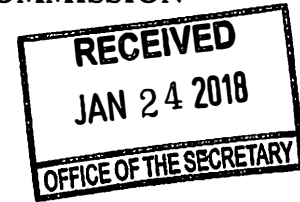


HARD COPY

3-18350

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

-----X
 In the Matter of the Application of :
 :
 Meyers Associates, L.P. (n/k/a Windsor Street :
 Capital, L.P.) :
 :
 For Modification of Action Taken by FINRA :
 :
 -----X



**FINRA Complaint No.
2013035533701**

**APPLICATION OF MEYERS ASSOCIATES, L.P.
 (n/k/a WINDSOR STREET CAPITAL, L.P.)
 FOR MODIFICATION OR REVERSAL OF DECISION OF THE
FINRA NATIONAL ADJUDICATORY COUNCIL**

Pursuant to Rule 420 of the Commission’s Rules of Practice and § 19(d)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(d)(1) (the “Exchange Act”), Meyers Associates, L.P. (n/k/a Windsor Street Capital, L.P.) (the “Firm” or “Applicant”) hereby submits this application for modification or reversal of the decision by the FINRA National Adjudicatory Council (“NAC”) dated December 22, 2017 (the “NAC Decision”).

I. Procedural History

On November 11, 2016, without providing the Firm critical due process protections, and engaging in other procedural misconduct, a FINRA Office of Hearing Officers’ Hearing Panel issued its Decision (“OHO Decision”) pursuant to FINRA Rule 9311, finding that the Firm 1) violated NASD Rule 3010(a) and FINRA Rule 2010 by failing to adequately supervise its Chicago branch office and 2) violated FINRA Rules 3310(a) and 2010 by failing to establish and implement adequate anti-money laundering (“AML”) policies and procedures.

The OHO Panel imposed on the Firm a fine of \$350,000, ordered it to retain and independent consultant to conduct a comprehensive review of the Firm’s policies, systems, and training to matters related to review of emails, communications with the public, low-prices

securities, monitoring customer accounts and other matters related to the Firm's business activities, and ordered the Firm to pay costs. The OHO Decision further improperly determined that the Firm is subject to statutory disqualification because the Firm failed to supervise an employee who engaged in securities fraud in violation of the Securities Exchange Act of 1934 while employed at the Firm.

The NAC Decision appealed from affirmed the improper and unsupported findings of the OHO Decision, agreeing with the OHO that the Firm failed to adequately supervise the Firm's Chicago branch office, failed establish and implement adequate AML policies and procedures, and is subject to statutory disqualification. The NAC also improperly increased the OHO's fine against the firm from \$350,000 to \$500,000 without adequate basis in the record.

II. The NAC Erred in Upholding the OHO's Determination that the Firm is Subject to Statutory Disqualification.

At the OHO hearing, the OHO Panel granted Enforcement's request that it make a specific finding that Meyers "is subject to statutory disqualification by operation of law, in accordance with FINRA's By-Law Article III, §4 and Section 3(a)(39) of the Exchange Act."¹ The Panel in its Decision relegated its erroneous and unsupported determination to a footnote in its Decision, improperly based in part on an Order Accepting Offer of Settlement, *Dep't of Enforcement v. Johnson*, No. 2013035533701 (Feb. 18, 2016) (the "Johnson Settlement"). The Johnson Settlement was entered into by and between Enforcement and George Johnson, who had been a co-respondent in this case along with the Firm before entering into the Offer of Settlement. The Johnson Settlement by its express terms precludes its use for any purpose other than the final settlement of charges by Enforcement against Johnson, specifically because it includes language providing that "...Respondent has consented, without admitting or denying the

¹ See Extended Hearing Panel Decision at 41, n. 245 (citing Enforcement's Post-Hearing Br. at 31).

allegations of the Complaint...”² The Johnson Settlement also provides that, “The findings herein are pursuant to Respondent George Johnson's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding.”³

Moreover, at the OHO Hearing, over the Firm’s objection, Enforcement was permitted to read into the record excerpts of transcripts from on-the-record interviews of Johnson conducted by Enforcement, in which Meyers did not participate and was not represented.⁴ Because Johnson did not appear or testify at the hearing, the Firm was denied the right to confront Johnson as to the veracity of the very testimony upon which the Panel based its finding.

On appeal, the NAC “...agree[d] with Meyers that the Extended Hearing Panel erred in relying on the (Johnson) settlement agreement, but nevertheless find that the record, excluding any reliance on the settlement agreement, supports a finding that the Firm is statutorily disqualified.”⁵

Therefore, the NAC erred in finding that the record was sufficient to support a finding that the Firm is statutorily disqualified absent the reliance on the *Johnson* settlement since the Extended Hearing Panel reached that conclusive by specifically relying on the *Johnson* settlement agreement in order to reach its determination of statutory disqualification.

III. The NAC Erred in Increasing the Monetary Fine Imposed On the Respondent.

The NAC failed to take into account – or even address the fact -- that since Johnson’s “scheme,” as described by the NAC itself, involved Johnson’s efforts to conceal his conduct

² Order Accepting Offer of Settlement, *Dep’t of Enforcement v. Johnson*, No. 2013035533701 (Feb. 18, 2016) at 1 (emphasis added).

³ *Id.* at 2 (emphasis added).

⁴ See Hearing Transcript at 102–109.

⁵ See NAC Decision at 11.

from the Firm and hinder its supervision of him (“circulating and disseminating inaccurate reports,” “soliciting customers to purchase STVI without disclosing that he was simultaneously selling that same stock,” and that he “acted with “scienter”), the Firm was hindered in its supervision efforts by Johnson.

Moreover, the record is devoid of any indication that any AML violations actually occurred.

Thus, contrary to the NAC’s finding that “aggravating factors predominate,” in fact, *mitigating* factors were present but not addressed. The NAC’s decision was error, and the Firm’s fine should have thus been reduced, not increased.

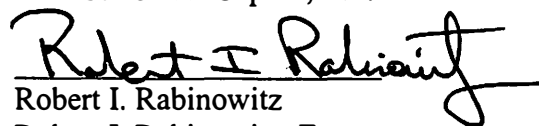
IV. Conclusion

For the foregoing reasons, and those to be set forth in the Firm’s briefs upon this Application, the NAC’s Decision supporting the OHO’s Hearing Decision should be modified or reversed in its entirety.

Dated: January 23, 2018

Respectfully Submitted,

Windsor Street Capital, L.P.



Robert I. Rabinowitz

Robert I. Rabinowitz, Esq.

Attorney for Respondent

Becker & Poliakoff, LLP

331 Newman Springs Road

Suite 225

Red Bank, New Jersey 07701

(212) 599-3322–Telephone

(732) 842-9047-Facsimile

rrabinowitz@bplegal.com

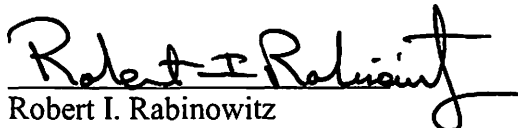
CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2018, I caused a true and correct copy of the foregoing Application of Meyers Associates, L.P. (n/k/a Windsor Street Capital, L.P.) For Modification or Reversal of Decision of the FINRA National Adjudicatory Council, to be served upon the following by Facsimile and overnight mail, addressed to:

The Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, DC 20549-1090
Facsimile: (202) 772-9324

Colleen Durbin, Esq.
Office of General Counsel
Financial Industry Regulatory Authority
1735 K Street, N.W.
Washington, D.C. 20006
Facsimile: (202) 728-8264

January 23, 2018


Robert I. Rabinowitz

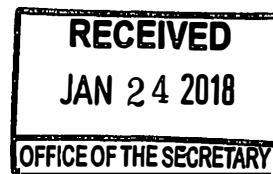
331 Newman Springs Road, Suite 225
Red Bank, New Jersey 07701
Phone: (732) 842-1662 Fax: (732) 842-9047

Reply To:
Robert I. Rabinowitz
rrabinowitz@bplegal.com

January 23, 2018

Via Facsimile (202) 772-9324 and FedEx

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



**Re: Department of Enforcement v. Meyers Associates, L.P.
Disciplinary Proceeding No. 2013035533701**

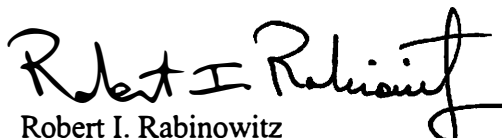
Dear Mr. Fields:

We represent Meyers Associates, L.P. (n/k/a Windsor Street Capital, L.P.), the Respondent/Appellant in the above-referenced matter. Attached for filing is Appellant's Application for Modification or Reversal of Decision of the FINRA National Adjudicatory Council as well as a Certificate of Service.

We are also sending four (4) hard copies by FedEx to your attention, and request that one copy be stamped "filed" and returned to us in the enclosed, postage paid return envelope.

Thank you for your attention to this matter.

Very truly yours,


Robert I. Rabinowitz

Enclosures

cc: Colleen Durbin, Esq., Office of General Counsel
Financial Industry Regulatory Authority (Fax 202-728-8264)
Windsor Street Capital, L.P.