at *16-29. For his misconduct, the NAC imposed a \$40,000 fine and a 30-business-day suspension in all principal and supervisory capacities followed by a two-month suspension in all principal and supervisory capacities. *Id.* at *46-56.

After FINRA filed its two actions against North, North filed a civil action in the United States District Court for the District of Columbia against FINRA and Smarsh alleging that the data produced by Smarsh and relied upon by FINRA in this proceeding and the other against him, *North*, 2017 FINRA Discip. LEXIS 7, was spoliated and tampered. North sought monetary damages for the intentional or negligent spoliation of data and to enjoin FINRA's disciplinary actions against him as well as to prevent the dissemination and use of such data in any future proceeding. The district court dismissed the action on December 4, 2015. *North v. Smarsh, Inc.*, 160 F. Supp. 3d 63 (D.D.C. 2015). In dismissing the action, the court identified that FINRA's allegations against North in this proceeding—“whether Mr. North reviewed sufficient electronic correspondence as required by securities laws and regulations—have nothing to do with the content of the spoliated ESI [electronically stored information].” *Id.* at 86. The district court subsequently denied North's motion to amend his complaint against Smarsh and FINRA alleging other federal mail and wire fraud violations as well as conspiracy to convert and tortious conversion of electronic data and conspiracy to spoliolate and tortious spoliation of electronic data. *North v. Smarsh, Inc.*, No. 15-494 (D.D.C. Jan. 21, 2016) (attached as Exhibit 2).⁵

C. The Hearing Panel's Decision

The Hearing Panel issued its decision on July 23, 2015. (RP 1341-42, 1345.) Following a one-day hearing that featured North's extensive and credible testimony, the Hearing Panel determined that during the Review Period, North failed to enforce Ocean Cross's WSPs with

⁵ North tried a third time to sue FINRA and Smarsh in federal court. In August 2017, the district court dismissed the complaint, which “dealt with the same nucleus of facts” as his prior doomed attempts to sue FINRA and Smarsh. *North v. Smarsh, Inc.*, No. 16-1922, 2017 U.S. Dist. LEXIS 133649, at *1, 23-24 (D.D.C. Aug. 22, 2017) (“The Court's prior opinion was final and was not appealed by Plaintiffs. Claim preclusion applies to its findings and legal conclusions and warrants dismissal of the claims here.”).

respect to the review of electronic communications, in violation of NASD Rule 3010 and FINRA Rule 2010. (RP 1346, 1354 n.70, 1357.) The Hearing Panel fined North \$5,000 for his misconduct. (RP 1358.)

D. The NAC Rejects North's Immaterial Evidence and Finds that North Failed to Enforce Ocean Cross's WSPs

North appealed the Hearing Panel's decision to the NAC. (RP 1361-73.) After repeated denials by the Hearing Officer, North moved to adduce additional evidence before the NAC to support the same spoliation-related claims that the Hearing Officer rejected. (RP 1362-1474, 1507-11, 1517-31.) His proposed evidence included the report of yet another purported expert, Frank Huber, who specialized in computer programming. Specifically, North sought to introduce two declarations of Huber and numerous attachments in support of Huber's opinion that the emails at issue in this case were spoliated. (RP 1375-1466, 1518.) The Huber declarations describe purported "corruptions," "falsifications," and "alterations" of the firm's archived electronic data. North asserted that Huber's declarations were relevant to show that "government resources were used to intercept and divert the communication files to entities overseas, where the files were spoliated and returned to a false database made to appear like an archive." (RP 1519-21.)

North also sought to adduce an excerpt from the testimony of Richard Sherman ("Sherman"), a witness from Smarsh who testified in FINRA's separate disciplinary proceeding against North concerning North's misconduct at Southridge. (RP 1467-73, 1518); *see North*, 2017 FINRA Discip. LEXIS 7, at *33-37. In addition, North sought to introduce his complaint and exhibits from the lawsuit that he filed against FINRA and Smarsh in federal district court and the "Declaration of Bonnie Page in Support of Smarsh, Inc.'s Opposition to Plaintiffs' Motion for Order Permitting Sur-Response and Sur-Reply" also filed in the same federal action.

(RP 1518, 1542-46.) The NAC subcommittee empaneled to consider North's appeal denied North's motion to adduce, finding the proposed evidence immaterial, a determination adopted by the full NAC in its decision. (RP 1567, 1781.)

In its decision dated August 3, 2017, the NAC affirmed the Hearing Panel findings of liability and sanctions. (RP 1768-85.) The NAC found that North failed to enforce Ocean Cross's WSPs related to review of electronic correspondence, in violation of NASD Rule 3010 and FINRA Rule 2010. (RP 1773-77.) While the NAC credited that North engaged in some action when he knew that Schloth was not reviewing the firm's electronic communications, the NAC found North's responsive action nonetheless fell short. (RP 1776.) The NAC determined that North's testimony provided ample evidence to find that he failed to enforce these specific WSPs. (RP 1774-76 & n.16.) The NAC gave the Smarsh Reports minimal weight as they merely confirmed the finding that North failed to undertake the required review as directed by the WSPs. (RP 1776 & n.16.) In making these determinations, the NAC explicitly rejected North's arguments related to electronic correspondence, including without limitation North's arguments about evidence spoliation, the admissibility of the Smarsh Reports, and the exclusion of North's proposed experts and attendant evidence. (RP 1771-72 & n.5, 1776 & n.16, 1777-81.)

The NAC also affirmed the Hearing Panel's well-balanced sanction of a \$5,000 fine. (RP 1784.) In assessing this sanction, the NAC found that the quality of North's enforcement of the WSPs related to electronic correspondence was insufficient and reflected his inattention to these responsibilities. (RP 1784.) The NAC credited North's acceptance that he was responsible for enforcing the WSPs, and when he discovered that Schloth was not overseeing the firm's electronic communications, North began doing it himself. (*Id.*) The NAC concluded that

North's violations resulted from negligence, not intentional or reckless misconduct. (*Id.*)

Accordingly, the NAC determined that North's misconduct was not egregious. (*Id.*)

E. North's Appeal to the Commission

North appealed the NAC's decision to the Commission and moved to stay the fine that FINRA imposed. (RP 1787-94.) FINRA opposed North's motion to stay as moot. (RP 1802-05.) On September 19, 2017, the Commission agreed with FINRA and denied North's motion.

North subsequently filed with the Commission a motion to adduce additional evidence, which FINRA opposed. As of the date of this filing, North's motion remains pending. Nonetheless, in countless examples in his brief in support of this application for review, North relies on unadmitted documents as evidence or fact to support his baseless arguments.⁶ (*See Br.* at 4, 5, 6, 8, 10, 12, 13, 14, 15, 16, 17, 19, 37, 38.) For the reasons stated in FINRA's brief in opposition to North's motion to adduce, the Commission should deny North's motion and disregard his latest strawman arguments built on irrelevant, immaterial, and unadmitted documents. The Commission should reject North's efforts to dramatically expand the record on appeal. North has not established that the evidence he seeks to adduce is material to the straightforward issues relevant in this appeal—whether North failed to enforce Ocean Cross's WSPs related to the firm's oversight of electronic communications. Moreover, he cannot show reasonable grounds for his failure to adduce this evidence before now. The Commission should deny North's efforts to obfuscate the simplicity of this case.

⁶ Further, North's citation to documents not in the record contravenes the SEC Rules of Practice. *See* SEC Rule of Practice 450(b), 17 C.F.R. § 201.450(b) (detailing that briefs before the Commission "shall be supported by citation to the relevant *portions of the record*") (emphasis added). North also impermissibly relies on parts of the record as fact when these excerpts are not evidence in this case, such as the opening statement of Enforcement's counsel during the hearing and portions of North's prehearing brief. (*See Br.* at 9 n.39, 10 nn. 43 & 44.)

IV. ARGUMENT

The admitted evidence in the record fully supports the NAC's findings of liability against North. The record, which includes North's own testimony and admissions, supports the NAC's findings that North violated NASD Rule 3010 and FINRA Rule 2010. During the Review Period, North failed to enforce Ocean Cross's WSPs regarding daily oversight of the firm's electronic communications and documenting that review in accordance with the methodology as directed by the WSPs. North admits that he was responsible as the firm's CCO for enforcing the firm's WSPs. North also admits that he knew that the firm's president, Schloth, was routinely not reviewing the firm's emails prior to April 30, 2012. Instead, North himself "would step in and do it." North admits that during the Review Period he reviewed the firm's email "at least once a week," rather than the daily review set forth in the WSPs. (RP 1152, 1173, 1182, 1191-93, 1198-99.) North also was not regularly reviewing Bloomberg communications at Ocean Cross during the Review Period. The record establishes that North's sporadic and haphazard review of electronic communications in response to Schloth's inaction during the Review Period was inadequate and unreasonable and that North failed to document his review in accordance with the WSPs.

On appeal before the Commission, North yet again attempts to conjure support for his spurious claims that FINRA and Smarsh conspired to intentionally corrupt the evidence to be used against him. North's arguments are without merit and have been rejected in a variety of forums. There is no conspiracy. Rather, these sham assertions are merely North's tactic to sidestep his admissions and create controversy when there is none. Whether the Ocean Cross emails were spoliated has no bearing whatsoever on the allegations, or the findings, against North. Indeed, the NAC considered these same arguments and rejected them based on North's

admissions and established case law. There is substantial evidence that North failed to enforce his firm's WSPs. The Commission should affirm FINRA's findings against North.

The Commission also should affirm the \$5,000 fine imposed by the NAC. The NAC weighted heavily the salient mitigating factors in imposing a fine that is at the lowest end of the Guidelines. This well-balanced sanction is fully warranted by the facts and circumstances of North's misconduct.

A. North Failed to Enforce Ocean Cross's WSPs Regarding Oversight of Electronic Communications

The record establishes that North was responsible for enforcing Ocean Cross's WSPs and he failed adequately to enforce the firm's oversight of its electronic communications, in violation of NASD Rule 3010(b) and FINRA Rule 2010.⁷ The Commission should affirm the NAC's findings.

NASD Rule 3010(b) required member firms to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable laws, rules, and regulations and to supervise the activities of the firm's associated persons that are reasonably designed to achieve compliance with applicable securities laws, rules, and regulations.⁸ During the Review Period, NASD Rule 3010(d) expressly applied to a firm's oversight of electronic

⁷ A violation of NASD Rule 3010 also constitutes a violation of just and equitable principles of trade (FINRA Rule 2010). See *Robert J. Prager*, 58 S.E.C. 634, 635 n.3 (2005). FINRA Rule 0140 extends these rule requirements to persons associated with a member.

⁸ NASD Rule 3010 was in effect during the Review Period and therefore applies to North's misconduct. See *FINRA Regulatory Notice 14-10*, 2014 FINRA LEXIS 17 (Mar. 2014) (announcing in 2014 that NASD Rule 3010 has been superseded by FINRA Rules 3110 and 3170). In an effort to minimize his responsibility, North in his brief relies on rules that were either not in effect during the Review Period or do not apply to North's misconduct in *this* case. (Br. at 27 (discussing FINRA Rule 3110 and MSRB Rule G-27 (a), (c).) Enforcement charged North with violating (and the NAC found that North violated) NASD Rule 3010 and FINRA Rule 2010. (RP 7-11, 1777.)

communications. The rule required members to develop written procedures for the review, by a registered principal, of the firm's registered representatives' incoming and outgoing written and electronic correspondence with the public relating to the firm's investment banking or securities business. *Id.* "The standard of 'reasonable' supervision is determined based on the particular circumstances of each case." *John A. Chepak*, 54 S.E.C. 502, 513 n.27 (2000).

The Commission has emphasized that "the presence of procedures alone is not enough. Without sufficient implementation, guidelines and strictures do not ensure compliance." *KCD Fin. Inc.*, Exchange Act Release No. 80340, 2017 SEC LEXIS 986, at *34 (Mar. 29, 2017) (internal quotation marks omitted). As a result, "[i]n addition to requiring an adequate supervisory system and procedures, the duty of supervision includes the responsibility to investigate 'red flags' that suggest that misconduct may be occurring and to act upon the results of such investigation." *Michael T. Studer*, 57 S.E.C. 1011, 1023-24 (2004). The record amply shows that North failed to enforce the WSPs when he assumed the responsibility for reviewing the firm's electronic communications in light of the red flags that he knew—that neither Schloth nor anyone else was doing that review. North's limited actions were insufficient to constitute reasonable supervision under the circumstances. *See Chepak*, 54 S.E.C. at 513 n.27.

The WSPs assigned Schloth (or another designated principal) as the supervisor tasked with reviewing the firm's electronic communications on a daily basis. (RP 1340.) As the NAC correctly determined, the record supports the finding that neither a daily review of the firm's emails and Bloomberg messages was being conducted nor was the firm documenting that review in compliance with the methodology set forth by the WSPs. In a futile effort to absolve himself of responsibility, North continues to argue that he was not the supervisor designated by the

WSPs for reviewing electronic communications. (Br. at 27.) North, however, cannot escape his admissions that place supervisory responsibility squarely at his feet.

North admitted repeatedly throughout these proceedings that he was responsible for enforcing the WSPs, and he knew that the firm's president, Schloth, was routinely not reviewing the firm's emails prior to April 30, 2012. North stated that before April 30, 2012, which was the last day of the Review Period and date of his on-the-record interview ("OTR") with FINRA staff, he was aware that Schloth was not reviewing any of the firm's electronic communications. (RP 1150 (date of OTR), 1180, 1191, 1192, 1198, 1199.) North acknowledged during his OTR that he reviewed the firm's emails as part of his responsibilities as Ocean Cross's CCO. (RP 1155-56.) North during the hearing further admitted that no one else was reviewing emails on a regular or routine basis.⁹ (RP 1198.) Instead, North himself "would step in and do it." (RP

⁹ North repeats his argument made below that Enforcement "targeted only Mr. North for Email review and failed to inquire at any time about, or request any evidence of Email review by" others. (Br. at 28-29.) As the NAC found when rejecting this argument, North's own testimony shows that he knew that no one else at Ocean Cross was reviewing the firm's electronic communications and that he "step[ped] in" to do it. (RP 1159, 1180, 1191, 1193, 1192, 1198, 1199.) In addition, the FINRA examiner who testified at the hearing stated that during FINRA's onsite examination of Ocean Cross, both North and Schloth identified North as the principal responsible for reviewing the firm's electronic communications. (RP 1118-19, 1123, 1353.) The examiner also testified that during the onsite, North demonstrated for FINRA staff how he logged onto the Smarsh system and conducted email review. (RP 1125.) The examiner's testimony was corroborated by a February 12, 2012 letter Ocean Cross sent to FINRA in response to a Rule 8210 request after the onsite, and North's testimony that he was responsible for enforcing the WSPs, he knew that Schloth was not conducting the required reviews, and North stepped in to help with those reviews at least once per week. (RP 1159, 1172-73, 1180, 1187, 1191, 1192, 1193, 1198, 1199, 1203, 1279-80.) North's argument that the examiner's testimony was objectionable hearsay misses the mark. (Br. at 28 n.138.) North's statements to the examiner were admissions, and by definition, not hearsay. *See Joseph S. Barbera*, 54 S.E.C. 967, 977-78 & n.31 (2000). Regardless, "hearsay evidence is admissible in administrative proceedings if it is deemed relevant and material," which the Hearing Panel and the NAC both determined were present as related to the examiner's statements. *SEC v. Otto*, 253 F.3d 960, 966 (7th Cir. 2001); (RP 1352-53, 1774 n.11).

1152, 1182, 1191-93, 1198-99.) North stated that “[i]t was Bill [Schloth] and I running the entire place, and if he was not reviewing emails, then I would do it to be a good person and get in there and make sure that it’s done.” (RP 1192.) North was keenly familiar with the Smarsh system that the firm used to review email and Bloomberg messages. North had used Smarsh at another firm, and admitted that it “made sense” that he “help out” with the electronic communication review for Ocean Cross. (RP 1187.)

North further admitted that he was aware that the hectic state of Ocean Cross led to Schloth’s lax review of electronic communications. North stated that he “knew that [Schloth] wasn’t doing it in the beginning because we were so busy doing all sorts of other stuff, and he was trying to get business in the door, that . . . if [Schloth] wasn’t doing it, then I would step in and do it.” (RP 1193.) The Commission has made it abundantly clear that supervisors must act decisively when an indication of irregularity is brought to their attention. *See Consolidated Inv. Serv., Inc.*, 52 S.E.C. 582, 588 (1996). North’s limited actions were insufficient to comply with the WSPs that he admittedly put in place and was charged with enforcing.¹⁰ *See Wedbush Sec., Inc.*, Exchange Act Release No. 78568, 2016 SEC LEXIS 2794, at *27 (Aug. 12, 2016), *appeal docketed*, No. 16-73284 (9th Cir. Oct. 10, 2015). “Once a person has supervisory responsibilities by virtue of the circumstances of a particular situation, he must either discharge those responsibilities or know that others are taking appropriate action.” *Dist. Bus. Conduct Comm. v. Gallison*, Complaint No. C02960001, 1999 NASD Discip. LEXIS 8, at *45 n.21 (NASD NAC Feb. 5, 1999) (finding that a firm’s compliance officer who was responsible for enforcing the

¹⁰ Even now before the Commission, North admits that he “often stepped in to review Email.” (Br. at 28 (emphasis added).) The WSPs, however, required a *daily* review of email and Bloomberg messages, which was not done by anyone at the firm and not adequately enforced by North.

firm's supervisory procedures was required to investigate and follow up when he knew the firm's penny stock trading was not being effectively supervised), *aff'd sub nom. La Jolla Capital Corp.*, 54 S.E.C. 275 (1999); *see also Dep't of Enforcement v. Levitov*, Complaint No. CAF970011, 2000 NASD Discip. LEXIS 12, at *24-26 (NASD NAC June 28, 2000) (finding firm's director of compliance failed to supervise staff over whom he had no supervisory authority once he discovered sales practice violations).

North's sporadic review was unreasonable under the circumstances. North stated that, prior to April 2012, he reviewed a random sample of email "at least once a week." (RP 1150, 1172-73, 1193.) By North's own admission, he was not reviewing the firm's electronic communications on a routine or regular basis and certainly not daily as required by the WSPs.¹¹ Indeed, North does not contend that he or anyone else at Ocean Cross conducted a *daily* review of electronic communications as required by the firm's WSPs. Rather, he admitted that he knew no one else was doing it.

To review Bloomberg instant messages, North was required to conduct a separate search of the Smarsh archive because Bloomberg messages are a different file type than emails and

¹¹ The NAC determined that the Smarsh Reports bolstered the conclusion derived from North's testimony that he failed to enforce the firm's WSPs. The Smarsh Reports, which the Hearing Officer correctly found were reliable and admissible evidence, support that North was not conducting a daily review of electronic communications as mandated by the WSPs. The Smarsh Reports reflect the following examples of North's review of electronic communications. Between September 8, 2011 (the first day of the Review Period), and January 31, 2012, North logged onto the Smarsh system and reviewed a total of six emails. (RP 1293-95, 1322-23; *see also* RP 873-74 (explaining interrelation between CX 9 & 10).) North logged onto the Smarsh system that stored firm email on two days in September 2011, one day in December 2011, and two days in January 2012. (RP 1322-23.) North logged onto the Smarsh system that stored firm email on 11 days in February 2012, 10 days in March 2012, and two days in April 2012. (RP 1297-1322.) The Smarsh Reports reflect that while North logged onto the system on February 1, March 6, March 7, and March 13, 2012, he did not review any email on those days. (RP 1297-1322.)

stored in a separate database. (RP 839-42, 846, 1166.) North reviewed no Bloomberg messages until February 2, 2012, while FINRA conducted its first on-site examination of Occan Cross. (RP 1113, 1327.) Moreover, during the seven-month Review Period, North logged onto the Smarsh system that archived the firm's Bloomberg messages during only three months: five days in February, seven days in March, and one day in April.¹² (RP 1329-33.) North actually reviewed Bloomberg messages on a total of eight days during the Review Period.¹³ (RP 1325-28.)

Occan Cross's WSPs required the person reviewing electronic correspondence to store all reviewed email and Bloomberg messages in a separate folder and initial and date an electronic correspondence review log. (RP 1340.) Yet North's testimony shows that he admittedly did not do this either. North stated that he relied upon the Smarsh system to record his review of electronic communications and did not create a separate record of his reviews as directed by the firm's WSPs. (RP 1214-15, 1340.) North stated that he knew from prior experience using Smarsh that "somewhere in the system, it's recorded . . . [as] an electronic initial." (RP 1214-15.) To counteract this admission, North argues that his reliance on Smarsh to record his review was reasonable. (Br. at 9.) These, however, are the same records that North argues are unreliable. Regardless, the relevant fact is that the WSPs that he personally put in place required specific methodology to document the review, and North ignored those requirements. North did not follow the WSPs regarding creating a separate record of his reviews, initialing and dating an

¹² Smarsh began retaining Bloomberg messages for the firm on October 21, 2011. (RP 1325.)

¹³ The Smarsh Reports reflect that while North logged onto the system on February 1, February 13, March 7, March 9, and March 16, 2012, he did not review any Bloomberg messages on those days. (RP 1329-33.)

electronic correspondence review log, or initialing and maintaining a record of any findings and actions taken after reviewing electronic correspondence. North's actions in this regard were insufficient to satisfy the requirements of the WSPs and therefore unreasonable.

B. North's Other Arguments to Minimize His Responsibility for Enforcing the WSPs Do Not Neutralize His Admissions

North repeats a series of unsuccessful arguments that he made to the NAC. Not surprisingly, North gives short shrift to the merits of this case. Of his 39-page brief, North discusses the merits on merely three and a half pages. (Br. at 27-30.) North's halfhearted arguments do not nullify what he has already admitted.

Relying on rules that North was not charged with violating and were not in effect during the Review Period, North argues that under new FINRA Rule 3110, he would not have been an appropriate supervisor to review Ocean Cross's electronic communications. He contends that he was unqualified to review those communications related to King's municipal securities business because he was not a municipal securities principal. (Br. at 27-28.) North is flat wrong and attempts to narrowly carve out his responsibility when in fact his principal registration gave him broad authority to oversee Ocean Cross's compliance with the WSPs. Enforcement charged North with violating NASD Rule 3010, which required a registered principal to review the firm's registered representatives' incoming and outgoing written and electronic correspondence. North, during the Review Period, was the CCO and person responsible for enforcing the firm's WSPs, including those related to the review of the firm's email and Bloomberg messages.

Importantly, North also was a registered general securities principal—a registration that qualified North to supervise the firm's general securities business and review electronic communications. *See* <http://www.finra.org/industry/series24#permitted-activities> ("By passing the Series 24, the candidate can supervise all areas of the member's investment banking and

securities business, such as underwriting, trading and market making, advertising, or overall compliance with financial responsibilities.”); *see also* FINRA Rule 3110(b)(4) (“Reviews of correspondence and internal communications must be conducted by a registered principal and must be evidenced in writing, either electronically or on paper.”). Had North been reviewing King’s messages in harmony with the WSPs and uncovered a potential issue related to her municipal securities business, North could have escalated the matter to the firm’s municipal securities principal and documented this course of action as required by the WSPs. North was not only qualified to enforce the WSPs related to oversight of these communications, he was obligated to do it and failed to do so adequately.

North argues that the “WSPs were not criticized as deficient” and “[n]o rule or law requires daily . . . review” of electronic communications. (Br. at 30.) These arguments do not minimize his liability. First, North was not charged in this case with failing to establish a reasonable supervisory system for the review of electronic correspondence. Thus, the adequacy of Ocean Cross’s procedures is not at issue here. Second, while NASD Rule 3010 does not set forth the frequency of a required review of a firm’s registered representatives’ incoming and outgoing electronic correspondence, the related supervisory procedures must be reasonably designed to achieve compliance with the applicable securities laws, rules, and regulations. What is relevant here is that the procedures that North himself put in place—and was obligated to enforce—required a daily review of electronic communications of an appropriately sized sample, and that was not done. Moreover, North blatantly ignored the WSPs’ requirement to document his review by creating a separate record of his reviews, initialing and dating an electronic correspondence review log, or initialing and maintaining a record of any findings and actions taken.

Curiously, North quibbles with two cases (*John H. Gutfreund*, 51 S.E.C. 93 (1992) and *George J. Kolar*, 55 S.E.C. 1009 (2002)) that the Hearing Panel relied upon in finding that North had supervisory responsibility for enforcing the firm's WSPs, arguing they are "inapplicable and distinguishable." (Br. at 29.) The NAC did not rely upon these cases in making its finding against North.¹⁴ The NAC's decision is the final action of FINRA; thus, the Commission reviews the NAC's decision—not the Hearing Panel's. *See* 15 U.S.C. § 78s(c); FINRA Rules 9351(e), 9370(a). Any findings of the Hearing Panel that are contrary to the NAC's findings are irrelevant. *See Philippe N. Keyes*, Exchange Act Release No. 54723, 2006 SEC LEXIS 2631, at *21 n.17 (Nov. 8, 2006).

North admitted in his hearing testimony that he was responsible for enforcing the firm's WSPs and that he reviewed the firm's electronic communications when he knew that no one else at the firm was doing it. (RP 1191, 1198.) North also conceded that he was not reviewing electronic communications daily, but "at least once a week." After crediting North's testimony, the NAC determined that North was responsible for enforcing the firm's WSPs relating to the review of electronic communications and that he violated NASD and FINRA rules when he failed to discharge his responsibilities adequately. (RP 1349, 1352, 1773, 1784.) The Commission should affirm these findings.

C. FINRA Provided North with a Fair Procedure

FINRA is required to provide a fair procedure for disciplining associated persons. This is achieved by filing specific charges, notifying a respondent of those charges, giving him an opportunity to defend himself, and keeping a record of the proceedings. *Robert D. Tucker*,

¹⁴ Regardless, the general legal propositions that the Hearing Panel cited from these cases remain good law.

Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at *48 (Nov. 9, 2012). FINRA satisfied each of these requirements. North dedicates the majority of his brief to conjuring conspiracy theories about evidence spoliation and attacking various procedural rulings by the Hearing Officer and the NAC. These arguments have no support and were rejected by the Hearing Panel and the NAC. The Commission should likewise dismiss these arguments in their entirety.

1. The Hearing Officer Properly Admitted the Smarsh Reports

North asserts that the Hearing Officer improperly admitted the Smarsh Reports for myriad reasons. (Br. at 19-25.) North's overarching argument is that the electronic communications provided to him by Enforcement during discovery were compromised by alleged spoliation and alteration, these purportedly spoliated and altered records were archived by Smarsh, and any report of North's search and review of these archives (i.e., the Smarsh Reports) is inherently unreliable. (Br. at 19-22, 25.) To that same end, North contends that Jimmy Douglas, the Smarsh Director of Web Services who oversaw the creation of the Smarsh Reports, was a misleading and unqualified witness to authenticate the Smarsh Reports. (Br. at 23-24.) The Hearing Officer did not abuse her discretion by admitting the Smarsh Reports, and the Commission should reject North's arguments to the contrary.

The Hearing Officer's admission of the Smarsh Reports is consistent with FINRA's Code of Procedure. *See* FINRA Rule 9263 (stating that a Hearing Officer shall receive all relevant evidence and has discretion to exclude all evidence that is irrelevant, unduly repetitious, or unduly prejudicial). The Smarsh Reports, which show North's infrequent reviews of a small number of emails and Bloomberg messages during the Review Period, are directly relevant to FINRA's allegation that North failed to enforce Ocean Cross's WSPs related to the daily review

of electronic communications. The Smarsh Reports are also entirely consistent with North's admissions that show he was not reviewing electronic communications daily.

Douglas testified telephonically during a two-day evidentiary hearing about the Smarsh reports, was questioned by the Hearing Officer, and was cross-examined extensively by North's counsel. Douglas provided a detailed explanation of the Smarsh Reports and the Smarsh system.¹⁵ (RP 831-902, 998-1031.) Douglas explained all aspects of Smarsh's system utilized by Ocean Cross for archiving email, instant messages, and Bloomberg messages.¹⁶ (RP 837-39.) Douglas explained that the Smarsh application provided Ocean Cross with the ability to generate reports showing supervision activity. (RP 837-38.) Douglas explained that in order for North to conduct a review of electronic communications archived by Smarsh, he would first need to log into the Smarsh web application and conduct a search. (RP 846.) Douglas clarified that because email and Bloomberg messages were retained in different archives, North was required to perform a separate search for each file type. (RP 862-67.) Importantly, Douglas testified that the Smarsh system recorded each time a user logged into the Smarsh system and performed any activity, such as a search or a review of communications produced by a search, and recorded the identity of the user performing the activity. (RP 847.) Douglas explained that Smarsh produced the Smarsh Reports (CX 9-12) in response to a FINRA request. (RP 851, *see also* 1335.) He

¹⁵ Douglas was qualified to testify about, and authenticate, the Smarsh Reports. He testified that he has a bachelor's degree in information systems and that he has worked at Smarsh for over five years in a variety of positions. (RP 834-35.)

¹⁶ North contends that Douglas "misrepresented" that Smarsh provided email services for Ocean Cross. (Br. at 24.) Abundant evidence in the record, including North's own testimony, however, reflects that Smarsh archived electronic communications, including email, for Ocean Cross. (RP 839-40, 850, 1165-66, 1176-77.) Whether Web.com also provided email services for Ocean Cross is a non sequitur to whether North reviewed Ocean Cross's electronic communications in accordance with the frequency and methods outlined by the firm's WSPs—which North admittedly did not.

explained what steps he took to have the Smarsh Reports generated and what each of the reports was designed to show and how to read the reports. (RP 852-68.) Even North admits that Douglas “could generally explain the information shown in the Smarsh Reports.” (Br. at 24.)

The Hearing Panel found that Douglas’s testimony was credible, and North has not set forth substantial contrary evidence to override those findings. *See William Scholander*, Exchange Act Release No. 77492, 2016 SEC LEXIS 1209, at *30 n.45 (Mar. 31, 2016) (explaining that credibility determinations “based on hearing the witness’s testimony and observing demeanor, are entitled to considerable deference”), *aff’d sub nom. Harris v. SEC*, No. 16-1739, 2017 U.S. App. Lexis 21318 (2d Cir. Oct. 25, 2017). Douglas credibly testified that Ocean Cross’s review of its electronic communications was stored in a Smarsh database, which recorded the actions taken within the Smarsh web-based application. (RP 882, 1355.) Contrary to North’s arguments, it was not necessary to have the underlying emails or other records to admit or rely on the Smarsh Reports because Douglas credibly testified that the reports were generated from North’s electronic communications review activity recorded by Smarsh’s database. (RP 846-47, 882-83, 1355.) The Smarsh Reports were not prepared using the information derived from emails themselves. Thus, whether the emails themselves were spoliated would not affect the reliability of the Smarsh Reports when Douglas credibly testified that Smarsh generated the Smarsh Reports from North’s search and review history of using Smarsh’s web application and searching within Smarsh’s database. Applying FINRA Rule 9263, the Hearing Officer properly admitted the Smarsh Reports.¹⁷

¹⁷ Relying on Federal Rule of Evidence 1006, North contends that the Smarsh Reports were inadmissible summary exhibits without the “supporting data in the form of administrative, server, event, or activity logs.” (Br. at 25-26.) The formal rules of evidence do not apply in FINRA disciplinary proceedings. FINRA Rule 9145(a). Moreover, as the NAC correctly found,

Footnote continued on next page

Finally, North argues that allegedly spoliated emails are relevant to his claim that the Smarsh Reports are unreliable because “the metadata reveals the handling of the Email, and whether or not Emails were preserved in compliance with Commission rules.” (Br. at 20-21.) North’s argument is a red herring. Enforcement did not allege, and the NAC did not find, that North was liable for Smarsh’s purported failure to archive electronic communications or North’s inability to uncover specific emails during his searches. Rather, the NAC determined North’s liability based on his admitted failure to enforce his firm’s WSPs requiring a daily review of the firm’s electronic communications and the documentation of that review.¹⁸ (RP 1773-77.) North conveniently ignores the fact that the NAC gave the Smarsh Reports minimal weight as they merely confirmed the finding that North failed to undertake the required review as directed by the WSPs.¹⁹ (RP 1776 & n.16.) The Commission should reject North’s unsubstantiated claims

cont’d

the Smarsh Reports were not summary exhibits, but printouts of data, compiled automatically at the time of North’s review, and stored in Smarsh’s database in the course of Smarsh’s business. Douglas properly authenticated the Smarsh Reports at the evidentiary hearing and explained how they were created and what data was used.

¹⁸ North argues that the Smarsh Reports were inadmissible because they were created on a “non-Y2K compliant” system. (Br. at 24-25.) North made a variation of this argument below, which the NAC rejected. (RP 1780 & n.20.) The FINRA examiner testified that he corrected the Smarsh Reports to reflect the date of February 29, 2012, because “[w]hen the report was generated, it didn’t recognize the leap year.” (RP 1133.) The examiner explained that he did not change any other information in the Smarsh Reports, including the “messages reviewed” columns. (RP 1133.) Whether the leap year date was reflected correctly is immaterial to the NAC’s findings based on North’s testimony that he failed to enforce Ocean Cross’s WSPs.

¹⁹ North in his brief repeatedly shades the truth in his assertions that the Hearing Panel and the NAC “disparaged Mr. North’s credibility” and “discredited Mr. North because the content of the [Smarsh] [R]eports made it appear that Mr. North did not review Email as he testified to doing.” (Br. at 13 & n.60 (relying on the cover letters for the Hearing Panel and NAC decisions as his source), 22.) These statements are a work of fiction and have no support in the record. In reality, both the Hearing Panel and the NAC found North to be a *credible* witness. (RP 1354 n.70, 1774-75 n.11.) Moreover, the NAC in imposing liability based on North’s credible

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about the admissibility and reliability of the Smarsh Reports when he has not sustained his heavy burden to show that the Hearing Officer abused her discretion by admitting the Smarsh Reports. *See Prager*, 58 S.E.C. at 664.

2. The Hearing Officer Properly Excluded North's Experts and Related Evidence

North argues throughout his brief that the Hearing Officer abused her discretion by excluding North's proffered experts and related evidence of purported spoliated email. There is no merit to this argument, and the Commission should reject it.

The Commission recently upheld a FINRA Hearing Officer's exclusion of expert testimony when the proposed testimony did not concern a central issue in the case. *See Fuad Ahmed*, Exchange Act Release No. 81759, 2017 SEC LEXIS 3078, at *79 (Sept. 28, 2017). The Commission explained that "in determining whether securities law violations have occurred, neither [the Commission] nor [FINRA] is hindered by the lack of, or is bound by, expert testimony." *Id.* at *78 (internal quotation marks omitted). Thus, adjudicators "have broad discretion in determining whether to admit or exclude evidence, and this is particularly true in the case of expert testimony." *Id.* at *79 (internal quotation marks omitted).

In concluding that evidence of spoliated email was irrelevant and rejecting North's proffered expert testimony, the Hearing Officer determined that the central issue in this case is "whether North was responsible during the relevant period for reviewing Ocean Cross's electronic correspondence and, if so, whether he conducted the daily review required by the

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testimony determined that the Smarsh Reports merely confirmed North's testimony, which showed that North was not performing a daily review of electronic correspondence. (RP 1774-75 n.11.)

firm's written procedures and documented the review, as also required by the firm's procedures." (RP 415.) Whether the emails themselves were spoliated does not affect the fact that the NAC based its findings of liability against North centrally on his admissions. Moreover, such expert testimony would not affect the reliability of the Smarsh Reports. Douglas credibly testified that Smarsh generated the reports from North's search and review history of using Smarsh's web-based application and searching within Smarsh's database. (RP 846-47, 882-83, 1008.) North's proffered expert testimony about purported spoliation of and tampering with email files is not relevant or helpful to determining whether he enforced the WSPs. The Hearing Officer therefore properly concluded that North's proposed expert testimony was not relevant and excluded the testimony.

Furthermore, North squandered his prior opportunity to present expert testimony related to the central issues here. The Hearing Officer granted in part North's motion to present Thomas's testimony. (RP 780.) The Hearing Officer permitted Thomas to testify at the evidentiary hearing regarding: "North's logging into the Smarsh system during the review period to review Ocean Cross and Bloomberg emails that Smarsh archived for Ocean Cross; the number of any such Smarsh-archived emails available for North's review during the review period; the number of Smarsh-archived emails that North reviewed during the review period; the number and content of North's word searches of Smarsh-archived emails during the review period; and the dates of North's email reviews during the review period." (RP 780-81.)

Despite being allowed to present Thomas's testimony at the evidentiary hearing, North withdrew his request on October 31, 2014, and chose not to call Thomas to testify. (RP 821-910, 987-1035.) North's "failure . . . to . . . adduce available evidence to meet the charges against him and show mitigating factors does not entitle him to have the proceedings reopened after the

issuance of an adverse decision.” *Scott Epstein*, Exchange Act Release No. 59328, 2009 SEC LEXIS 217, at *60 (Jan. 30, 2009), *aff’d*, 416 F. App’x 142 (3d Cir. 2010); *see also Ahmed*, 2017 SEC LEXIS 3078, at *70-71 (“A respondent cannot be permitted to gamble on one course of action and, upon an unfavorable decision, to try another course of action.” (Internal quotation marks omitted)).

3. The NAC Properly Denied North’s Motion to Adduce Additional Evidence

North argues that the NAC subcommittee improperly denied his motion to adduce additional evidence because it “affected his substantive right to present evidence in his defense, contributed to the findings of liability, and changed the outcome of the proceedings.” (Br. at 17 (internal citations and quotation marks omitted).) North postulates that the exclusion “nearly eliminated all evidence of Enforcement’s and Smarsh’s unconstitutional and unlawful and [sic] conduct.” (*Id.*) Contrary to North’s wild assertions, the NAC subcommittee’s denial of North’s motion, which was affirmed by the NAC, is well supported by the record and FINRA rules and had no impact on North’s defense regarding the narrow issues in this case.

Pursuant to FINRA Rule 9346(b), a motion for leave to introduce additional evidence must demonstrate that there was good cause for the respondent’s failure to introduce the evidence in the proceedings before the Hearing Panel, and it must explain why the evidence is material. North’s proposed evidence fails on both counts.²⁰ Each of the documents North sought

²⁰ North relies on FINRA Rule 9251, an inapposite rule, to bolster his point that the evidentiary rulings were not harmless error because in his view, not “all records relevant to the Email and Smarsh Reports” were made available. (Br. at 18-19.) Rule 9251 requires that Enforcement “shall make available for inspection and copying by any Respondent, Documents prepared or obtained by Interested FINRA Staff in connection with the investigation that led to the institution of proceedings.” FINRA Rule 9251(a). Enforcement did not prepare or obtain the documents and expert testimony that North sought to adduce in connection with its investigation

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to adduce related to his claims about spoliated emails, a claim that both the Hearing Officer and the NAC found irrelevant to the allegations against North. Therefore, the NAC properly concluded that the documents were immaterial. (RP 1781.) Moreover, the majority of proffered documents North sought to introduce were reports, declarations, and numerous attachments in support of the opinion by yet another purported expert, Huber, but the information Huber examined was available to North well in advance of the hearing in this matter. North's offer of Huber's declarations and associated documents was an attempt to circumvent the Hearing Officer's prior rulings related to expert testimony. North also sought to introduce an excerpt from the testimony of Sherman, a witness from Smarsh who testified in the other FINRA proceeding against North and involving North's misconduct while he was associated with Southridge, which had no bearing on the allegations in this matter. The documents filed in North's federal district court action are likewise immaterial. In sum, North failed to sustain his heavy burden to show that his proffered evidence was material and that he had good cause for failing to introduce it before the Hearing Panel.

4. FINRA's Adverse Rulings Were Correct and Do Not Reflect Bias Against North

North argues that the Hearing Officer was motivated by bias. He contends that the Hearing Officer demonstrated her obvious bias by making adverse evidentiary rulings against him throughout these proceedings. (Br. at 30-33.) The Commission should reject these meritless arguments.

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that led to the complaint here, and they have no relevance to the limited scope of the allegations made in this case.

North first claimed in his appeal before the NAC that the Hearing Officer was biased against him by denying him the opportunity to call expert witnesses to testify about the purported spoliation and to introduce evidence on the same issue. (RP 1595-96.) Before the NAC, North claimed that the Hearing Officer's bias was evident both before and during the hearing. (RP 1595-96.) The NAC correctly determined that North waived any argument that he may have had concerning the Hearing Officer's bias by failing to file a motion to disqualify the Hearing Officer when he was afforded an opportunity to do so. (RP 1782); *see* FINRA Rule 9233(b) (providing that a respondent shall file a motion to disqualify a hearing officer within 15 days of learning of facts believed to constitute grounds for disqualification); *see also* *Davis v. Cities Service Oil Co.*, 420 F.2d 1278, 1282 (10th Cir. 1970) ("Promptness in asserting disqualification is required to prevent a party from awaiting the outcome before taking action."); *Ahmed*, 2017 SEC LEXIS 3078, at *70 (rejecting untimely claims of Hearing Panelist's bias and requiring "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").

North's assertion of bias also is wholly unsubstantiated by the record. North is basing his claims of bias on the Hearing Officer's adverse rulings, including the rejection of his proffered experts, the ruling about the relevancy of emails, and the denial of his motion to adduce additional evidence. "Adverse rulings, by themselves, generally do not establish improper bias." *See Epstein*, 2009 SEC LEXIS 217, at *62. Yet the Hearing Officer's adverse rulings is North's oft-repeated claim. The Commission previously has explained that "bias 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." *Id.* Contrary to North's strained efforts to impute impermissible motives onto the Hearing Officer, the record

demonstrates that the Hearing Officer based her rulings on the record, and that the Hearing Panel and the NAC imposed liability against North based on that evidence.

5. North's Constitutional Arguments and Other Federal Statutory Challenges Fail

North argues that FINRA and Smarsh violated the Fourth Amendment, the Electronic Communications Privacy Act of 1986 (related to wiretapping and transmission of electronic data), and other unspecified criminal statutes. (Br. at 1, 3, 6, 37-38.) These arguments fail.²¹ It is well settled that FINRA is not a state actor, so it is not subject to constitutional requirements. *See Michael Earl McCune*, Exchange Act Release No. 77375, 2016 SEC LEXIS 1026, at *37 n.52 (Mar. 15, 2016), *aff'd*, 672 F. App'x 865 (10th Cir. 2016).²²

²¹ The NAC expressly rejected these same and similar arguments. (RP 1783 n.22.)

²² North makes the outlandish argument that FINRA has no authority to pursue disciplinary action against him because, in his view, FINRA “procur[ed] Smarsh to intercept his business and personal Email and that of other Southridge brokers” in violation “of the Maloney Act” and other federal law and “the Fourth Amendment.” (Br. at 33.) As a result, North contends that “FINRA has no authority or immunity for its unlawful actions.” (Br. at 34-37.) North could not be more off base. First, the email of Southridge brokers is irrelevant to what North failed to do at Ocean Cross related to oversight of Ocean Cross’s electronic communications. Second, FINRA exercises disciplinary authority over its members and is required to enforce compliance with securities laws and FINRA rules, which is what FINRA did here in pursuing disciplinary action against North. *See* 15 U.S.C. § 78o-3(b) and (h); § 78s; *see, e.g., D.L. Cromwell Inv., Inc. v. NASD Regulation, Inc.*, 279 F.3d 155, 157 (2d Cir. 2002) (stating FINRA is charged with “conducting investigations and commencing disciplinary proceedings against [FINRA] member firms and their associated member representatives relating to compliance with the federal securities laws and regulations”). When FINRA “acts under the aegis of the Exchange Act’s delegated authority, it is absolutely immune from suit for the improper performance of regulatory, adjudicatory, or prosecutorial duties delegated by the SEC.” *In re Series 7*, 548 F.3d 110, 114 (D.C. Cir. 2008); *see also DL Capital Grp. LLC v. NASDAQ Stock Mrkt., Inc.*, 409 F.3d 93, 99 (2d Cir. 2005) (holding that when an SRO engaged in conduct consistent with the powers delegated to it pursuant to the Exchange Act and the regulations and rules promulgated thereunder, SRO is immune from suit); *D’Alessio v. NY Stock Exch., Inc.*, 258 F.3d 93, 104 (2d Cir. 2001) (holding that an SRO is “immune from liability for claims arising out of the discharge of its duties under the Exchange Act”); *P’ship Exch. Sec. Co. v. NASD*, 169 F.3d 606, 608 (9th Cir. 1999) (holding that the NASD was protected by absolute immunity for its actions taken

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In addition, the criminal statutes that North references are irrelevant to whether North violated NASD Rule 3010 and FINRA Rule 2010 by failing to enforce his firm's WSPs, as the NAC correctly determined. The district court expressly rejected these claims when North raised them in his federal lawsuit. *See North*, 160 F. Supp. 3d at 77 (determining that North had no private right of action to enforce criminal obstruction of justice statutes and that these laws do not apply to FINRA). The district court subsequently denied North's motion to amend his complaint against Smarsh and FINRA alleging other federal mail and wire fraud violations as well as conspiracy to convert and tortious conversion of electronic data and conspiracy to spoliage and tortious spoliage of electronic data. *North v. Smarsh, Inc.*, No. 15-494 (attached as Exhibit 2).

North complains that FINRA has unfairly and improperly brought this disciplinary case against him by obtaining and relying on allegedly spoliaged data received from Smarsh "by intercepting brokers' Email without lawful authority" and "urges the Commission" to dismiss the findings against him and grant him costs and attorney's fees after investigating "the participants in the FINRA proceedings for their roles in violating the ECPA" and "other federal and state laws." (Br. at 33, 39.) Although the Commission may dismiss a FINRA action that lacks evidentiary support, North asks the Commission for other relief that is not available to him in this action. The Commission's authority on appeal is set forth in Exchange Act Section 19(e),

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"under the authority delegated to it by the Exchange Act"). FINRA acted properly and well within its delegated authority by bringing this disciplinary action against North.

but “[t]he Commission has no authority to grant” requests for damages, penalties, or costs against FINRA.²³

The NAC’s decision is well supported and based on the evidence in the record, not contrived conspiracy theories. The Commission should affirm the NAC’s findings and dismiss North’s application for review.

D. Fining North \$5,000 for His Misconduct Is Consistent with FINRA’s Sanction Guidelines and Is Neither Excessive Nor Oppressive

The \$5,000 fine that the NAC imposed in this case is a well-balanced sanction, reflects an appropriate weighing of the relevant factors under the Guidelines, and is neither excessive nor oppressive. Section 19(e)(2) of the Securities Exchange Act of 1934 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.²⁴ 15 U.S.C. § 78s(e)(2). In conducting its examination, the Commission considers any mitigating factors that an applicant raises and gives due regard to the “public interest and the protection of investors.” See *PAZ Sec., Inc. v. SEC*, 494 F.3d 1059, 1065 (D.C. Cir. 2007); *McCarthy v. SEC*, 406 F.3d 179, 188 (2d Cir. 2005). The Commission is not required to re-evaluate each potentially aggravating and mitigating factor and determine what

²³ Cf. *Sky Capital LLC*, Exchange Act Release No. 55828, 2007 SEC LEXIS 1179, at *9 n.11 (May 30, 2007) (“The Commission has no authority to grant much of the relief sought by Sky Capital. In its application, Sky Capital requests, among other things, that the Commission award the firm at least \$300 million in damages and penalties and ‘reassign regulatory oversight of Sky Capital to another qualified self-regulatory organization . . . or to another NASD District Office.’ Under Exchange Act Sections 19(e) and (f), we do not have the authority to order such relief.”).

²⁴ North does not contend, and the record does not show, that the fine is an undue burden on competition.

weight it would give to each factor. Rather, the burden is on North as the applicant to prove that the sanctions are excessive or oppressive. North, however, does not directly challenge the NAC's sanctions. The Commission should affirm the \$5,000 fine because the NAC carefully weighed the relevant factors contained in FINRA's Guidelines, as detailed in the NAC's decision in this matter. This fine is well justified and tailored to fit the nature of North's misconduct.

The Commission in its review of sanctions gives weight to whether the sanctions are within the allowable sanction range under the Guidelines. *See Stephen Grivas*, Exchange Act Release No. 77470, 2016 SEC LEXIS 1173, at *25 n.37 (Mar. 29, 2016) (using Guidelines "as a benchmark" when reviewing FINRA's sanctions on appeal). In determining what sanctions to impose upon North, the NAC considered the Guidelines for a failure to supervise. (RP 1783.) These Guidelines recommend a fine between \$5,000 and \$73,000 and the consideration of a suspension of the responsible individual in all principal capacities for up to 30 business days in non-egregious cases.²⁵ *FINRA Sanction Guidelines* 104 (2017), available at http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf. The failure to supervise Guidelines also provide three principal considerations: (1) whether respondent ignored "red flag" warnings that should have resulted in additional supervisory scrutiny; (2) the nature, extent, size and character of the underlying misconduct; and (3) the quality and degree of the supervisor's implementation of the firm's WSPs and controls. *Id.*

In imposing a fine at the lowest level of the Guidelines' range, the NAC detailed several mitigating factors. (RP 1784.) The NAC gave heavy consideration to finding no evidence of underlying misconduct that North's supervisory inadequacies failed to detect and took this into

²⁵ The Commission has explained that "a fine can be an adequate sanction when the violative conduct does not warrant a bar or suspension." *Robert E. Strong*, Exchange Act Release No. 57426, 2008 SEC LEXIS 467, at *48 n.50 (Mar. 4, 2008).

account when sanctioning North at the lowest level. (*Id.*); *see Guidelines*, at 104. The NAC also credited North's acceptance that he was responsible for enforcing the WSPs, and when he discovered that Schloth was not overseeing the firm's electronic communications, North began doing it himself. (RP 1784); *see Guidelines*, at 7 (Principal Considerations in Determining Sanctions, No. 2). The NAC accounted for the fact that there was no evidence in the record that North was attempting to circumvent FINRA rules or conceal his misconduct but instead that his misconduct resulted from his negligence. (RP 1784); *see Guidelines*, at 7, 8 (Principal Consideration in Determining Sanctions, Nos. 10, 13). The NAC, in tailoring the sanctions to the facts and circumstances of this case, also found relevant that North was dealing with the hectic environment in establishing Ocean Cross as a new firm and was overwhelmed with myriad responsibilities at that time. (RP 1784); *see Strong*, 2008 SEC LEXIS 467, at *45-48 (considering circumstances under which CCO was operating at new firm and acknowledging for purposes of sanctions for failure to supervise that CCO was overwhelmed with responsibilities). Nonetheless, North was required to exercise reasonable supervision when he "stepped in" for Schloth to perform his reviews of Ocean Cross's electronic communications. And in sanctioning North, the NAC concluded that North's actions fell short of the daily reviews required by the WSPs, and he failed to maintain and initial a separate electronic correspondence review log as set forth by the WSPs.

After weighing all factors, the NAC appropriately concluded that North's misconduct was not egregious. (RP 1784); *see Guidelines*, at 7, 104. Given the importance of diligent oversight of a firm's electronic communications, North's \$5,000 fine at the lowest end of the Guidelines is appropriately remedial and hardly "excessive or oppressive." The Commission should affirm FINRA's fine.

V. CONCLUSION

North failed to enforce his member firm's WSPs regarding the review of electronic communications. North's irrational and unsubstantiated claims about conspiracy and spoliation are nothing more than a diversion from his straightforward supervisory failures. The NAC rested its findings against North and the resulting sanctions squarely on North's testimony, which provided ample evidentiary support. The Commission therefore should dismiss North's application for review, sustain FINRA's disciplinary action, and affirm the \$5,000 fine.

Respectfully submitted,



Jennifer Brooks
Associate General Counsel
FINRA
1735 K Street, NW
Washington, DC 20006
(202) 728-8083

Dated: December 13, 2017

CERTIFICATE OF SERVICE


I, Jennifer Brooks, certify that on this 13th day of December 2017, I caused a copy of the foregoing FINRA Opposition to Application for Review to be served by messenger on:

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

and via certified and electronic mail on:

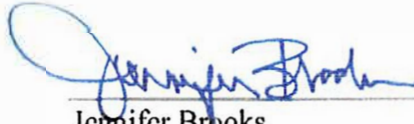
Constance J. Miller
P.O. Box 125
Falls Church VA, 22040
Email: Cjmiller1951@mc.com

Service was made on the Commission by messenger and Applicant by certified and electronic mail due to the distance between the offices of FINRA and Applicant.


Jennifer Brooks
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CERTIFICATE OF COMPLIANCE

I, Jennifer Brooks, certify that this brief complies with the Commission's Rules of Practice by filing a brief in opposition not to exceed 14,000 words. I have relied on the word count feature of Microsoft Word in verifying that this brief contains 12,779 words.



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EXHIBIT 1

CRD® or IARD(TM) System Current As Of: 11/15/2017

Snapshot - Individual

CRD® or IARD(TM) System Report provided to: MEMBERREG

Request Submitted: 11/16/2017 1:27:13 PM

Page 1 of 27

Notice

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Reportable Information: Information that is required to be reported on the current version of the uniform registration forms.

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Details for Request#: 19854791
Report: Snapshot - Individual
Requested By: MAC

<u>Parameter Name</u>	<u>Value</u>
Request by CRD# or SSN:	CRD#
Individual CRD# or SSN	2100909
Include Personal Information?	Yes
Include All Registrations with Employments:	Both Current and Previous Employments
Include All Registrations for Current and/or Previous Employments with:	All Regulators
Include Professional Designations?	Yes
Include Employment History?	Yes
Include Other Business?	Yes
Include Exam Information?	Yes
Include Continuing Education Information? (CRD Only)	Yes
Include Filing History? (CRD Only)	Yes
Include Current Reportable Disclosure Information?	Yes
Include Regulator Archive and Z Record Information? (CRD Only)	Yes

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Composite Information

Full Legal Name NORTH, THADDEUS JAMES

State of Residence CT

Active Employments

Current Employer KUHNS BROTHERS SECURITIES CORPORATION(47331)

Firm Main Address
 558 LIME ROCK ROAD
 LIME ROCK
 CT, UNITED STATES
 06039

Firm Mailing Address
 558 LIME ROCK ROAD
 LAKEVILLE
 CT, UNITED STATES
 06039

Business Telephone# 860-435-7000

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
289888			Yes	No	01/30/2013		Located At
Address 558 LIME ROCK RD LAKEVILLE, CT 06039 United States							

Reportable Disclosures? Yes

Statutory Disqualification? BLNK

Registered With Multiple Firms? No

Material Difference in Disclosure? No

Personal Information

Individual CRD# 2100909

Other Names Known By NORTH, TAD

Year of Birth 1966

Registrations with Current Employer(s)

From	To	Present	Regulator	Registration Category	Status Date	Registration Status	Approval Date
01/30/2013			CT	AG	12/31/2016	FTR	01/30/2013
			FINRA	ET	01/04/2016	T_NOU5	01/30/2013
			FINRA	TD	01/04/2016	APPROVED	01/04/2016
			FINRA	GP	02/11/2013	APPROVED	01/30/2013
			FINRA	GS	02/11/2013	APPROVED	01/30/2013

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Registrations with Current Employer(s)

Regulator	Registration Category	Status Date	Registration Status	Approval Date
FINRA	IB	02/11/2013	APPROVED	01/30/2013
FINRA	OP	02/11/2013	APPROVED	01/30/2013
FINRA	OS	02/11/2013	APPROVED	01/30/2013
FINRA	SU	02/11/2013	APPROVED	01/30/2013
IL	AG	11/17/2016	TERMED	10/31/2013

Registrations with Previous Employer(s)

From 01/24/2011 To 01/29/2013 OCEAN CROSS CAPITAL MARKETS LLC(156256)

Reason for Termination Voluntary

Termination Comment

Regulator	Registration Category	Status Date	Registration Status	Approval Date
AR	AG	12/31/2012	TERMED	05/10/2012
CT	AG	12/31/2012	TERMED	08/16/2011
FINRA	ET	01/29/2013	TERMED	08/04/2011
FINRA	GP	01/29/2013	TERMED	08/04/2011
FINRA	GS	01/29/2013	TERMED	08/04/2011
FINRA	IB	01/29/2013	TERMED	08/04/2011
FINRA	MP	01/29/2013	T_NOREG	
FINRA	OP	01/29/2013	TERMED	08/04/2011
FINRA	OS	01/29/2013	TERMED	10/24/2011
IN	AG	12/31/2012	TERMED	01/31/2012
OH	AG	12/31/2012	TERMED	06/01/2012
TX	AG	01/29/2013	T_NOREG	
TX	AG	12/18/2012	T_NOU5	05/10/2012
TX	AG	11/30/2011	TERMED	09/26/2011

From 02/19/2008 To 08/16/2011 SOUTHRIDGE INVESTMENT GROUP LLC(45531)

Reason for Termination Voluntary

Termination Comment

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CT	AG	08/16/2011	TERMED	02/20/2008
FINRA	ET	08/16/2011	TERMED	02/20/2008
FINRA	GP	08/16/2011	TERMED	02/20/2008
FINRA	GS	08/16/2011	TERMED	02/20/2008
FINRA	IB	08/16/2011	TERMED	11/04/2009
FINRA	MP	08/16/2011	T_NOREG	
FINRA	MP	08/16/2011	T_NOREG	
FINRA	OP	08/16/2011	TERMED	06/06/2008
FINRA	RP	08/16/2011	T_NOREG	
FINRA	SU	08/16/2011	TERMED	02/20/2008
FINRA	SA	01/06/2010	T_NOREG	
TX	AG	11/17/2009	TERMED	09/22/2009
UT	AG	08/16/2011	TERMED	09/13/2010

From 08/20/2008 To 10/15/2009 MAY DAVIS PARTNERS, LLC(140988)

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Registrations with Previous Employer(s)

Reason for Termination Voluntary

Termination Comment

Regulator	Registration Category	Status Date	Registration Status	Approval Date
FINRA	ET	10/15/2009	TERMED	08/20/2008
FINRA	GP	10/15/2009	TERMED	08/20/2008
FINRA	GS	10/15/2009	TERMED	08/20/2008
FINRA	SU	10/15/2009	TERMED	08/20/2008
FINRA	OP	09/25/2008	TERMED	08/20/2008
NY	AG	09/25/2008	TERMED	08/20/2008

From 02/22/2005 To 02/15/2008 WESTPORT RESOURCES INVESTMENT SERVICES, INC.(24535)

Reason for Termination Voluntary

Termination Comment

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CT	AG	02/15/2008	TERMED	02/23/2005
FINRA	ET	02/15/2008	TERMED	02/23/2005
FINRA	GP	02/15/2008	TERMED	09/12/2005
FINRA	GS	02/15/2008	TERMED	02/23/2005
FINRA	MP	02/15/2008	T_NOREG	
FINRA	MP	02/15/2008	T_NOREG	
FINRA	SU	02/15/2008	TERMED	02/23/2005

From 12/08/1997 To 12/31/2004 OPPENHEIMER & CO. INC.(249)

Reason for Termination Voluntary

Termination Comment

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CBOE	GS	01/10/2005	TERMED	01/01/1998
CT	AG	01/10/2005	TERMED	08/25/1998
FINRA	ET	01/10/2005	TERMED	08/21/2000
FINRA	GS	01/10/2005	TERMED	01/01/1998
FINRA	SU	01/10/2005	TERMED	06/02/2004
NJ	AG	01/10/2005	TERMED	08/25/1998
NY	AG	01/10/2005	TERMED	08/24/1998
NYSE	BM	01/10/2005	TERMED	06/02/2004
NYSE	GS	01/10/2005	TERMED	04/06/1998
NYSE-AMER	BM	01/10/2005	TERMED	06/02/2004
NYSE-AMER	GS	01/10/2005	TERMED	01/01/1998
PHLX	GS	10/30/2003	T_NOU5	01/01/1998

From 02/21/1994 To 12/10/1997 MURPHEY, MARSEILLES, SMITH & NAMMACK, INC.(18032)

Reason for Termination Voluntary

Termination Comment Voluntary

Regulator	Registration Category	Status Date	Registration Status	Approval Date
FINRA	GS	12/15/1997	TERMED	12/08/1997

CRD® or IARD(TM) System Current As Of: 11/15/2017

Snapshot - Individual

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Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Registrations with Previous Employer(s)

Regulator	Registration Category	Status Date	Registration Status	Approval Date
NYSE	TR	05/29/1997	T_NOREG	
PHLX	GS	12/15/1997	TERMED	12/08/1997

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information
Professional Designations

<<No Professional Designations found for this Individual.>>

Employment History

From	01/2013	To	Present	Name	KUHNS BROTHERS SECURITY CORPORATION
				Location	LAKEVILLE, CT, United States
				Position	CHIEF COMPLIANCE OFFICER
				Investment Related	Yes
From	01/2011	To	01/2013	Name	NORTHERN COMPLIANCE LLC
				Location	BROOKFIELD, CT, United States
				Position	COMPLIANCE CONSULTANT
				Investment Related	Yes
From	01/2011	To	01/2013	Name	OCEAN CROSS CAPITAL MARKETS LLC
				Location	WESTPORT, CT, United States
				Position	CHIEF COMPLIANCE OFFICER
				Investment Related	Yes
From	01/2011	To	01/2013	Name	OCEAN CROSS WEALTH MANAGEMENT LLC
				Location	WESTPORT, CT, United States
				Position	CHIEF COMPLIANCE OFFICER
				Investment Related	Yes
From	02/2008	To	08/2011	Name	SOUTHRIDGE INVESTMENT GROUP LLC
				Location	RIDGEFIELD, CT, United States
				Position	CHIEF COMPLIANCE OFFICER
				Investment Related	Yes
From	02/2008	To	08/2011	Name	SOUTHRIDGE WEALTH MANAGEMENT LLC
				Location	RIDGEFIELD, CT, United States
				Position	CHIEF COMPLIANCE OFFICER
				Investment Related	Yes
From	08/2008	To	10/2009	Name	MAY DAVIS PARTNERS, LLC
				Location	NEW YORK, NY, United States
				Position	CHIEF COMPLIANCE OFFICER
				Investment Related	Yes
From	02/2005	To	02/2008	Name	WESTPORT REOURCES INVESTMENT SERVICES, INC.
				Location	WESTPORT, CT, United States
				Position	CHIEF COMPLIANCE OFFICER

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Employment History

From	To	Position	Investment Related
02/2005	02/2008	WESTPORT RESOURCES MANAGEMENT, INC. WESTPORT, CT, United States CHIEF COMPLIANCE OFFICER	Yes
09/2003	01/2005	OPPENHEIMER & CO., INC NEW YORK, NY, United States TRADER	Yes
12/1997	09/2003	FAHNESTOCK & CO., INC. NEW YORK, NY, United States TRADER	Yes
02/1994	12/1997	MMSN LLP NEW YORK, NY, United States VP ADMINISTRATION	No
02/1994	12/1997	MURPHEY, MARSEILLES, SMITH & NAMMACK, INC. NEW YORK, NY, United States VP ADMINISTRATION	No
08/1992	02/1994	SELF EMPLOYED BROOKLYN, NY, United States OTHER - NOT GIVEN	No
11/1990	02/1994	FABRICAND ASSOCIATES BROOKLYN, NY, United States OTHER - NOT GIVEN	No
09/1990	11/1990	STUART JAMES COMPANY NEW YORK, NY, United States REGISTERED REPRESENTATIVE	Yes

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Office of Employment History

From 01/2013 To Present

Name KUHNS BROTHERS SECURITIES CORPORATION(47331)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
289888			Yes	No	01/30/2013		Located At
Address 558 LIME ROCK RD LAKEVILLE, CT 06039 United States							

From 01/2011 To 01/2013

Name OCEAN CROSS CAPITAL MARKETS LLC(156256)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
465469			Yes	No	01/24/2011	01/29/2013	Located At
Address ONE GORHAM ISLAND, SUITE 302 WESTPORT, CT 06880 United States							
482892			Yes	No	05/03/2012	12/12/2012	Located At
Address 5048 TENNYSON PARKWAY, SUITE 200 PLANO, TX 75024 United States							
482892			Yes	No	09/16/2011	09/16/2011	Located At
Address 5048 TENNYSON PARKWAY, SUITE 200 PLANO, TX 75024 United States							
BD Main			Yes	No	01/24/2011	01/24/2011	Located At
Address ONE GORHAM ISLAND, SUITE 302 WESTPORT, CT 06880 USA							

From 02/2008 To 08/2011

Name SOUTHRIDGE INVESTMENT GROUP LLC(45531)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
206572			Yes	No	02/19/2008	08/16/2011	Located At
Address 90 GROVE STREET RIDGEFIELD, CT 06877 United States							
174020			Yes	No	02/19/2008	03/19/2008	Located At
Address 850 THIRD AVENUE, 16TH FLOOR NEW YORK, NY 10022 United States							

CRD® or IARD(TM) System Current As Of: 11/15/2017
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Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Office of Employment History

From 08/2008 To 10/2009

Name MAY DAVIS PARTNERS, LLC(140988)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
398088			Yes	No	03/04/2009	10/15/2009	Located At
	Address 800 THIRD AVENUE NEW YORK, NY 10022 United States						
BD Main			Yes	No	08/20/2008	03/05/2009	Located At
	Address 825 THIRD AVENUE, 2ND FLOOR - SUITE 231 NEW YORK, NY 10022 USA						
			No	No	08/20/2008	09/02/2008	Located At
	Address 800 THIRD AVE. 9TH FLOOR NEW YORK, NY 10022 United States						

From 02/2005 To 02/2008

Name WESTPORT RESOURCES INVESTMENT SERVICES, INC.(24535)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
83850			Yes	No	02/22/2005	02/15/2008	Located At
	Address 55 GREENS FARMS ROAD WESTPORT, CT 06880 United States						
BD Main			Yes	No	02/22/2005	06/26/2006	Located At
	Address 55 GREENS FARMS ROAD WESTPORT, CT 06880 UNITED STATES						
			No	No	02/22/2005	06/26/2006	Located At
	Address 315 POST ROAD WEST WESTPORT, CT 06880 United States						

From 12/1997 To 12/2004

Name OPPENHEIMER & CO. INC.(249)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
			No	No	12/08/1997	12/31/2004	Located At
	Address 125 BROAD STREET, 14TH FLOOR NEW YORK, NY 10004 United States						

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 Snapshot - Individual
 CRD® or IARD(TM) System Report provided to: MEMBERREG
 Request Submitted: 11/16/2017 1:27:13 PM

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Office of Employment History

From 02/1994 To 12/1997

Name MURPHEY, MARSFILLES, SMITH & NAMMACK, INC.(18032)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
			No	No	02/21/1994	12/10/1997	Located At
Address 30 BROAD STREET NEW YORK, NY 10004 United States							

Other Business

KUHNS BROTHERS AND CO. NOT BUSINESS RELATED. CLERICAL BUSINESS. SEARCHING FOR NEW BUSINESS OPPORTUNITIES. NO TITLE. START DATE APRIL 2015. Bougainville Fund Management LLC A company that advises a company in the Autonomous region of Bougainville, Papua New Guinea managing a portfolio of businesses

Exam Appointments

<<No Exam Appointments found for this Individual.>>

Exam History

Exam	Enrollment ID	Exam Status	Status Date	Exam Date	Grade	Score	Window Dates
S4	20119274	Official Result	06/06/2008	06/04/2008	Passed	72	05/03/2008-08/31/2008
S7	20119295	Official Result	12/06/1997	12/06/1997	Passed	78	-
S7	20119294	Window Expired	06/27/1997			0	-
S7	20119293	Window Expired	03/27/1997			0	-
S7	20119292	Window Expired	12/21/1996			0	-
S7	20119291	Window Expired	02/28/1996			0	-
S7	20119290	Official Result	10/26/1990	10/26/1990	Passed	73	-
S9	20119300	Official Result	12/16/2004	04/30/2004	Failed	61	-
S9	20119299	Official Result	06/02/2004	06/01/2004	Passed	89	05/30/2004-09/27/2004
S10	20119271	Official Result	04/28/2004	04/27/2004	Passed	75	03/26/2004-07/24/2004
S16	20119272	Withdraw	01/06/2010				12/22/2009-04/21/2010
S24	20119273	Official Result	09/12/2005	09/09/2005	Passed	80	08/10/2005-12/08/2005
S53	20119284	Window Expired	08/27/2012				04/27/2012-08/25/2012
S53	20119283	Official Result	05/05/2011	05/04/2011	Failed	61	04/24/2011-08/22/2011
S53	20119282	Official Result	03/28/2011	03/25/2011	Failed	63	03/25/2011-07/23/2011
S53	20119281	Official Result	02/25/2011	02/23/2011	Failed	62	11/02/2010-03/02/2011
S53	20119281	Official Result	12/13/2010	12/10/2010	No Show		11/02/2010-03/02/2011
S53	20119279	Window Expired	03/09/2009				11/06/2008-03/06/2009
S53	20119278	Official Result	10/06/2008	10/03/2008	Failed	61	06/05/2008-10/03/2008
S53	20119277	Withdraw	02/15/2008				11/28/2007-03/27/2008
S53	20119276	Window Expired	10/15/2007				06/16/2007-10/14/2007
S53	20119275	Window Expired	05/28/2007				01/25/2007-05/25/2007

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Exam History

Exam	Enrollment ID	Exam Status	Status Date	Exam Date	Grade	Score	Window Dates
S55	20119286	Official Result	08/21/2000	08/19/2000	Passed	78	06/16/2000-10/01/2000
S55	20119285	Official Result	05/01/2000	04/29/2000	Failed	61	04/14/1998-10/01/2000
S63	20119289	Official Result	02/07/1998	02/07/1998	Passed	72	-
S63	20119288	Window Expired	12/19/1996			0	-
S63	20119287	Window Expired	02/28/1996			0	-
S87	20119298	Official Result	10/05/2009	10/02/2009	Failed	66	09/29/2009-01/27/2010
S87	20119297	Official Result	08/26/2009	08/25/2009	Failed	66	08/19/2009-12/17/2009
S87	20119296	Official Result	07/14/2009	07/12/2009	Failed	58	06/30/2009-10/28/2009

CE Regulatory Element Status

Current CE Status SATISFIED

CE Base Date 12/08/1997

CE Appointments

<<No CE Appointments found for this Individual.>>

Current CE

<<No Current CE found for this Individual.>>

Next CE

Window Dates	Enrollment ID	Requirement Type	Session
12/08/2017-04/06/2018	34750488	Anniversary	201

CE Directed Sequence History

<<No CE Directed Sequence History found for this Individual.>>

Inactive CE History Dates

<<No Inactive CE History Dates found for this Individual.>>

Previous CE Requirement Status

Requirement Type	Enrollment ID	Session	Status	Status Date	Window Dates	Result
Anniversary	33479662	201			12/08/2014-04/06/2015	
Anniversary	33479662	201	SATISFIED	03/18/2015	12/08/2014-04/06/2015	03/18/2015 - CMPLT
Anniversary	33479662	201	REQUIRED	12/08/2014	12/08/2014-04/06/2015	
Anniversary	32503510	201	SATISFIED	03/12/2012	12/08/2011-04/05/2012	03/12/2012 - CMPLT
Anniversary	32503510	201	REQUIRED	12/08/2011	12/08/2011-04/05/2012	
Anniversary	31518340	201	SATISFIED	02/06/2009	12/08/2008-04/06/2009	02/06/2009 - CMPLT
Anniversary	31518340	201	REQUIRED	12/08/2008	12/08/2008-04/06/2009	
Anniversary	30501751	201	SATISFIED	12/14/2005	12/08/2005-04/06/2006	12/14/2005 - CMPLT

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Previous CE Requirement Status

Requirement Type	Enrollment ID	Session	Status	Status Date	Window Dates	Result
Anniversary	30501751	201	REQUIRED	12/08/2005	12/08/2005-04/06/2006	
Anniversary	29483204	101	SATISFIED	01/06/2003	12/08/2002-04/06/2003	01/06/2003 - CMPLT
Anniversary	29483204	101	REQUIRED	12/09/2002	12/08/2002-04/06/2003	
Anniversary	28762823	101	SATISFIED	03/09/2000	12/08/1999-04/05/2000	03/09/2000 - CMPLT
Anniversary	28762823	101	REQUIRED	12/08/1999	12/08/1999-04/05/2000	

Filing History

Date	Type	Submitted by
10/12/2017	U6 CRD Individual	FINRA
09/08/2017	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
08/04/2017	U6 CRD Individual	FINRA
04/13/2017	U6 CRD Individual	FINRA
04/03/2017	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
03/17/2017	U6 CRD Individual	FINRA
11/17/2016	U5 Partial	KUHNS BROTHERS SECURITIES CORPORATION (47331)
10/27/2016	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
04/28/2016	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
01/22/2016	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
01/12/2016	U6 CRD Individual	FINRA
01/04/2016	U4 ADMIN	
01/04/2016	U5 ADMIN	
12/11/2015	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
12/10/2015	U6 CRD Individual	FINRA
08/28/2015	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
08/19/2015	U6 CRD Individual	FINRA
07/31/2015	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
07/27/2015	U6 CRD Individual	FINRA
04/24/2015	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
10/30/2013	U6 CRD Individual	FINRA

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Filing History

Date	Type	Submitted by
10/29/2013	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
10/25/2013	U6 CRD Individual	FINRA
09/25/2013	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
07/25/2013	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
07/23/2013	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
07/16/2013	U6 CRD Individual	FINRA
02/26/2013	U4 Amendment	KUHNS BROTHERS SECURITIES CORPORATION (47331)
01/30/2013	U4 Relicense All	KUHNS BROTHERS SECURITIES CORPORATION (47331)
01/29/2013	U5 Full	OCEAN CROSS CAPITAL MARKETS LLC (156256)
01/16/2013	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
12/19/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
12/18/2012	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
11/09/2012	U5 Partial	OCEAN CROSS CAPITAL MARKETS LLC (156256)
08/17/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
07/10/2012	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
06/08/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
06/08/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
06/08/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
05/18/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
05/10/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
05/03/2012	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
05/02/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
05/02/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
04/26/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
01/27/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
01/18/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
01/06/2012	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
12/12/2011	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
11/30/2011	U5 Partial	OCEAN CROSS CAPITAL MARKETS LLC (156256)
10/24/2011	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
10/13/2011	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
09/27/2011	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
09/26/2011	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
09/26/2011	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
09/20/2011	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
09/16/2011	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
09/16/2011	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
08/16/2011	U5 Full	SOUTHRIDGE INVESTMENT GROUP LLC (45531)

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Filing History

Date	Type	Submitted by
06/24/2011	U4 Amendment	OCEAN CROSS CAPITAL MARKETS LLC (156256)
06/01/2011	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
04/01/2011	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
03/29/2011	BR Filing	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
03/23/2011	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
03/02/2011	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
01/24/2011	BR Filing	OCEAN CROSS CAPITAL MARKETS LLC (156256)
01/24/2011	U4 Dual	OCEAN CROSS CAPITAL MARKETS LLC (156256)
12/13/2010	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
11/01/2010	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
09/13/2010	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
08/25/2010	BR Filing	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
01/25/2010	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
01/06/2010	U5 Partial	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
12/21/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
11/23/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
11/17/2009	U5 Partial	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
11/06/2009	BR Filing	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
11/04/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
10/16/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
10/15/2009	U5 Full	MD GLOBAL PARTNERS, LLC (140988)
09/24/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
09/22/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
08/18/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
06/30/2009	U4 Amendment	MD GLOBAL PARTNERS, LLC (140988)
06/29/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
04/16/2009	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
03/05/2009	U4 Amendment	MD GLOBAL PARTNERS, LLC (140988)
03/04/2009	BR Filing	MD GLOBAL PARTNERS, LLC (140988)
11/05/2008	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
09/25/2008	U5 Partial	MD GLOBAL PARTNERS, LLC (140988)
09/05/2008	U4 Amendment	MD GLOBAL PARTNERS, LLC (140988)
09/05/2008	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
09/05/2008	U4 Amendment	MD GLOBAL PARTNERS, LLC (140988)
08/20/2008	U4 Dual	MD GLOBAL PARTNERS, LLC (140988)
06/04/2008	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
05/02/2008	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
03/19/2008	BR Filing	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
03/19/2008	U4 Amendment	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
03/03/2008	U5 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
02/20/2008	U4 Relicense CRD	SOUTHRIDGE INVESTMENT GROUP LLC (45531)
02/15/2008	U5 Full	WESTPORT RESOURCES INVESTMENT

Individual 2100909 - NORTH, THADDEUS JAMES

Administrative Information

Filing History

Date	Type	Submitted by
11/27/2007	U4 Amendment	SERVICES, INC. (24535) WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
07/12/2007	BR Filing	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
06/15/2007	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
04/04/2007	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
01/24/2007	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
09/28/2006	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
06/26/2006	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
03/24/2006	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
03/01/2006	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
08/09/2005	U4 Amendment	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
02/23/2005	U4 Initial	WESTPORT RESOURCES INVESTMENT SERVICES, INC. (24535)
01/10/2005	U5 Full	OPPENHEIMER & CO. INC. (249)
05/03/2004	U4 Amendment	OPPENHEIMER & CO. INC. (249)
03/25/2004	U4 Amendment	OPPENHEIMER & CO. INC. (249)
09/11/2003	U4 Amendment	OPPENHEIMER & CO. INC. (249)
07/17/2003	U4 Amendment	OPPENHEIMER & CO. INC. (249)
06/15/2000	U4 Amendment	OPPENHEIMER & CO. INC. (249)
07/05/1999	U4 Conversion	OPPENHEIMER & CO. INC. (249)
07/05/1999	U5 Conversion	MURPHEY, MARSEILLES, SMITH & NAMMACK, INC. (18032)
07/05/1999	U4 Conversion	MURPHEY, MARSEILLES, SMITH & NAMMACK, INC. (18032)

Individual 2100909 - NORTH, THADDEUS JAMES

Reportable Events

Number of Reportable Events

Bankruptcy	0
Bond	0
Civil Judicial	0
Criminal	0
Customer Complaint	0
Internal Review	0
Investigation	0
Judgment/Lien	0
Regulatory Action	2
Termination	0

Occurrence#	1665654	Disclosure Type	Regulatory Action
FINRA Public Disclosable	Yes	Reportable	Yes
Material Difference in Disclosure	No		

Filing ID	46141470	Form (Form Version)	U4 (05/2009)
Filing Date	04/03/2017		
Source	47331 - KUHNS BROTHERS SECURITIES CORPORATION		
Disclosure Questions Answered	14G(1)		

Regulatory Action DRP **DRP Version** 05/2009

1. Regulatory Action initiated by:

A. Initiated by: Other

B. Full name of regulator: FINRA

2. Sanction(s) sought: Other: N/A

3. Date Initiated/Explanation: 07/15/2013

4. Docket/Case#: 2010025087302

5. Employing firm: SOUTHRIDGE INVESTMENT GROUP

6. Product type(s): Debt-Government
Debt-Municipal

7. Allegation(s): ALLEGATIONS PERTAIN TO ACTIONS OF AN INDIVIDUAL AT ANOTHER BRANCH LOCATION NOT SUPERVISED BY MR. NORTH. ALLEGATIONS AGAINST MR. NORTH ARE IN RELATION TO THE REVIEW OF ELECTRONIC CORRESPONDENCE, PROCEDURES AND REPORTING REQUIREMENTS. MR. NORTH MAINTAINS THAT THE ALLEGATIONS ARE FALSE.

8. Current status: On Appeal

9. Limitations or restrictions while pending: No

10. If on appeal:

Individual 2100909 - NORTH, THADDEUS JAMES

Reportable Events

Regulatory Action DRP

DRP Version 05/2009

- A. Appealed to: SEC
- B. Date appealed/Explanation: 04/03/2017
Matter on appeal to SEC filed on 04/03/2017.
- C. Limitations or restrictions while on appeal: No
NAC decision to be stayed until appeal is final.

11. Resolution details:

- A. Resolution detail: Other: fine and suspension
- B. Resolution date/Explanation: 03/15/2017

12. Final order: No

13. Sanction detail:

- A. Sanctions ordered:
- B. Other sanctions:
- C. Sanction type details:
- D. Requalification type details:
- E. Monetary related sanction type details:

14. Comment: Decision to be appealed to SEC.

Filing ID 46208888 Form (Form Version) U6 (05/2009)
Filing Date 04/13/2017
Source FINRA
Disclosure Questions Answered

Regulatory Action DRP

DRP Version 05/2009

1. Regulatory Action initiated by:

- A. Initiated by: Self Regulatory Organization
 - B. Full name of regulator: FINRA
2. Sanction(s) sought: Other: N/A
3. Date initiated/Explanation: 07/15/2013
4. Docket/Case#: 2010025087302
5. Employing firm: SOUTHRIDGE INVESTMENT GROUP, LLC
6. Product type(s): Debt-Government
Debt-Municipal
Other: UNSPECIFIED SECURITIES

Individual 2100909 - NORTH, THADDEUS JAMES

Reportable Events

Regulatory Action DRP

DRP Version 05/2009

7. Allegation(s):

FINRA RULES 2010, 4530(A)(1)(H), NASD RULES 3010(A), 3010(B), 3010(D), 3070(A)(9); WILLFULLY VIOLATED MSRB RULES G-17, G-27(A), G-27(B), G-27(C) AND G-27(E): NORTH, WHO WAS THE CHIEF COMPLIANCE OFFICER (CCO) AT HIS MEMBER FIRM, WAS RESPONSIBLE FOR ENSURING THAT THE FIRM HAD APPROPRIATE POLICIES AND PROCEDURES IN PLACE WITH RESPECT TO ELECTRONIC CORRESPONDENCE, WAS RESPONSIBLE FOR REVIEWING THE FIRM'S ELECTRONIC CORRESPONDENCE, AND WAS THE PRINCIPAL RESPONSIBLE FOR THE FIRM'S REPORTING OBLIGATIONS TO FINRA. A REGISTERED REPRESENTATIVE OF THE FIRM IN CONNECTION WITH HER SECURITIES BUSINESS, AIDED AND ABETTED A PRIMARY SECURITIES LAW VIOLATION BY ENABLING AN INDIVIDUAL TO OPERATE AS AN UNREGISTERED PERSON AND CIRCUMVENT THE REGISTRATION REQUIREMENTS OF SECTIONS 15(A)(1), 15B(A), AND 15C(A) OF THE SECURITIES EXCHANGE ACT OF 1934, EVEN THOUGH SHE KNEW HE WAS STATUTORILY DISQUALIFIED, NOT REGISTERED WITH FINRA, AND NOT ASSOCIATED WITH ANY MEMBER FIRM. BOTH NORTH AND ANOTHER PRINCIPAL OF THE FIRM WERE RESPONSIBLE FOR ESTABLISHING, MAINTAINING AND ENFORCING SUPERVISORY CONTROLS AND PROCEDURES. NORTH KNEW, OR SHOULD HAVE KNOWN, ABOUT THE REPRESENTATIVE'S BUSINESS RELATIONSHIP WITH THE UNREGISTERED INDIVIDUAL AT A CERTAIN TIME. NORTH ALSO LATER BECAME AWARE OF THE SERVICE AGREEMENT BETWEEN THESE PERSONS BECAUSE OF INQUIRES MADE BY FINRA DURING AN EXAMINATION OF THE FIRM. FURTHER, IN CONNECTION WITH AN ADDITIONAL INQUIRY BY FINRA, NORTH AND THE FIRM'S CEO DISCUSSED THE REPRESENTATIVE AND THE NON-REGISTERED PERSON'S BUSINESS RELATIONSHIP IN ADDITIONAL DETAIL. AT NO POINT DID NORTH REPORT TO FINRA THAT THE REPRESENTATIVE WAS ASSOCIATED IN A BUSINESS OR FINANCIAL ACTIVITY AND THE SALE OF A FINANCIAL INSTRUMENT, THE PROVISION OF INVESTMENT ADVICE, AND/OR THE FINANCING OF ANY SUCH ACTIVITIES WITH A STATUTORILY DISQUALIFIED PERSON. NORTH FAILED TO ESTABLISH AND MAINTAIN A SUPERVISORY SYSTEM THAT WAS REASONABLY DESIGNED TO ACHIEVE COMPLIANCE WITH APPLICABLE SECURITIES LAWS AND REGULATIONS AND WITH NASD, FINRA, AND MUNICIPAL SECURITIES RULEMAKING BOARD (MSRB) RULES. SPECIFICALLY, NORTH FAILED TO ESTABLISH PROCEDURES THAT WERE APPROPRIATE FOR THE REVIEW OF ELECTRONIC CORRESPONDENCE. THE FIRM'S WRITTEN SUPERVISORY PROCEDURES (WSPS) WERE INADEQUATE BECAUSE THEY DID NOT SPECIFICALLY ADDRESS THE METHOD FOR REVIEW OR THE FREQUENCY OF REVIEW. AS A RESULT, NORTH WILLFULLY VIOLATED MSRB RULES G-17, G-27(B) AND (E). NORTH FAILED TO IMPLEMENT APPROPRIATE REVIEW OF FIRM EMAILS AND BLOOMBERG EMAIL MESSAGES. AT VARIOUS TIMES, NORTH FLAGGED VARIOUS ELECTRONIC CORRESPONDENCE FOR FOLLOW-UP INQUIRY BUT FAILED TO CONDUCT SUCH ADDITIONAL INQUIRY AND INSUFFICIENTLY REVIEWED FIRM EMAILS. NORTH FAILED COMPLETELY TO CONDUCT ANY REVIEW OF THE REPRESENTATIVE'S BLOOMBERG EMAIL MESSAGES. AT NO POINT DID NORTH, AS CCO, DO ANYTHING TO INDEPENDENTLY VERIFY THE SCOPE OF THE REPRESENTATIVE'S

Individual 2100909 - NORTH, THADDEUS JAMES

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RELATIONSHIP WITH THE NON-REGISTERED PERSON OR HIS BUSINESS, OR OTHERWISE FOLLOW-UP ON ANY RED-FLAGS THAT SHOULD HAVE PUT HIM ON NOTICE TO HEIGHTEN HIS EMAIL REVIEW OF THE REPRESENTATIVE. NORTH SPECIFICALLY FAILED TO IMPLEMENT HEIGHTENED REVIEW OF THE REPRESENTATIVE'S FIRM EMAIL OR CONDUCT ANY REVIEW OF HER BLOOMBERG EMAIL. AS A RESULT, NORTH WILLFULLY VIOLATED MSRB RULES G-27(A) AND (C), AND MSRB RULE G-17.

8. Current status: On Appeal
9. Limitations or restrictions while pending: No
10. If on appeal:
- A. Appealed to: SEC
- B. Date appealed/Explanation: 04/03/2017
- C. Limitations or restrictions while on appeal: No
11. Resolution details:
- A. Resolution detail: Other: Pending appeal
- B. Resolution date/Explanation: 03/15/2017
12. Final order: No
13. Sanction detail:
- A. Sanctions ordered:
- B. Other sanctions:
- C. Willful violation or failure to supervise: Yes
- i. Willfully violated: Yes
- ii. Willfully aided, abetted, counseled, commanded, induced, or procured: No
- iii. Failed reasonably to supervise another person: No
- D. Sanction type details:
- E. Requalification type details:

Individual 2100909 - NORTH, THADDEUS JAMES
 Reportable Events

Regulatory Action **DRP**

DRP Version 05/2009

F. Monetary related sanction type details:

14. Comment:

Hearing Panel decision rendered December 1, 2015 wherein North is censured, fined a total of \$40,000, suspended from association with any FINRA member in any principal capacity for 30 business days for failing to report a relationship with a statutorily disqualified person, suspended from association with any FINRA member in any principal capacity for two months for failing to adequately review electronic correspondence in willful violation of MSRB Rules G-17 and G-27(a) and (c), and ordered to pay costs of \$4,404.51. The suspensions shall run consecutively. The sanctions were based on findings that while CCO at his firm, North failed to report to FINRA that an associated person at his firm was involved in a variety of business activities with a statutorily disqualified person. The findings stated that North should have known of these relationships and should have followed-up by seeking all relevant details of the associated persons' relationship with the company owed by the statutorily disqualified person. The findings also stated that North failed to establish, maintain and enforce a reasonable supervisory system regarding review of electronic correspondence. North failed to adequately review electronic correspondence in that he reviewed no Bloomberg communications and his email reviews were infrequent and insufficient. North's email review was also inadequate with respect to the associated person, in particular. Once North had learned of the associated person's business relationship with the statutorily disqualified individual, he should have conducted due diligence to learn the scope of it. This due diligence should have included conducting a heightened review of the associated person's electronic communications, given that he was the CCO and responsible under the written supervisory procedures for regulatory reporting and email review. North's failure to subject the associated person's electronic communications to a heightened review was unreasonable. As a result, North willfully violated MSRB Rules G-17 and G-27(a), (b), (c) and (e). The charge that North violated FINRA Rule 4530(a)(1)(H) was dismissed. On December 24, 2015, North appealed to the National Adjudicatory Council (NAC). The sanctions are not in effect pending the appeal.

NAC Decision rendered March 15, 2017 wherein the sanctions and findings were modified. North was fined \$40,000, suspended in all principal and supervisory capacities for 30-business-days, followed by a two-month suspension in all principal and supervisory capacities. North must also pay hearing costs of \$4,404.51 plus appeal costs of \$1,536.89. The NAC affirmed the Hearing Panel's finding that North failed to report an associated person at his firm relationship with a statutorily disqualified person. The NAC affirmed the Hearing Panel's finding that North failed to establish and maintain a reasonable supervisory system for the review of electronic correspondence and concludes that North's violation of MSRB Rule G-27 was willful. However, the NAC found that North's misconduct did not willfully violate MSRB G-17, as found in the Hearing Panel Decision. As the result of his willful violations of MSRB rules, North is statutorily disqualified. The sanctions are not in effect.

On April 3, 2017, North appealed the decision to the SEC. The sanctions are not in effect pending the review.

Occurrence#	1679056	Disclosure Type	Regulatory Action
FINRA Public Disclosable	Yes	Reportable	Yes
Material Difference in Disclosure	No		

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Reportable Events

Filing ID 47215457 Form (Form Version) U4 (05/2009)
Filing Date 09/08/2017
Source 47331 - KUHNS BROTHERS SECURITIES CORPORATION
Disclosure Questions Answered 14G(1)

Regulatory Action DRP DRP Version 05/2009

1. Regulatory Action initiated by:

A. Initiated by: Self Regulatory Organization

B. Full name of regulator: FINRA

2. Sanction(s) sought: Other: N/A

3. Date initiated/Explanation: 10/24/2013

4. Docket/Case#: 2012030527503

5. Employing firm: OCEAN CROSS CAPITAL MARKETS LLC

6. Product type(s): No Product

7. Allegation(s): THIS CASE DIRECTLY RELATES TO A PENDING CASE, REGULATORY ACTION(1665654) DOCKET NUMBER 2010025087302. AFTER LEAVING HIS PREVIOUS EMPLOYMENT, MR. NORTH WENT TO A NEW FIRM AND IS NOW BEING CHARGED WITH THE VIRTUALLY THE SAME CHARGE AS THE PREVIOUS FIRM. MR. NORTH WAS THE CCO OF THE MONTHS OLD NEW FIRM AND DID INDEED CAPTURE, ARCHIVE AND REVIEW EMAILS. ALL EMAIL REVIEWS CONTAINED ELECTRONIC SIGNATURES AND DATES OF SUCH REVIEWS. IN BOTH CHARGES THERE WERE NO CUSTOMERS HURT, NO VICTIMS, NO CHARGES OF DISHONEST CONDUCT OR WILLFUL MISCONDUCT. ENFORCEMENT EVEN AGREES THAT MR. NORTH NEVER ACTED WITH DISHONESTY, ILL INTENT OR IN MALICE IN ANY WAY SHAPE OR FORM. IN FACT MR. NORTH WAS THE ONLY PERSON RUNNING THE FIRM I.E OPERATIONS, TRADING, NEW ACCOUNTS, COMPLIANCE ETC. NEITHER CHARGE WARRANT DISCIPLINARY ACTION WHATSOEVER. THIS CHARGE IS THE RESULT OF A ROUTINE EXAMINATION OF A BRAND NEW FINRA FIRM. NORMALLY A FINDING OF THIS NATURE, ESPECIALLY FOR A NEWLY FORMED FIRM WOULD BE SETTLED WITH A LETTER OF CAUTION AT BEST. THIS ADDITIONAL CHARGE IS EVIDENTLY RELATED TO THE PREVIOUS CHARGE AND FINRA ENFORCEMENT APPEARS TO HAVE ULTERIOR MOTIVES FOR BRINGING SUCH AN INSUBSTANTIAL FLIMSY CHARGE.

8. Current status: On Appeal

9. Limitations or restrictions while pending: No

10. If on appeal:

A. Appealed to: SEC

B. Date appealed/Explanation: 08/30/2017

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Reportable Events

Regulatory Action **DRP**

DRP Version 05/2009

C. Limitations or restrictions while on appeal: No

11. Resolution details:

A. Resolution detail: Other: ON APPEAL

B. Resolution date/Explanation: 08/04/2017
Appealing to SEC

12. Final order: No

13. Sanction detail:

A. Sanctions ordered:

B. Other sanctions:

C. Sanction type details:

D. Requalification type details:

E. Monetary related sanction type details:

14. Comment:

HEARING PANEL DECISION RENDERED JULY 23, 2015 WHEREIN NORTH IS FINED \$5,000. THE SANCTION WAS BASED ON FINDINGS THAT NORTH FAILED TO ENFORCE HIS MEMBER FIRM'S WRITTEN SUPERVISORY PROCEDURES (WSPS) REGARDING OVERSIGHT OF ELECTRONIC COMMUNICATIONS. THE FINDINGS STATED THAT NORTH ASSUMED THE RESPONSIBILITY FOR REVIEWING THE FIRM'S ELECTRONIC COMMUNICATIONS AFTER HE RECOGNIZED RED FLAGS INDICATING THAT ANOTHER PRINCIPAL WAS NOT CONDUCTING THE REQUIRED REVIEWS. IN AN EFFORT TO COMPLY WITH THE WSPS, NORTH CONDUCTED OCCASIONAL, RANDOM REVIEWS OF ELECTRONIC COMMUNICATIONS, BUT NOT ENOUGH TO COMPLY WITH THE REQUIREMENTS OF THE FIRM'S OWN WSPS. IF NO FURTHER ACTION IS TAKEN THE DECISION WILL BECOME FINAL SEPTEMBER 9, 2015.

RESPONDENT WILL FILE AN APPEAL. HEARING PANEL OVERLOOKED THE FACTS IN THE CASE.

Filing ID 47226656
Filing Date 10/12/2017
Source FINRA
Disclosure Questions Answered

Form (Form Version) U6 (05/2009)

Regulatory Action **DRP**

DRP Version 05/2009

1. Regulatory Action initiated by:

A. Initiated by: Self Regulatory Organization

B. Full name of regulator: FINRA

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Reportable Events

Regulatory Action **DRP** **DRP Version** 05/2009

- 2. Sanction(s) sought: Other: N/A
- 3. Date initiated/Explanation: 10/24/2013
- 4. Docket/Case#: 2012030527503
- 5. Employing firm: OCEAN CROSS CAPITAL MARKETS, LLC
- 6. Product type(s): No Product
- 7. Allegation(s): FINRA RULE 2010 AND NASD RULE 3010:

AMONG HIS DUTIES AS THE FIRM'S CHIEF COMPLIANCE OFFICER (CCO), NORTH WAS RESPONSIBLE FOR CONDUCTING THE FIRM'S REVIEW OF ELECTRONIC CORRESPONDENCE, OR EMAIL. THE FIRM'S WRITTEN SUPERVISORY PROCEDURES (WSPS) REGARDING THE REVIEW OF ELECTRONIC CORRESPONDENCE REQUIRED THE DESIGNATED PRINCIPAL, WHO IN THIS CASE WAS NORTH, TO REVIEW AN APPROPRIATELY SIZED SAMPLE OF INCOMING AND OUTGOING E-MAIL / IM CORRESPONDENCE; OR REVIEW ANY EMAILS/IMS FLAGGED BY FILTERING SOFTWARE (IF UTILIZED) ON A DAILY BASIS. THE WSPS FURTHER REQUIRED THE DESIGNATED PRINCIPAL TO MAINTAIN ALL REVIEWED EMAILS/IM IN A SEPARATE FOLDER (ELECTRONIC OR HARD COPY); INITIAL AND DATE ELECTRONIC CORRESPONDENCE REVIEW LOG; INITIAL AND MAINTAIN RECORD OF ANY FINDINGS AND ACTIONS TAKEN (AS APPROPRIATE). THE FIRM, ACTING THROUGH NORTH, FAILED TO ENFORCE ITS WSPS REGARDING THE REVIEW OF THE FIRM'S ELECTRONIC CORRESPONDENCE AND THE RECORDING OF SUCH REVIEW. NORTH FAILED TO ENFORCE THE FIRM'S WSPS IN THAT HE DID NOT INITIAL AND DATE AN ELECTRONIC CORRESPONDENCE REVIEW LOG.

- 8. Current status: On Appeal
- 9. Limitations or restrictions while pending: No
- 10. If on appeal:
 - A. Appealed to: SEC
 - B. Date appealed/Explanation: 08/30/2017
 - C. Limitations or restrictions while on appeal: No
- 11. Resolution details:
 - A. Resolution detail: Decision
 - B. Resolution date/Explanation: 08/30/2017
DATE OF APPEAL
- 12. Final order: No

Individual 2100909 - NORTH, THADDEUS JAMES

Reportable Events

Regulatory Action **DRP**

DRP Version 05/2009

13. Sanction detail:

A. Sanctions ordered:

B. Other sanctions:

C. Willful violation or failure to supervise: No

i. Willfully violated:

ii. Willfully aided, abetted, counseled, commanded, induced, or procured:

lii. Failed reasonably to supervise another person:

D. Sanction type details:

E. Requalification type details:

F. Monetary related sanction type details:

14. Comment:

HEARING PANEL DECISION RENDERED JULY 23, 2015 WHEREIN NORTH IS FINED \$5,000. THE SANCTION WAS BASED ON FINDINGS THAT NORTH FAILED TO ENFORCE HIS MEMBER FIRM'S WRITTEN SUPERVISORY PROCEDURES (WSPS) REGARDING OVERSIGHT OF ELECTRONIC COMMUNICATIONS. THE FINDINGS STATED THAT NORTH ASSUMED THE RESPONSIBILITY FOR REVIEWING THE FIRM'S ELECTRONIC COMMUNICATIONS AFTER HE RECOGNIZED RED FLAGS INDICATING THAT ANOTHER PRINCIPAL WAS NOT CONDUCTING THE REQUIRED REVIEWS. IN AN EFFORT TO COMPLY WITH THE WSPS, NORTH CONDUCTED OCCASIONAL, RANDOM REVIEWS OF ELECTRONIC COMMUNICATIONS, BUT NOT ENOUGH TO COMPLY WITH THE REQUIREMENTS OF THE FIRM'S OWN WSPS. ON AUGUST 17, 2015, NORTH APPEALED THE DECISION TO THE NAC. THE SANCTION IS NOT IN EFFECT PENDING THE REVIEW. NAC decision rendered August 3, 2017 wherein North was fined \$5,000, ordered to pay hearing costs in the amount of \$1,985.99, and ordered to pay appeal costs of \$1,582.18. The sanction was based on findings that North failed to enforce his member firm's WSPs regarding the review of electronic communications. The findings stated that North assumed the responsibility for reviewing the firm's electronic communications after he recognized red flags indicating that another principal was not conducting the required reviews. In an effort to comply with the WSPs, North conducted occasional, random reviews of electronic communications, but not enough to comply with the requirements of the firm's WSPs. August 30, 2017, North appealed the NAC decision to the SEC. The sanction is not in effect pending the review.

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Regulator Archive and Z Records

Occurrence#	1623004	Disclosure Type	Investigation
FINRA Public Disclosable	No	Reportable	No
Material Difference in Disclosure	No		

Filing ID	34899442	Form (Form Version)	U4 (05/2009)
Filing Date	07/23/2013		
Source	47331 - KUHNS BROTHERS SECURITIES CORPORATION		
Disclosure Questions Answered	14G(2)		

Investigation DRP

DRP Version 05/2009

- Investigation initiated by:
 - Notice received from: SRO
 - Full name of regulator: FINRA
- Notice date/Explanation: 07/20/2012
- Nature of investigation: POTENTIAL VIOLATION OF NASD RULE 3010 AND FINRA RULE 2010
- Pending investigation: No
- Resolution details:
 - Date resolved/Explanation: 07/15/2013
 - Investigation resolution: Closed - Regulatory Action Initiated
- Comment: MR. NORTH DENIES THE ALLEGATIONS.

Filing ID	34012614	Form (Form Version)	U5 (05/2009)
Filing Date	01/29/2013		
Source	156256 - OCEAN CROSS CAPITAL MARKETS LLC		
Disclosure Questions Answered	7A		

Investigation DRP

DRP Version 05/2009

- Investigation initiated by:
 - Notice received from: SRO
 - Full name of regulator: FINRA
- Notice date/Explanation: 07/20/2012
- Nature of investigation: POTENTIAL VIOLATION OF NASD RULE 3010 AND FINRA RULE 2010
- Pending investigation: Yes
- Resolution details:
 - Date resolved/Explanation:
 - Investigation resolution:
- Comment: INVESTIGATION RELATES TO MR. NORTH'S EMAIL REVIEWS AS CCO AT SOUTHRIDGE INVESTMENT GROUP. OVERALL INVESTIGATION RELATES TO AN RR NOT UNDER MR. NORTH'S SUPERVISION.

CRD® or IARD(TM) System Current As Of: 11/15/2017
Snapshot - Individual
CRD® or IARD(TM) System Report provided to: MEMBERREG
Request Submitted: 11/16/2017 1:27:13 PM

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Individual 2100909 - NORTH, THADDEUS JAMES

EXHIBIT 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
THADDEUS J. NORTH, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 15-494 (RMC)
)	
SMARSH, INC., <i>et al.</i>,)	
)	
Defendants.)	
_____)	

ORDER

On December 4, 2015, the Court dismissed this case in its entirety. Order [Dkt. 30]. Plaintiffs Thaddeus J. North and Mark P. Pompeo did not move to set aside or alter the Court’s final judgment. Instead, on December 28, 2015, Plaintiffs filed a Motion for Leave to File an Amended Complaint. Mot. [Dkt. 31]. The proposed amended complaint asserts five claims: (1) mail fraud, in violation of the Racketeer Influenced Corrupt Organizations Act (“RICO”); (2) wire and wireless fraud in violation of RICO; (3) conspiracy to convert and tortious conversion of electronic data; (4) conspiracy to spoliage and tortious spoliage of electronic data; and (5) a request for injunctive relief. Defendants Financial Industry Regulatory Authority (FINRA) and Smarsh, Inc. oppose the Plaintiffs’ motion. Plaintiffs’ motion to amend the Complaint will be denied.

It is well established that “once a final judgment has been entered, a court cannot permit an amendment unless the plaintiff first satisfies Rule 59(e)’s more stringent standard for setting aside that judgment.” *Ciralsky v. CIA*, 355 F.3d 661, 673 (D.C. Cir. 2004) (citation omitted). Rule 59(e) of the Federal Rules of Civil Procedure provides that a “motion to alter or

amend a judgment must be filed no later than 28 days after the entry of judgment.” Fed. R. Civ. P. 59(e). This rule applies even when a claim has been dismissed without prejudice and the Court enters a final appealable order that closes the case. *See Mouzon v. Radiancy, Inc.*, 309 F.R.D. 60, 63 (D.D.C. 2015) (citations omitted); *DeGeorge v. United States*, 521 F. Supp. 2d 35, 40-41 (D.D.C. 2007).

Such was the case here. The Court dismissed the claims against Smarsh without prejudice for lack of personal jurisdiction. *See Order*. The Court dismissed the claims for damages against FINRA with prejudice and the claims for injunctive relief against FINRA without prejudice. *Id.* The fact that some of the claims were dismissed “without prejudice to filing another suit does not make the case unappealable, for denial of relief and dismissal of the case ended this suit as far as the District Court was concerned.” *Ciralsky*, 355 F.3d at 666 (quoting *United States v. Wallace & Tiernan Co.*, 336 U.S. 793, 794 n.1 (1949)). There is no question that the Court’s dismissal of this case constituted a final judgment, rendering Rule 59(e) applicable.

The 28-day limit passed and no Rule 59(e) motion was filed.¹ “[B]ecause the Court previously dismissed this action and entered judgment, Plaintiffs were required to file a Rule 59(e) motion to alter or amend the judgment, *together* with a Rule 15(a) motion requesting leave to amend the complaint, in order to amend the complaint.” *Mouzon*, 309 F.R.D. at 63 (citing *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996)) (emphasis in original). Since Plaintiffs did not file the motion within the time prescribed by the federal rules, it cannot

¹ The Court also notes that that the proposed amended complaint does not cure many of the original complaint’s deficiencies identified in the Court’s December 4, 2015 Memorandum Opinion — such as FINRA’s absolute immunity from suit and the Court’s lack of personal jurisdiction over Smarsh. The proposed amendments may be futile. *See Richardson v. United States*, 193 F.3d 545, 548-49 (D.C. Cir. 1999).



Jennifer Brooks
Associate General Counsel

Direct: (202) 728-8083
Fax: (202) 728-8264

December 13, 2017

BY MESSENGER

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, DC 20549-1090

RE: In the Matter of the Application for Review of Thaddeus J. North
Administrative Proceeding No. 3-18150

Dear Mr. Fields:

Enclosed please find the original and three (3) copies of FINRA's Brief in Opposition to Application for Review in the above-captioned matter.

Please contact me at (202) 728-8083 if you have any questions.

Very truly yours,

Jennifer Brooks

Enclosures

cc: Constance J. Miller (via certified and electronic mail)
P.O. Box 125
Falls Church VA, 22040
Email: Cjmiller1951@me.com