

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 84461 / October 19, 2018**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18872**

**In the Matter of**

**Zachary S. Berkey,**

**Respondent.**

**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO SECTION 15(b) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934,**  
**MAKING FINDINGS, AND IMPOSING**  
**REMEDIAL SANCTIONS**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Zachary S. Berkey (“Berkey” 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 and the findings contained in paragraph B.3 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Berkey, age 42, resides in Centereach, NY. Berkey was a registered representative at Four Points Capital Partners LLC ("Four Points") from April 2013 to January 2015. Berkey held Series 7, 24, and 63 licenses.
2. Four Points is a Texas limited liability company, with its principal place of business in New York, New York. It has been registered with the Commission as a broker-dealer since 1998.
3. On December 6, 2017, the Commission filed a complaint against Berkey in *SEC v. Zachary S. Berkey and Daniel T. Fischer*, Civil Action Number 17 Civ. 9552, in the United States District Court for the Southern District of New York. On October 10, 2018, the court entered an order permanently enjoining Berkey, by consent, from future violations of Section 17(a) of the Securities Act of 1933, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.
4. The Commission's complaint, alleged, among other things, that from April 1, 2013, through December 31, 2014, Berkey violated the antifraud provisions of the federal securities laws by recommending an investment strategy that he had no reasonable basis to believe would be suitable for anyone, recommending an investment strategy that was unsuitable for three customers, making material misrepresentations and omissions regarding the investment strategy that he recommended to his customers, churning customer accounts, and engaging in unauthorized trading.

### 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, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act, that Respondent 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; and pursuant to Section 15(b)(6) of the Exchange Act Respondent be, and hereby is 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.

Any reapplication for association by the Respondent 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.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields  
Secretary