UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10587 / December 18, 2018

SECURITIES EXCHANGE ACT OF 1934
Release No. 84841 / December 18, 2018

INVESTMENT ADVISERS ACT OF 1940
Release No. 5076 / December 18, 2018

INVESTMENT COMPANY ACT OF 1940
Release No. 33328 / December 18, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18936

In the Matter of

CHRIS D. ROSENTHAL,

Respondent.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, SECTIONS 15(b), 15B(c), AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, SECTION 203(f) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, 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 Section 8A of the Securities Act of 1933 ("Securities Act"), Sections 15(b), 15B(c), and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act"), against Chris D. Rosenthal ("Rosenthal" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer"), 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 him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b), 15B(c), and 21C of the Securities Exchange Act of 1934, Section 203(f) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, 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 Respondent's Offer, the Commission finds[1] that:

Summary

1. These proceedings arise out of fraudulent conduct perpetrated by Chris Rosenthal, a former financial adviser with UBS Financial Services Inc. ("UBS"), in the municipal securities market. Between January 2012 and May 2016 (the relevant period), Rosenthal engaged in a series of practices with certain unregistered brokers who falsely posed as retail investors in order to obtain new issue municipal bonds that they may not otherwise have been able to obtain. As discussed below, these unregistered brokers engaged in a market practice called "flipping." Rosenthal and these unregistered brokers exploited a unique feature of municipal bond offerings – a set of rules known as the priority of orders, which typically give retail and institutional customers higher priority over broker-dealers in the allocation of new issue municipal bonds.

2. During the relevant period, Rosenthal placed fraudulent retail orders with UBS's syndicate desk on behalf of these unregistered brokers who were his UBS customers, and often falsified zip codes to accompany those orders, despite knowing, or being reckless in not knowing, that these orders did not qualify for retail priority in those offerings. Rosenthal also helped UBS municipal bond traders obtain new issue municipal bonds for UBS's account by using these unregistered brokers to place improper customer orders as opposed to dealer stock orders. Rosenthal placed the UBS traders' indications of interest for new issue bonds with the unregistered brokers, who would then place retail or institutional customer orders to obtain new issue bonds from members of the underwriting group. Once they had obtained the bonds, the unregistered brokers immediately sold the bonds to UBS based on Rosenthal's orders.

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

3. During the relevant period, Rosenthal also engaged in a "parking" scheme with the unregistered brokers by arranging for them to purchase new issue bonds in offerings distributed by UBS, with the agreement that they would hold the bonds for a short period of time (typically a few days), and then UBS would buy back the bonds for UBS's account at a prearranged price.[2]

4. As a result of the conduct described herein, Rosenthal willfully violated Sections 17(a)(1) and (3) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and MSRB Rules G-11(b), G-11(k), and G-17, and caused violations of Section 15(a)(1) of the Exchange Act.

Respondent

5. **Chris D. Rosenthal**, age 54, resides in Novelty, Ohio. From February 1999 to September 2016, Rosenthal served as a financial adviser and Senior Vice President at UBS, buying and selling securities for his brokerage customers' accounts. Rosenthal is currently unemployed.

Related Entities and Individuals

6. **UBS Financial Services Inc.** ("UBS" or "the firm"), incorporated in Delaware and headquartered in Weehawken, New Jersey, is registered with the Commission as a broker-dealer and investment adviser. It is a subsidiary of UBS AG.

7. **Core Performance Management, LLC** ("CPM") was a Florida limited liability company located in Boca Raton that was dissolved as of July 27, 2016. CPM primarily bought and sold new issue municipal bonds. CPM was never registered with the Commission. On August 14, 2018, the Commission filed an enforcement action against CPM and five associated individuals for acting as unregistered brokers and, as to four of the defendants, for engaging in fraudulent practices in connection with the purchase and sale of new issue municipal bonds. SEC v. Core Performance Management, LLC, et al., 18-CV-81081-BB (S.D. Fla., filed Aug. 14, 2018). All of the defendants consented, without admitting or denying the allegations, to the entry of an order which, among other things, enjoined them from future violations and ordered them to pay disgorgement and/or civil penalties. Based on the entry of injunctions against the settling individual defendants, the Commission instituted settled administrative proceedings against them, imposing associational bars or suspensions.

8. **RMR Asset Management Company** ("RMR") is a California corporation with its principal place of business in Chula Vista, CA. RMR primarily buys and sells new issue municipal bonds. RMR has never been registered with the Commission. On August 14, 2018, the Commission filed an enforcement action against RMR and 13 associated individuals for acting as

[2] The Municipal Securities Rulemaking Board ("MSRB") defines "parking" as a practice, in violation of securities industry rules, consisting of selling securities to a customer and, at the same time, agreeing to repurchase the securities at a future date with an unbooked transaction (with the transaction later booked as an ostensibly unrelated trade).

unregistered brokers and, as to 10 of the defendants, for engaging in fraudulent practices in connection with the purchase and sale of new issue municipal bonds. SEC v RMR Asset Management Company, et al., 3:18-CV-01895-AJB-JMA (S.D. Cal., filed Aug. 14, 2018). Without admitting or denying the allegations, the 11 settling defendants in that action consented to the entry of an order, which, among other things, enjoined them from future violations and ordered them to pay disgorgement and civil penalties. Based on the entry of injunctions, the Commission also instituted settled administrative proceedings against each of the settling individual defendants, imposing associational bars or suspensions.

Background on Municipal Underwriting Process

9. Municipalities often raise money by issuing bonds that are sold to the public through an underwriting process. In what is known as a "negotiated" offering, the municipal issuer chooses a broker-dealer to act either as the sole underwriter or as the senior manager of an underwriting syndicate. An underwriting syndicate is a group of broker-dealers that join together to purchase new issue bonds from the issuer to distribute the bonds to the public. In addition, certain broker-dealers distribute new issue bonds pursuant to distribution agreements with members of the underwriting syndicate.

10. New issue bonds in negotiated offerings are made available to the public during designated "order periods," which are windows of time during which the underwriters solicit orders from their customers. Underwriters announce and market offerings by widely distributing electronic pricing wires to broker-dealers, who may be interested in purchasing bonds for their inventory and/or marketing the bonds to their customers. The pricing wires detail the bonds that will be offered for sale as well as rules and restrictions that apply to the offering.

11. An issuer may specify separate order periods for different categories of customers. Often, there is an initial order period reserved exclusively for retail customers, known as a "retail order period." The pricing wires distributed by the underwriters to other broker-dealers frequently announce retail order periods and may also contain definitions, which the issuer has either written or agreed to, to establish who is and is not eligible to participate in a retail order period. For example, in some cases "retail" orders can only be placed by residents of the issuer's jurisdiction. Asset managers transacting on behalf of individual clients generally meet the definition of "retail." Issuers often require the submission of zip codes with retail orders as a way to verify that the customer is a resident of the issuer's jurisdiction.

12. Orders for municipal bonds in a primary offering often exceed the amount of bonds available for sale. Priority provisions, which are usually set by issuers, are specified on the pricing wire and establish the sequence in which bonds will be allocated to specific order types. Where the issuer includes a retail order period, retail orders are generally afforded the highest priority, followed by institutional orders. The priority afforded to retail customers means that, where an offering is oversubscribed, retail customers have the best chance of getting their orders filled. Orders from broker-dealers that are not members of the underwriting syndicate, and which are for the dealer's own inventory (*i.e.*, dealer stock orders), generally have the lowest priority.

Flipping by CPM and RMR

13. As a result of the priority provisions in municipal bond offerings, broker-dealers who are not members of the underwriting syndicate, and who want to purchase new issue bonds for their own inventory, are often unable to obtain them. To circumvent the priority provisions, broker-dealers and/or their associated persons used CPM, RMR, and their associated individuals ("associates") to place customer orders for new issue bonds on behalf of the broker-dealer, with the expectation that CPM, RMR and their associates would then immediately resell, or "flip," those new issue bonds to the purchasing broker-dealers.[3]

14. CPM's and RMR's conduct exploited the retail order period and the priority provisions in new issue municipal bond offerings. CPM and RMR obtained new issue bonds by placing customer orders for those bonds during retail and institutional order periods. Sometimes CPM and RMR misrepresented themselves as retail customers, creating the misleading impression that their orders were entitled to the highest priority in the allocation process. This made it more likely that CPM and RMR would obtain the bonds.

15. Prior to placing their orders with the underwriting syndicate, CPM and RMR solicited preliminary orders (known in the industry as "indications of interest" and hereinafter, "indications") from broker-dealers and/or their associated persons who wanted to purchase the bonds.[4] If CPM and RMR successfully obtained the new issue bonds, they immediately flipped those bonds to the broker-dealer firms that had placed indications with them. CPM and RMR then charged those firms a commission on the sale of those bonds. The typical commission was $1 per bond.

16. By engaging in this activity, CPM and RMR were acting as unregistered brokers because they were in the business of regularly soliciting, accepting and executing orders for the purchase and sale of securities from others, for which they received transaction-based compensation. Moreover, CPM's and RMR's orders were not entitled to retail or institutional customer priority because CPM and RMR were acting as brokers in these transactions and were submitting orders on behalf of broker-dealers who wanted the bonds for their own inventory. CPM's and RMR's orders therefore should have been treated as lowest priority, non-syndicate dealer stock orders.

17. In order to create the misleading impression that they were placing orders for retail customers, as well as maximize their access to municipal bond offerings, CPM and RMR maintained multiple customer accounts at various broker-dealers under more than 100 different

[3] The MSRB defines "flipping" as the immediate resale of allotted bonds in a primary offering, which may involve a prearranged trade, where the initial purchaser does not intend to hold the bonds for investment purposes but instead expects to make a profit from such immediate resale.

[4] The orders the broker-dealer firms placed with CPM and RMR were preliminary in the sense that CPM and RMR typically had not yet obtained the new issue bonds at the time of the order and therefore did not yet have them available to sell.

doing-business-as ("DBA") names. The DBA names often included the words "asset management" (*e.g.*, Dockside Asset Management), suggesting CPM and RMR were asset managers for retail investors, when they were not.

Rosenthal's Conduct with Respect to CPM and RMR

18. During the relevant period, Rosenthal was the registered representative for 22 accounts at UBS held by CPM and its associates under various fictitious business names. He was also the registered representative for 29 accounts at UBS held by RMR and its associates under various fictitious business names. Rosenthal knew that these parties were in the business of flipping new issue municipal bonds.

19. During the relevant period, Rosenthal engaged in the following practices involving CPM and RMR, as discussed more fully below: (a) he placed fraudulent retail orders for new issue bonds with UBS's syndicate desk on behalf of CPM and RMR for bonds being distributed by UBS, even though he knew or was reckless in not knowing that CPM and RMR did not qualify for retail priority; (b) he engaged in parking arrangements with CPM and RMR to help UBS traders obtain for the firm's account new issue bonds which were being distributed by UBS for its retail customers; (c) he helped UBS traders obtain new issue bonds by using CPM and RMR to place unlawful customer orders for the firm's account; and (d) he took steps to disguise the flipping activity from issuers and/or underwriters.

Rosenthal Placed Fraudulent Retail Orders for CPM and RMR

20. During the relevant period, UBS did not participate in new issue municipal bond offerings as an underwriter or a member of an underwriting syndicate, but was able to obtain new issue bonds by entering into distribution agreements with other broker-dealers who did serve as members of the underwriting syndicate. UBS's "syndicate desk" handled orders for new issue municipal bonds that UBS obtained under these distribution agreements. The distribution agreements required UBS to offer and sell securities in compliance with certain offering restrictions, and to confirm that each order on behalf of a retail customer was a bona fide retail order (*i.e.*, an order that met the requirements for "retail" as defined by the issuer).

21. During the relevant period, Rosenthal submitted 1,388 retail orders for new issue bonds on behalf of CPM and RMR to the UBS syndicate desk. As a result of those orders, CPM and RMR received approximately 1,101 allotments of new issue bonds distributed by UBS. Rosenthal often placed orders for the same maturity or maturities of new issue bonds being distributed by UBS under different accounts held by CPM and RMR to increase the likelihood of receiving allocations.

22. When Rosenthal submitted retail orders to UBS's syndicate desk on behalf of CPM and RMR, he knew or was reckless in not knowing that they were not bona fide retail orders. He knew CPM and RMR obtained bonds in retail and institutional order periods that they flipped to broker-dealers because, as discussed further below, he regularly placed indications of interest for and bought new issue bonds from them on behalf of UBS traders.

23. Rosenthal often included zip codes with the CPM and RMR orders which were not associated with the relevant CPM or RMR account. By doing so, he helped CPM and RMR create the false impression that they were retail investors, so they could obtain new issue bonds during retail order periods. These fraudulent zip codes gave the misleading impression that CPM, RMR, or their associates were residents of the municipal jurisdiction issuing the bonds, or that CPM and RMR had retail clients who were residents of the jurisdiction issuing the bonds. Rosenthal would either receive the fraudulent zip code from CPM and RMR or, in some instances, would look up a zip code on his own. Rosenthal also provided a CPM associate with links to a website to assist them in providing zip codes with their orders.

24. Rosenthal understood that UBS communicated the fraudulent retail orders and zip codes to the senior syndicate manager and/or issuer. He also understood that the syndicate manager and/or issuer relied on the zip codes UBS provided to verify that orders submitted as retail qualified for priority retail treatment.

Rosenthal "Parked" Certain Bonds with CPM and RMR

25. For some municipal offerings UBS distributed, Rosenthal placed retail and institutional orders with the UBS syndicate desk for new issue bonds on behalf of CPM and RMR, with the understanding that, after CPM and RMR obtained the bonds, he would then immediately re-purchase those bonds on behalf of UBS traders for the firm's account at a price of $1 per bond above the initial offering price. By engaging in this pre-arranged trading, Rosenthal was able to obtain new issue bonds for UBS traders, who would have been less likely to obtain those bonds for UBS's inventory had they submitted dealer stock orders directly to the UBS syndicate desk.

26. For example, on October 9, 2015, Rosenthal placed an order for CPM to purchase $500,000 of new issue bonds being distributed by UBS in one of CPM's UBS accounts at the initial offering price, with the understanding that Rosenthal would repurchase the bonds on behalf of UBS traders at a pre-arranged price of $1 per bond above the initial offering price. Rosenthal arranged for a UBS trader to buy the bonds back for UBS's account on October 13, 2015 but reported the purchase in two trade tickets of $250,000 each and through two different accounts held by CPM.

27. In another example on June 6, 2014, Rosenthal placed an order for CPM to purchase $1,250,000 of new issue bonds being distributed by UBS in one of CPM's UBS accounts at the initial offering price, with the understanding that Rosenthal would repurchase the bonds on behalf of UBS traders at a pre-arranged price of $1 per bond above the initial offering price. Rosenthal arranged for two UBS traders to buy them back for UBS's account on the same day but reported the purchase in a separate account held by CPM.

Rosenthal Helped UBS Traders Improperly Place Customer Orders on Behalf of UBS

28. Rosenthal also helped UBS traders place improper retail and institutional customer orders through CPM and RMR to purchase bonds: (1) in municipal bond offerings in which UBS was participating in the underwriting through its distribution agreements with syndicate members;

and (2) in offerings in which UBS was not participating in the underwriting. In these offerings, Rosenthal understood that orders from UBS traders for UBS's account would ordinarily receive the lowest priority under the priority provisions. To help UBS traders improperly obtain a higher priority for UBS orders, Rosenthal regularly placed indications with CPM and RMR at the request of UBS traders for UBS's account, with the understanding that CPM and RMR would, in turn, place customer orders to obtain an allocation from the underwriting syndicate. If CPM and RMR successfully obtained an allocation, they then sold the bonds to UBS traders for UBS's account at the typical commission of 50 cents to $1 per bond above the initial offering price.

29. For example, in a series of emails in July 2013, a UBS trader asked Rosenthal whether he could get bonds offered by a Texas-based issuer which UBS distributed. In response, Rosenthal wrote "i have 5 flips that can put in. allotments? dunno, you know the game…. but I split it up pretty nicely amongst the thieves to try and sneak in here and there." The trader replied to Rosenthal's email by writing, "put in for 1mm a year 2047, 48, 49." The next day, the trader purchased for UBS's account $500,000 of the bonds from RMR and $900,000 of the bonds from CPM.

30. In another example on February 3, 2015, a UBS trader forwarded Rosenthal a pricing wire received from CPM for a new issue in which UBS was not participating in the distribution through its distribution agreements. The trader asked Rosenthal to place an indication for the bonds through CPM: "Can you put in for 500m a year 32-42?" Rosenthal responded "ty!" [thank you]. The next day, the trader purchased for UBS's account from CPM $200,000 of the 2033 maturity, $150,000 of the 2037 maturity and $400,000 of the 2040 maturity, each at a price of 50 cents above the initial offering price.

31. Rosenthal also placed indications with CPM and RMR during retail order periods on behalf of UBS traders, with the understanding that CPM and RMR would attempt to fill those indications by placing retail orders with the underwriter. For example, in August 2013, Rosenthal gave an indication to CPM on a New York offering. After notifying Rosenthal of the CPM's allotment of $250,000 bonds from the underwriter, the CPM associate told Rosenthal, "Dorm tickets 3pm, went in retail. Will have to wait until free to trade." Rosenthal replied, "Ok."

32. During the relevant period, Rosenthal purchased bonds for UBS traders from CPM over 700 times and from RMR over 900 times. To compensate Rosenthal for obtaining bonds through CPM and RMR, UBS traders paid Rosenthal 50 cents per bond.

Rosenthal Took Steps to Hide the Improper Flipping

33. When CPM and RMR received an allotment from the UBS syndicate desk against a retail order, Rosenthal often asked CPM and RMR to take steps to disguise the subsequent sale of the bonds to their broker-dealer customers, to avoid detection of the flip by issuers and lead underwriters. Two of the primary ways to disguise the flip were to break up the amount of bonds sold into smaller lots, or to delay writing trade tickets for the transaction. CPM and RMR generally waited to ticket trades until after the time of execution and after other bonds were trading in the secondary market so that their trades would not stand out to the issuer and/or underwriter.

34. For example, in a January 2014 email to an RMR associate, Rosenthal wrote: "I was warned on this one…no flipping…please break-up, bury, disguise, etc etc etc." In response, the RMR associate wrote, "understood, thank you." In a March 2013 email to an RMR associate, Rosenthal informed the RMR associate of his allotments and wrote, "PLEASE BE CAREFUL, I SAID CALIF GOING AWAY RETAIL ORDERS…."

35. On March 14, 2013, Rosenthal warned a CPM associate with regard to bonds issued by a Maryland-based issuer, "U see the maturity sizes…..U went in as MD Retail, theyre [sic] not expecting it to retrade obviously …so please be careful[.] TOE 11:00 EST." TOE stands for "time of execution," which information was helpful in allowing CPM to better disguise the subsequent resale of the bonds.

36. In text messages with a CPM associate dated July 16, 2015, Rosenthal advised that CPM would have to be careful with trading bonds that were obtained as "going away retail," and suggested that, in the subsequent resale, CPM make sure the bonds go "'away to never pop up again.'" Rosenthal also suggested that the CPM associate "just be stealthy." In response, the CPM associate wrote, "That I can assure you in this case – but we have to talk about this going forward. It is not always the case here- we got lucky this time. I cant [sic] guaranty that in every case."

37. In January 2013, Rosenthal informed an RMR associate who lived in New Jersey that he was allotted bonds for an Oregon municipal bond offering and wrote in the email, "You were the only one that gave an Oregon zip….so please be very very diligent with your print!!!!" "Print" refers to the posting of the trade's details (*e.g.*, time and date of trade, purchase price) on the MSRB's Electronic Municipal Market Access ("EMMA") system. By telling the RMR associate to be diligent with the "print," Rosenthal was suggesting that the RMR associate should be careful how and when the subsequent resale of the flipped bonds appeared on EMMA, in order to avoid detection.

38. To disguise CPM's and RMR's subsequent resale of the bonds they had purchased from UBS, Rosenthal sometimes worked with CPM and RMR to manipulate how their trades would appear on publicly-available trade reporting services. For example, on January 22, 2014 Rosenthal emailed an RMR associate the allotments he received on a new issue, stating, "John, Ohio allotments, 460M 2023, 325M 2024…Funky amounts…obviously be careful please….maybe we can split it up between 2 accounts for the print??" Instead of ticketing the sale to RMR of 460,000 bonds of the 2023 maturity, Rosenthal split the allotment into two trades with two separate tickets of 250,000 and 210,000, and sold each ticket through two separate accounts held by RMR. Likewise, instead of ticketing the sale of 325,000 bonds of the 2024 maturity, Rosenthal split the allotment into two trades with two separate tickets of 250,000 and 75,000, and sold each ticket through two separate accounts held by RMR.

39. During the relevant period, Rosenthal sometimes passed along CPM's and RMR's requests that UBS traders avoid posting certain trades on Bloomberg's PICK system. This allowed CPM and RMR to avoid detection by the underwriter and/or issuer, who monitored Bloomberg's PICK system (PICK also displays municipal bond trade data) to see if new issue bonds were being

traded quickly after pricing. In one example in March 2015, Rosenthal emailed to a UBS trader the details of the trader's purchase from CPM, and then said, "THANK YOU FOR THE TRADE…NO PICK PLS."

40. During the relevant period, Rosenthal also sometimes took steps to hide UBS traders' transactions with CPM and RMR by delaying trade tickets until trading of the bonds increased, and by breaking up allotments into multiple tickets. Rosenthal and UBS traders understood that CPM and RMR used these methods to hide their sales to UBS traders in order to avoid having issuers and/or underwriters detect the flip.

Violations

Rosenthal Violated Section 10(b) of the Exchange Act and Rule 10b-5
by Engaging in the Retail Order Period Scheme

41. Section 10(b) and Rule 10b-5 thereunder prohibit any person, in connection with the purchase or sale of any security, from directly or indirectly: (a) employing any device, scheme, or artifice to defraud; (b) making any untrue statement of material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5. Establishing a primary violation of Section 10(b) and Rule 10b-5 requires proof of scienter. See Aaron v. SEC, 446 U.S. 680, 695-97 (1980).

42. Rosenthal willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder by making misstatements and omissions in submitting retail orders to the UBS syndicate desk on behalf of CPM and RMR, intending that these misstatements would be conveyed to the senior syndicate manager for use in deciding how to allocate the bonds. Specifically, Rosenthal knowingly misrepresented orders from CPM and RMR as eligible retail orders when he knew they were not, and provided fake zip codes with some of those orders. Rosenthal also took steps to disguise and hide the retail allotments from issuers. Rosenthal also willfully violated Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c) thereunder by placing indications with CPM and RMR with the understanding that CPM and RMR would place customer orders with the underwriter in order to improperly obtain a higher priority for UBS orders.

Rosenthal Violated Sections 17(a)(1) and (3) of the Securities Act,
Section 10(b) and Rules 10b-5(a) and (c) of the Exchange Act by Parking Bonds

43. Section 17(a)(1) of the Securities Act prohibits any person, in the offer or sale of a security, from directly or indirectly, employing any device, scheme, or artifice to defraud. 15 U.S.C. § 77q(a)(1). Section 17(a)(3) of the Securities Act prohibits any person, in the offer or sale of a security, from directly or indirectly, engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser. 15 U.S.C. § 77q(a)(3). To establish a violation of Section 17(a)(1) of the Securities Act, the Commission must prove that the defendant acted with scienter. Aaron v. SEC, 446 U.S. 680, 695 (1980).

Scienter has been defined as "a mental state embracing intent to deceive, manipulate, or defraud." Ernst & Ernst v. Hochfelder, 425 U.S. 185, 193 (1976). Scienter can be established by knowledge or recklessness. See SEC v. Infinity Group Co., 212 F.3d 180, 192 (3d Cir. 2000). Negligence is sufficient to establish a violation of Section 17(a)(3); no finding of scienter is required. Aaron, 446 U.S. at 696-97.

44. "Parking" refers generally to an unlawful arrangement in which "a person 'sells' securities to a purchaser subject to an agreement or understanding that the seller will repurchase the securities at a later time at a price that leaves the economic risk with the seller," in violation of Section 17(a) of the Securities Act and Rule 10b-5(a) and (c) of the Exchange Act. Thomas C. Gonnella, SEC Rel. No. 34-78532, Comm. Op., 2016 WL 4233837, at *17 n.26 (Aug. 10, 2016) (internal citations omitted).

45. As a result of the parking conduct described above, Rosenthal willfully violated Sections 17(a)(1) and (a)(3) of the Securities Act and Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c) thereunder.

Rosenthal Violated MSRB Rule G-17

46. MSRB Rule G-17 provides that, in the conduct of its municipal securities business, every broker, dealer, municipal securities dealer, and municipal advisor shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice.[5] Negligence is sufficient to establish a violation of MSRB Rule G-17. See Wheat, First Securities, Inc., Exch. Act Rel. No. 48378, 80 SEC Docket 3406, 3425 (Aug. 20, 2003).

47. Rosenthal willfully violated his duty of fair dealing under MSRB Rule G-17 by (a) misrepresenting orders from CPM and RMR as eligible retail orders when he knew or should have known that they were not, (b) by placing indications with CPM and RMR, often during retail order periods, with the understanding that CPM and RMR would place customer orders with the underwriter in order to improperly obtain a higher priority for UBS; and (c) engaging in a parking scheme with CPM and RMR.

Rosenthal Violated MSRB Rule G-11(b) by Submitting
Orders Without Disclosing They Were For A Dealer Account

48. MSRB Rule G-11(b) provides that every broker, dealer or municipal securities dealer that submits an order to a sole underwriter or syndicate or to a member of a syndicate for the purchase of municipal securities held by the syndicate shall disclose at the time of submission of such order if the securities are being purchased for its dealer account or for a related account of such broker, dealer or municipal securities dealer.

[5] Subject to certain exceptions, MSRB Rule D-11 includes "associated persons" within the definitions of brokers, dealers, and municipal securities dealers for purposes of all other MSRB rules. See Wheat, First Securities, Inc., Exch. Act Rel. No. 48378, 80 SEC Docket 3406, 3425 (Aug. 20, 2003).

49. As described above, Rosenthal placed orders for new issue municipal bonds for CPM and RMR with the intention of buying those bonds back for UBS traders, thereby failing to disclose, at the time of submission of the orders, that the orders were for UBS's dealer account. Consequently, Rosenthal willfully violated MSRB Rule G-11(b).

Rosenthal Violated MSRB Rule G-11(k) by Submitting Retail Orders That Did Not Meet the Issuer Eligibility Criteria and That Lacked Other Information

50. MSRB Rule G-11(k) provides that each broker, dealer, or municipal securities dealer that submits an order during a retail order period to the senior syndicate manager or sole underwriter, as applicable, shall provide in writing the following information relating to each order designated as retail submitted during a retail order period: (i) whether the order is from a customer that meets the issuer's eligibility criteria for participation in the retail order period; (ii) whether the order is one for which a customer is already conditionally committed; (iii) whether the broker, dealer, or municipal securities dealer has received more than one order from such retail customer for a security for which the same CUSIP number has been assigned; (iv) any identifying information required by the issuer, or the senior syndicate manager on the issuer's behalf, in connection with such retail order (but not including customer names or social security numbers); and (v) the par amount of the order.[6]

51. Rosenthal submitted orders for new issue municipal bonds during retail order periods for CPM and RMR that were falsely designated as retail orders because they did not meet the issuer's eligibility criteria. In addition, Rosenthal submitted retail orders during retail order periods (a) without indicating whether CPM and RMR were already conditionally committed for those orders, and (b) without indicating that he received more than one order from such retail customer for a security for which the same CUSIP number has been assigned. As a result, Rosenthal willfully violated MSRB Rule G-11(k).

Rosenthal Was a Cause of Violations of Section 15(a)(1) of the Exchange Act

52. To establish causing liability, the Commission must find: (1) a primary violation; (2) the respondent's act or omission contributed to the violation; and (3) the respondent knew or should have known that the act or omission would contribute to the violation. See 15 U.S.C. § 78u-3(a); Robert M. Fuller, 56 SEC 976, 984 (2003), pet. denied, 95 F. App'x 361 (D.C. Cir. 2004).

53. Under Section 15(a)(1) of the Exchange Act, it is unlawful for a broker or dealer "to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security . . . unless such broker or dealer is registered" with the Commission pursuant to Section 15(b) of

[6] Rule G-11(k) further provides that the senior syndicate manager may rely on the information furnished by each broker, dealer, or municipal securities dealer that provided the information required by (i) - (v) unless the senior syndicate manager knows, or has reason to know, that the information is not true, accurate, or complete.

the Exchange Act. Under Section 3(a)(4)(A) of the Exchange Act, a "broker" is "any person engaged in the business of effecting transactions in securities for the account of others."

54. The Exchange Act's definition of "broker" "connote[s] a certain regularity of participation in securities transactions at key points in the chain of distribution." Mass. Fin. Serv., Inc. v. Sec. Inv. Prot. Corp., 411 F. Supp. 411, 415 (D. Mass. 1976), aff'd, 545 F.2d 754 (1st Cir. 1976); see also SEC v. Martino, 255 F. Supp. 2d 268, 283 (S.D.N.Y. 2003).

55. Negligence is sufficient to establish "causing" liability, at least in cases where a person is alleged to "cause" a primary violation that does not require scienter, such as Section 15(a)(1) of the Exchange Act. VanCook, Rel. No. 34-61039A (Nov. 20, 2009) (Opinion of the Commission) (quoting KPMG Peat Marwick LLP, 54 SEC 1135, 1175 (2001), pet. denied, 289 F.3d 109 (D.C. Cir. 2002)).

56. CPM and RMR violated Section 15(a)(1) of the Exchange Act because they acted as brokers without being registered with the Commission.

57. During the relevant period, Rosenthal contributed to CPM's and RMR's violations when he regularly (a) placed orders for bonds with CPM and RMR; (b) bought bonds from CPM and RMR; and (c) arranged for the sale of bonds to UBS traders, who paid transaction-based compensation to CPM and RMR for their services in effecting those transactions. Rosenthal knew, or should have known, that CPM and RMR were not registered with the Commission and his actions would contribute to CPM's and RMR's unregistered broker activity.

58. As a result of the conduct described above, Rosenthal was a cause of the violations of Section 15(a)(1) of the Exchange Act by CPM and RMR and their associates.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 8A of the Securities Act, Sections 15(b), 15B(c), and 21C of the Exchange Act, Section 203(f) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Rosenthal cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Rosenthal be, and hereby is:

> barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock;

with the right to apply for reentry after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by Respondent Rosenthal will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent Rosenthal shall pay disgorgement of $284,080 and prejudgment interest of $15,128 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Respondent Rosenthal shall also pay a civil money penalty in the amount of $75,000 to the Securities and Exchange Commission, of which $15,000 shall be transferred to the Municipal Securities Rulemaking Board in accordance with Section 15B(c)(9)(A) of the Exchange Act, and of which the remaining $60,000 shall be transferred to the general fund of the United States Treasury in accordance with Section 21F(g)(3) of the Exchange Act. Payment shall be made in the following installments: $200,000 shall be made within 10 days of the entry of this Order; and $174,208 shall be made within one year from the date of entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application.

E. Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent 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) Respondent 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 Rosenthal 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 Ivonia K. Slade, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

F. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, Respondent shall not argue that he is entitled to, nor shall Respondent benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields
Secretary