

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 73125 / September 17, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16128**

**In the Matter of**

**LATOUR TRADING LLC and**  
**NICOLAS NIQUET,**

**Respondents.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS  
PURSUANT TO SECTIONS 15(b) AND 21C  
OF THE SECURITIES EXCHANGE ACT OF  
1934, MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND A CEASE-  
AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Latour Trading LLC (“Latour”) and Nicolas Niquet (“Niquet”) (collectively, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

### III.

On the basis of this Order and Respondents' Offers, the Commission finds<sup>1</sup> that:

#### Introduction

1. These proceedings arise out of extensive failures to maintain minimum net capital by Latour Trading LLC, a high-frequency trading firm and registered broker-dealer. Latour engages in proprietary trading in exchange-traded funds ("ETFs") and the component securities of the ETFs. Latour trades equity securities in significant volumes. In 2011, for example, Latour often accounted for 4%, and at times as much as 9%, of the trading volume in equity securities for the entire U.S. market. On numerous occasions, Latour ended the trading day holding very large positions while maintaining insufficient levels of capital.

2. Exchange Act Rule 15c3-1, known as the net capital rule, generally requires that every broker-dealer maintain a specified minimum level of net liquid assets, or net capital. From its inception, the net capital rule has been a cornerstone of the Commission's broker-dealer financial responsibility program. The rule requires that broker-dealers at all times have and maintain minimum net capital as specified in the rule. Accordingly, high-frequency trading firms that are registered as broker-dealers must have and maintain the required minimum net capital to support the dollar volume of both their end-of-day and intra-day positions; the speed with which these broker-dealers trade in and out of positions does not change this requirement.

3. As part of its net capital calculations, a broker-dealer is required to make prescribed percentage deductions from the market value of its proprietary securities and other positions. In general, these deductions, referred to as haircuts, are designed to account for the market risk inherent in these positions and create a buffer of liquidity to protect against other risks associated with the securities business. Failure to calculate proper haircut deductions may have the effect of improperly inflating a broker-dealer's net capital, resulting in an inaccurate net capital calculation.

4. From at least January 2010 through at least December 2011 (the "relevant period"), Latour consistently conducted a securities business while miscalculating the amount of net capital it had and thereby failing to maintain the required minimum net capital by millions of dollars. The firm operated without maintaining its required minimum net capital on 19 of 24 reporting dates during the relevant period. At end of day on those 19 reporting dates, the firm maintained net capital deficiencies in amounts ranging from approximately \$2 million to as much as \$28 million. As described below, Latour's net capital violations resulted from multiple flaws and errors in the firm's haircut calculations, including the use of hypothetical positions (positions the firm did not actually hold) to create hedges for certain positions and a computer programming error. As a result of these flaws and errors, Latour regularly understated its required haircut deductions in its net

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<sup>1</sup> The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

capital computations by tens of millions of dollars. On one occasion, Latour understated its haircuts by nearly \$40 million. Because of these understatements, Latour's net capital violations also resulted in violations of the broker-dealer books and records and financial reporting rules.

### **Respondents**

5. Latour Trading LLC, located in New York, New York, has been registered with the Commission as a broker-dealer since July 2009. The firm uses algorithmic high-frequency trading strategies to engage in proprietary trading in ETFs. Latour seeks to hedge its ETF positions by trading futures and the component securities of the ETFs. The firm does not have customers. Throughout the relevant period, Latour was wholly owned by Tower Research Capital Investments LLC and its managing member was Tower Research Capital LLC, a firm that engages in quantitative trading and investment strategies through affiliates around the world. At the end of January 2014, Tower Research Capital Investments LLC assigned all of the issued and outstanding interests of Latour to Tower Research Capital LLC.

6. Nicolas Niquet was associated with Latour from approximately June 2009 until August 5, 2010. During most of that period, he served as Latour's chief operating officer and held, among others, a Series 27 (Financial and Operations Principal or FINOP) license. Niquet designed and implemented a processing code that facilitated Latour's haircut calculations, which the firm reported as part of its net capital computation in monthly Financial and Operational Combined Uniform Single (FOCUS) Reports. Latour used that processing code in calculating the firm's haircuts throughout the relevant period.

### **Facts**

#### **A. The Net Capital Rule**

7. Section 15(c)(3) of the Exchange Act [15 U.S.C. § 78o(c)(3)] and Rule 15c3-1 thereunder [17 CFR 240.15c3-1] require that broker-dealers generally effecting transactions in securities "at all times have and maintain net capital" no less than the highest minimum requirement applicable to its business. The net capital rule requires different minimum amounts of net capital based on the nature of a firm's business (for example, whether the firm holds customer funds or securities), and the method a firm uses in computing its net capital. The rule is designed to require a broker-dealer to maintain sufficient liquid assets to meet all obligations to customers and counterparties and have adequate additional resources to wind down its business in an orderly manner without the need for a formal proceeding if the firm fails financially.

8. In particular, the net capital rule requires that a broker-dealer perform two calculations: (i) a computation of the minimum amount of net capital the broker-dealer must maintain; and (ii) a computation of the amount of net capital the broker-dealer is maintaining. The minimum net capital requirement is the greater of a fixed-dollar amount specified in the rule or an amount determined by applying one of two financial ratios.

9. To compute its net capital, a broker-dealer first calculates its net worth, computed in accordance with generally accepted accounting principles, deducts the value of certain illiquid assets, and also deducts certain specified percentages, or haircuts, from the market value of the securities it holds in its proprietary accounts or other inventory, and then adds back certain qualifying subordinated loans to arrive at its net capital. The resulting figure must be above the firm's required minimum net capital to comply with the net capital rule.

10. An accurate calculation of a broker-dealer's haircuts is crucial in determining its minimum net capital. Rule 15c3-1 prescribes differing haircut amounts for a variety of classes of securities. Appendix A to Rule 15c3-1 [17 CFR 240.15c3-1a] ("Appendix A") permits broker-dealers to employ a standardized theoretical option pricing model to determine a potential loss for a portfolio of listed options positions and related positions that hedge those options to compute a single haircut for the group of positions. Appendix A allows broker-dealers to group positions into specified "portfolio types," and within each portfolio type, offset a position's gain at any one valuation point with another position's loss at the same valuation point. Appendix A also permits certain index products to be offset by qualified stock baskets. This, in effect, permits a broker-dealer to use a risk-based approach that may result in lower haircuts for certain risk offsetting positions in comparison to the specific haircut percentages otherwise prescribed under the net capital rule.

11. Appendix A imposes a capitalization requirement for qualified stock baskets. Appendix A states:

the term qualified stock basket shall mean a set or basket of stock positions which represents no less than 50% of the capitalization for a high-capitalization or non-high-capitalization diversified market index, or, in the case of a narrow-based index, no less than 95% of the capitalization for such narrow-based index.<sup>2</sup>

The purpose of the basket capitalization requirement "is to ensure that a broker-dealer has a sufficient number of stocks that match those in the index so that the stocks correlate with the index."

12. Unhedged positions generally are subject to a capital charge set forth in "Paragraph J" of the net capital rule [17 CFR 240.15c3-1(c)(2)(vi)(J)].

13. Appendix A also sets forth a minimum net capital charge based on the number of options or futures contracts in a portfolio that applies if the minimum charge is greater than the largest stress point charge. The minimum charge is designed to account for particular risks such as

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<sup>2</sup> By way of example, on a hypothetical diversified market index, if the index's composition included four securities, A, B, C, and D, each comprising 25% of the index, a broker-dealer would need to capitalize a qualified stock basket with at least two of the four component securities, or 50% of the index's composition, to meet the capitalization requirement.

leverage and liquidity risk that may exist in those instances in which application of the theoretical pricing model results in little or no net capital requirement as a result of closely-correlated hedging.

## **B. Latour's Erroneous Haircut Calculations**

14. Throughout 2010 and 2011, Latour used the risk-based approach under Appendix A to calculate certain haircuts to determine its net capital requirements. Before correcting its method for calculating haircuts in 2012, Latour inaccurately calculated its haircuts in multiple respects, including by, among other things: (i) using hypothetical positions<sup>3</sup> the firm did not actually hold to offset certain proprietary positions; (ii) using incorrect index composition data for ETFs tracking international indexes; (iii) failing to calculate minimum charges on each of the firm's futures positions included in its risk-based haircut calculations; and (iv) failing to take a haircut on some of the firm's positions as a result of a computer programming error.

15. Latour's failings in calculating its haircuts resulted in inaccurate and reduced haircuts and, thus, overstated net capital. Latour's failings therefore caused the firm to report inaccurate net capital for every month during 2010 and 2011 and caused it to operate while failing to maintain the required net capital on 19 of 24 reporting dates.

16. Latour's bonus structure was tied to, among other components, the amount of capital Latour used. Latour typically operated with a relatively small capital cushion during the relevant period. Because the firm operated with little excess net capital, errors in its haircut calculations generally had a material impact in overstating its overall net capital position.

17. Latour used a commercially available program to calculate its haircuts. The program is designed to help broker-dealers calculate risk-based haircuts pursuant to Appendix A. The version of the commercial haircut program that Latour used (the "commercial haircut program") requires a number of "input" files to perform the haircut calculations. These input files generally include (i) a firm's position file, broken down by basket, or hedged, positions and unhedged positions; (ii) theoretical profit and loss calculations;<sup>4</sup> and (iii) composition files that provide information about the composition of certain indexes (such as the S&P 500 and its component securities) and certain products related to those indexes. As a general matter, firms using the commercial haircut program must generate their own position files, and some firms also generate their own index composition files. Along with theoretical profit and loss calculations, users feed these input files into the program, which ultimately calculates haircuts on a broker-dealer's proprietary securities and other positions. The results of the program's calculations appear in multiple "output" files, including a "detail" file that shows all hedged positions, and a "naked" file showing all unhedged positions.

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<sup>3</sup> According to Latour, the hypothetical positions were based on the firm's view of the market risk of its actual positions.

<sup>4</sup> Using approved pricing models, the Options Clearing Corporation provides, for a fee, required theoretical profit and loss calculations for use in calculating risk-based haircuts.

*i. Latour incorrectly used hypothetical positions to capitalize qualified stock baskets.*

18. Respondent Niquet, Latour's former chief operating officer, was primarily responsible for devising the approach that Latour used to calculate its haircuts in at least 2010 and 2011. Notwithstanding that he had no prior experience in calculating net capital, Niquet designed and implemented the processing code that Latour used in conjunction with the commercial haircut program to calculate its haircuts. He designed the processing code to reflect that the firm generally employed hedged trading strategies. The processing code created certain input files by pulling position and index composition data from Latour's internal database and converting the data into a format that could be read by the commercial haircut program. In addition, the processing code created qualified stock baskets to offset certain positions. In doing so, the processing code allocated hypothetical long and short positions that the firm did not actually hold to create qualified stock baskets as defined in Appendix A to the net capital rule.

19. Despite his inexperience with net capital calculations, Niquet did not seek guidance from someone with expertise to ensure that the processing code complied with the net capital rule.

20. Latour's haircut methodology began by placing offsetting positions in the appropriate number of component stocks – whether or not Latour actually held such positions – into multiple stock baskets to offset certain proprietary positions. The processing code then added up the number of shares of a particular security – long and short – allocated to all baskets, and compared the resulting net number to Latour's actual position in the security reflected on the books of its clearing firm. Latour believed that its approach was appropriate because it generally employed hedged trading strategies and any difference between the amount of a particular security allocated to all qualified stock baskets and the firm's actual inventory in that security was supposed to be subject to the standardized haircut provisions of the net capital rule. Under Appendix A, however, a broker-dealer is not permitted to offset an index with a stock basket unless the stock basket is a "qualified stock basket" as that term is defined in Appendix A. Because Latour's stock baskets generally were not "qualified stock baskets" as that term is defined in Appendix A, Latour understated the required haircuts for some positions which should have been subject to standardized haircuts under the net capital rule.

21. The haircut methodology that Latour adopted had been rejected by the Commission when Appendix A was amended to permit risk-based haircuts. At the time of the amendments, one commenter suggested that "the rule should permit a broker-dealer to convert every basket into a qualified stock basket by taking a haircut on the missing or excess stocks, depending on whether too little or too much of a stock was in the basket." The Commission declined to adopt this methodology.

22. Latour's methodology used millions of dollars in hypothetical positions to create qualified stock baskets. In other words, Latour improperly used positions that the firm did not actually hold to create qualified stock baskets for purposes of calculating risk-based haircuts under

Appendix A. As a result, the commercial haircut program calculated haircuts for Latour that were generally far too low.<sup>5</sup>

**ii. *Latour also used inaccurate index composition data resulting in qualified stock baskets that were undercapitalized.***

23. Latour's haircut calculations were also incorrect because the firm used incorrect index composition data for certain international ETFs. Index composition data provides information necessary to create qualified stock baskets. Composition data fed into the commercial haircut program includes, among other things, the component securities that make up an index and the component securities' weightings as of a particular date. The weightings determine how much of a component security is permitted and/or required to create a sufficiently capitalized, or qualified stock basket under Appendix A to the net capital rule. Use of inaccurate composition data can thus result in the creation of improper stock baskets and inaccurate haircut calculations.

24. Latour learned early on the importance of index composition data for computing haircuts under Appendix A. When he was developing Latour's processing code, Niquet emailed an individual providing support to users of the commercial haircut program asking, "[h]ow are the index composition weightings used?" In response, he was told that, "[a] stock may not comprise more than its % in a perfect basket in your basket. Plus the stocks in your basket must represent at least 50 or 95% of the capitalization of a perfect basket ...."

25. Latour failed to ensure that the firm used actual index composition data for certain international ETFs when calculating the firm's haircuts as part of its net capital calculation. The processing code instead pulled index composition data from Latour's trading programs. In other words, Latour used for net capital purposes the same composition data the firm used for hedging purposes. For domestic ETFs, Latour's trading programs used the actual composition of the relevant index. However, Latour did not modify its code when it began trading certain international ETFs. Because Latour did not trade many of the components of these international ETFs, this resulted in the inclusion of certain securities that were not components of the ETF (such as other international ETFs) and insufficient amounts of the securities that were in fact components of the ETF in Latour's baskets. Latour thus created more stock baskets than it could have had it used accurate composition data. For example, on February 26, 2010, Latour's composition data for one international ETF consisted of nine component securities purportedly comprising 100% of the index, with one of the nine securities purportedly constituting roughly 49% of the index. In fact, however, there were over 40 component securities for this ETF, with the largest holding constituting roughly 23% of the ETF's holdings.

26. Latour failed to test its processing code to ensure that it used correct index composition data. Latour's use of inaccurate composition data for certain international ETFs

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<sup>5</sup> The effect of Latour's flawed methodology for creating qualified stock baskets was compounded because, as a result of an error in its processing code, *see infra*, Latour sometimes failed to take the Paragraph J standardized haircut on the missing positions.

resulted in baskets that were not properly capitalized and at times caused Latour’s haircuts on some of its positions to be understated – and thus its net capital overstated – by millions of dollars.

**iii. Latour failed to calculate minimum capital charges on all of its futures positions included in its Appendix A calculation.**

27. A broker-dealer availing itself of the risk-based haircut approach when calculating haircuts is required to compute a minimum capital charge on each of its futures contracts. The amount of the charge depends on the multiplier for the futures contract. Instead of calculating minimum charges on each separate futures contract it held, Latour computed charges on its net positions. Specifically, Latour netted certain “big” and “mini” contracts (e.g., S&P 500 Futures Contract (ticker SP) and E-mini S&P 500 Futures Contract (ticker ES)) when creating its position files input into the commercial haircut program. This practice reduced the number of futures positions that Latour included in the firm’s haircut calculations and altered the notional value of Latour’s futures positions within a particular portfolio.

28. Niquet learned in February 2010 that the commercial haircut program calculated higher net capital charges when all of the firm’s futures positions, rather than just the net positions, were input as part of the Appendix A calculation. Latour nonetheless continued to calculate haircut charges on its futures positions after netting certain contracts. For example, at the end of February 2010, Latour held large positions in certain futures, including 333,251 long ES contracts and 66,421 short SP contracts. As a result of the netting, however, the firm’s haircut calculations erroneously included much smaller positions subject to minimum capital charges, as set forth in the chart below.

Feb. 2010	# of Contracts Held Per Latour	Approximate Notional Value	Approximate Minimum Charge per Appendix A	Futures Listed in Latour’s Calculations	Minimum Charge as Calculated by Latour
ES	333,251	\$18,385,457,670	\$4,165,637.50	1,146 <sup>6</sup>	\$14,325 <sup>7</sup>
SP	-66,421	(\$18,322,232,850)	\$4,151,312.50	0	\$0
			<b>Total \$8,316,950</b>		<b>Total \$14,325</b>

<sup>6</sup> “Big” contracts (e.g., SP) are generally five times larger than “mini” contracts (e.g., ES). Through Latour’s netting process, the firm calculated that it in effect held 332,105 short ES contracts (-66,421 x 5=-332,105). The firm netted that amount against the 333,251 original long ES contracts, for a total of 1,146 ES contracts listed in the firm’s haircut calculations.

<sup>7</sup> Based on the contract’s multiplier, the commercial haircut program applies a \$12.50 per contract minimum charge for ES contracts, and a \$62.50 per contract minimum charge for SP contracts.

29. Latour's approach resulted in reduced minimum net capital charges and, at times, also resulted in a net capital deficiency for Latour.

*iv. Latour failed to take any haircut on some proprietary positions as a result of a computer programming error.*

30. Latour failed to take any prescribed haircut on some of its proprietary positions. As a result of a programming error in the processing code, the firm excluded some positions from its haircut calculations. By not including all of the firm's positions in its haircut calculations, Latour consistently understated its overall haircut charges in amounts ranging from several hundred thousand dollars to over a million dollars. The firm also thus overstated its net capital throughout the relevant period.

31. After it began trading, Latour did not adequately test its processing code (which pulled position data used to create the firm's position file) to ensure that the code extracted all of the firm's positions. As broker-dealers increasingly rely on computer programs as part of regulatory compliance, it is expected that such firms perform appropriate testing to confirm that any computer program is working properly in fulfilling regulatory requirements.

**C. Latour's Creation/Redemption of ETFs**

32. In addition to the errors in the firm's haircut calculations discussed above, Latour's treatment of orders to create and/or redeem ETFs resulted in significant errors in its net capital calculations.

33. Latour often held very large positions in ETFs, particularly during the trading day; on several days, the firm held billions of dollars in intra-day ETF positions. Latour managed its ETF positions through the creation/redemption process.<sup>8</sup> For net capital purposes, Latour treated its orders for ETF creations and redemptions as executed trades without waiting for execution of such orders.

34. In 2010 and 2011, Latour did not have a written agreement in place with its clearing firm, which was also its AP, governing the handling of its ETF creation and redemption orders. As a result, there was no formal written agreement governing when Latour could adjust its books and records to reflect the impact of a creation/redemption order. In practice, Latour asked its AP not to

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<sup>8</sup> To create an ETF for a client, a broker-dealer acting as an Authorized Participant, or "AP," typically takes the basket of underlying securities that comprise the ETF and delivers that basket to the issuer. In return, the AP receives newly-created shares of the ETF for delivery to its client (creation). Conversely, if the client decides it no longer wants the ETF shares, it can redeem the shares through the AP. To redeem the shares, the AP typically returns the ETF shares to the issuer and receives the underlying basket of securities for delivery to its client (redemption).

execute trades until end of day, which allowed executions to occur on a net basis at less cost to Latour. Nonetheless, Latour frequently booked intra-day creation/redemption orders as executed trades even though it knew or should have known that the trades had not been, and would not be, executed until late in the trading day. The firm's practice of booking creation/redemption orders as executed trades, at times, substantially impacted the firm's intra-day net capital. For example, on August 10, 2011, Latour entered intra-day orders to redeem at least 1,667 units of the SPDR S&P 500 ETF Trust (ticker SPY), or 83,350,000 shares of SPY, worth approximately \$9,359,371,500. After applying an approximate haircut of \$467 million to this position, the firm would have been roughly \$388 million out of net capital intra-day on August 10, 2011, before the actual SPY redemption had been executed.

35. Latour also improperly treated after-hours orders to create or redeem as executed trades. For instance, on Friday September 30, 2011, Latour emailed its clearing firm/AP at 6:38 p.m. to redeem 28 units or 1.4 million shares (worth approximately \$158 million) of SPY. The clearing firm responded at 6:45 p.m. that it would enter the order on Monday morning. Latour calculated its September 30<sup>th</sup> haircuts, however, as if its after-hours order had been executed that day. Specifically, on that date, the firm's end-of-day inventory, as reflected in its clearing firm's books, included 1,383,857 shares of SPY at a closing price of \$113.12 (worth approximately \$156.5 million). Treating the after-hours order (1,383,857 shares held – 1,400,000 shares redeemed) as if it was executed, however, Latour's position file reflected an end-of-day position of 16,143 short shares of SPY (worth approximately \$1.8 million).

36. Although the balance sheet in the firm's FOCUS Report for September 30, 2011 accurately reflected its position in SPY, because the firm's haircut calculations were based on the firm's position file, the report understated the required haircuts by almost \$12 million, and therefore was inaccurate. Because the firm understated its haircuts, Latour's net capital fell below its minimum net capital requirement on September 30, 2011.

37. Latour followed this same practice on seven other dates in 2010 and 2011, in at least one instance treating as executed a creation/redemption order communicated to Latour's AP on a Saturday. On Saturday February 27, 2010, Niquet emailed an ETF creation and redemption to Latour's AP at 8:56 pm. Although Niquet knew that the order would not be communicated to the ETF issuer until Monday, March 1<sup>st</sup>, Latour treated the order for net capital purposes as if the trade had been executed on Saturday, February 27<sup>th</sup>. Latour's net capital treatment of such after-hours orders consistently reduced the firm's haircuts.

#### **D. Latour Operated While Out of Net Capital by Millions of Dollars.**

38. Latour used the flawed haircut methodology described above throughout 2010 and 2011. As a result of Latour's erroneous and inaccurate haircut calculations, the firm operated with significant net capital deficiencies on at least 19 reporting dates in 2010 and 2011 as estimated below.

Date	Net Capital Before Haircuts	Original Haircuts	Revised Haircuts	Net Capital Deficiency
1/29/2010	\$32,912,460	\$30,349,787	\$39,435,702	(\$7,119,777)
2/26/2010	\$32,887,760	\$31,101,634	\$45,063,670	(\$12,702,831)
3/31/2010	\$33,899,425	\$29,028,283	\$31,365,823	NA
4/30/2010	\$36,487,308	\$35,223,056	\$63,943,397	(\$27,850,096)
5/28/2010	\$44,542,682	\$34,043,735	\$48,103,807	(\$4,638,250)
6/30/2010	\$50,339,330	\$39,924,928	\$51,898,758	(\$2,402,854)
7/30/2010	\$53,166,793	\$43,634,147	\$45,875,611	NA
8/31/2010	\$50,462,828	\$43,811,746	\$53,992,083	(\$4,099,122)
9/30/2010	\$52,674,694	\$48,433,611	\$47,830,526	NA
10/29/2010	\$52,048,470	\$46,323,425	\$62,016,445	(\$10,651,251)
11/30/2010	\$54,993,099	\$42,105,545	\$71,638,472	(\$17,294,948)
12/31/2010	\$56,504,248	\$42,136,334	\$45,989,808	NA
1/31/2011	\$43,683,541	\$38,288,755	\$51,333,367	(\$8,219,985)
2/28/2011	\$44,082,466	\$42,277,478	\$60,036,135	(\$16,413,984)
3/31/2011	\$48,912,828	\$44,652,810	\$58,975,612	(\$10,750,427)
4/29/2011	\$44,731,226	\$42,241,834	\$54,133,949	(\$9,799,290)
5/31/2011	\$47,244,775	\$43,890,925	\$64,187,194	(\$17,390,923)
6/30/2011	\$51,891,786	\$44,419,858	\$70,798,911	(\$19,381,120)
7/29/2011	\$64,786,135	\$58,856,021	\$89,734,708	(\$25,948,573)
8/31/2011	\$73,685,697	\$53,703,090	\$73,889,271	(\$1,993,615)
9/30/2011	\$63,623,980	\$54,030,378	\$89,895,140	(\$27,503,066)
10/31/2011	\$64,693,202	\$59,382,437	\$82,172,462	(\$18,271,231)
11/30/2011	\$78,582,707	\$65,027,736	\$102,055,579	(\$24,469,872)
12/30/2011	\$85,772,374	\$50,668,923	\$76,564,916	NA

**E. Books-and-Records and Financial Reporting Failures**

39. Latour failed to correctly calculate its net capital for at least every reporting date in 2010 and 2011. These inaccurate net capital calculations also caused Latour to make and keep inaccurate records of its net capital calculation. As a result, Latour failed to make and maintain accurate books and records throughout 2010 and 2011. Latour also filed twenty-four FOCUS Reports during the period that contained its inaccurate haircut and net capital computations.

40. In addition, during 2010 and 2011 at least, Latour failed to maintain some electronic communications in non-rewriteable, non-erasable format. For example, certain emails sent or received via blind carbon copy were archived but not retained in non-rewriteable, non-erasable format. Similarly, although retained in other formats, some instant messages were not retained in non-rewriteable, non-erasable format.

## Violations

41. A broker-dealer violates Section 15(c)(3) of the Exchange Act and Rule 15c3-1 thereunder when it uses the mails, or any means or instrumentality of interstate commerce, to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than exempt securities) while not maintaining its required minimum net capital. A broker-dealer violates Section 17(a)(1) of the Exchange Act and Rules 17a-3 and 17a-4 thereunder when it fails to make and keep current, and preserve, certain books and records and when those records are not accurate. *See In the Matter of the Application of PennMont Securities*, Exchange Act Release No. 54434 (Sept. 13, 2006). Rule 17a-3(a)(11) requires that every broker-dealer, among other things, make and keep a record of the computation of aggregate indebtedness and net capital, as of the trial balance date. The rule requires that such computations shall be prepared currently at least once a month. Rule 17a-4 requires every broker-dealer to preserve certain records for specified periods of time, including communications related to a broker-dealer's business as such under paragraph (b)(4). Rule 17a-4(f) requires that a broker-dealer preserve certain records in non-rewriteable, non-erasable format if the firm employs electronic storage media. Rule 17a-5(a) requires that certain broker-dealers file FOCUS Reports, which contain a net capital computation.

42. As a result of the conduct described above, Latour willfully<sup>9</sup> violated Sections 15(c)(3) and 17(a)(1) of the Exchange Act and Rules 15c3-1, 17a-3(a)(11), 17a-4(f), and 17a-5(a) thereunder.

43. A person is a cause of a securities violation if there is an underlying primary violation to which an act or omission of the person contributed and the person knew or should have known that his or her conduct would contribute to the violation. As a result of the conduct described above, Niquet caused Latour's violations of Sections 15(c)(3) of the Exchange Act and Rule 15c3-1, which require that broker-dealers maintain minimum net capital, and Section 17(a)(1) of the Exchange Act and Rules 17a-3(a)(11), and 17a-5(a) thereunder, which require broker-dealers to make and keep current and preserve books and records, and to make certain reports and filings with the Commission.

## Undertakings

44. Respondents Latour and Niquet undertake to cooperate fully with the staff of the Commission in any and all investigations, litigation, or other proceedings relating to or arising from the matters described in this Order. In connection with such cooperation, Respondents have agreed (a) to produce promptly, without service of a notice or subpoena, any and all documents and other information reasonably requested by the Commission's staff;

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<sup>9</sup> A willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

(b) Respondent Latour agrees to use its best efforts to cause its employees to be interviewed, and Respondent Niquet agrees to be interviewed, by the Commission's staff at such times as the Commission may reasonably request; and (c) Respondent Latour agrees to use its best efforts to cause its employees to appear, and Respondent Niquet agrees to appear, and testify truthfully and completely, without service of a notice or subpoena in such investigations, depositions, hearings or trials as may be requested by the Commission's staff; and Respondents further agree that (i) any such notice or subpoena for Respondents' appearance and testimony may be served by regular mail, electronic mail, or facsimile on their counsel, Harry Weiss, Esq., Wilmer Cutler Pickering Hale and Dorr LLP, 1875 Pennsylvania Avenue NW, Washington, DC 20006; and (ii) any such notice or subpoena for Respondents' appearance and testimony in an action pending in a United States District Court may be served, and may require testimony, beyond the territorial limits imposed by the Federal Rules of Civil Procedures.

In determining whether to accept the Offers, the Commission has considered these undertakings.

#### IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest, and for the protection of investors, to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Latour cease and desist from committing or causing any violations and any future violations of Sections 15(c)(3) and 17(a)(1) of the Exchange Act and Rules 15c3-1, 17a-3(a)(11), 17a-4(f), and 17a-5(a) thereunder.

B. Respondent Niquet cease and desist from committing or causing any violations and any future violations of Sections 15(c)(3) and 17(a)(1) of the Exchange Act and Rules 15c3-1, 17a-3(a)(11), and 17a-5(a) thereunder.

C. Respondent Latour is censured.

D. Respondent Latour shall, within 10 days of the entry of this Order, pay a civil monetary penalty in the amount of \$16,000,000 to the Securities and Exchange Commission. If timely payment is not made, interest shall accrue pursuant to 31 U.S.C. § 3717.

E. Respondent Niquet shall, within 10 days of entry of this Order, pay a civil monetary penalty in the amount of \$150,000 to the Securities and Exchange Commission. If timely payment is not made, interest shall accrue pursuant to 31 U.S.C. § 3717.

- F. Payment must be made in one of the following ways:
- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
  - (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
  - (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Latour Trading LLC or Nicolas Niquet as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Andrew M. Calamari, Regional Director, Division of Enforcement, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281.

By the Commission.

Jill M. Peterson  
Assistant Secretary