

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10643 / June 3, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19189

In the Matter of

JOSEPH PALERMO,

Respondent.

**ORDER INSTITUTING CEASE-AND-DESIST
PROCEEDINGS PURSUANT TO SECTION
8A OF THE SECURITIES ACT OF 1933,
MAKING FINDINGS, AND IMPOSING A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) against Joseph Palermo (“Palermo” 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 Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. From January 2013 to February 2015, Palermo benefitted from a manipulative trading scheme carried out by his long-time friend, a day trader ("Trader A"), that generally involved Trader A placing multiple buy orders for a security, at multiple trading venues and multiple price levels, at and above prevailing market prices, for the purpose of creating a false appearance of buy interest at those price levels and raising the price in that security, and thus enabling Trader A to sell the same security at artificially inflated prices.

2. In January 2013, Palermo and Trader A entered into an arrangement under which Palermo provided Trader A with online access to Palermo's newly-opened brokerage account at a registered broker-dealer ("Broker A"). Palermo funded this account (the "Palermo Account") and, as an investment opportunity, agreed to allow Trader A to conduct all securities trading in the Palermo Account, in exchange for approximately half of the resulting net profits.

3. Palermo and Trader A did not disclose to Broker A that Trader A placed orders or directed transactions in the account. To the contrary, they provided misleading information to Broker A about the identity of the trader in the Palermo Account, including by falsely responding to a January 2014 inquiry about possible manipulative trading as if it was Palermo who was conducting all the trading. Palermo knew or should have known that his actions and omissions with respect to the Palermo Account would contribute to Trader A's manipulative trading scheme.

4. By February 2015, when Palermo's arrangement with Trader A ended, Palermo received at least \$128,150 in trading profits resulting from Trader A's manipulative trading in the Palermo Account.

Respondent

5. **Palermo** is a resident of Staten Island, New York. In the past, he held Series 7 and 66 securities licenses. Palermo was associated with a registered broker-dealer and an investment adviser from 2006 to 2012, and with a registered broker-dealer from October 2014 to December 2015. In November 2017, in accordance with the terms of an Acceptance, Waiver and Consent, and without Palermo admitting or denying the findings, the Financial Industry Regulatory Authority ("FINRA") fined Palermo \$50,000 and suspended him for one year from association with a FINRA member firm for misrepresentations in certain brokerage account opening documents and related omissions, as well as his failures to disclose multiple personal

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.

brokerage accounts and business activities as a landlord to the broker-dealer with which he was associated in 2014–2015, in violation of certain FINRA and National Association of Securities Dealers rules.

Background

6. In January 2013, Palermo and Trader A, a day trader and Palermo’s long-time friend, entered into an agreement under which Palermo opened and funded the Palermo Account at Broker A and provided Trader A with online access to conduct all of the securities trading in that account, in exchange for approximately half of the resulting net profits.

7. Palermo did not disclose to Broker A Trader A’s role with respect to the Palermo Account. To the contrary, Palermo falsely represented to Broker A that the trading in the account was his own.

8. Trader A used the Palermo Account with the intent to engage in manipulative trading. Typically, after establishing a long position in a security, Trader A would place multiple buy orders at various market venues at increasing prices, while nearly simultaneously placing sell orders. Trader A’s purpose in placing the buy orders was to create a false appearance of buy interest in the security and raise the price, and thus to induce other market participants into purchasing the security from Trader A by executing against Trader A’s pending sell orders at artificially inflated prices. Within seconds of obtaining beneficially priced executions for the sell orders, and thus closing out his position at a profit, Trader A would then cancel his open buy orders.²

9. Trader A continued his manipulative trading in the Palermo Account even after Broker A closed Trader A’s own account with the firm in November 2013 because of concerns about potentially manipulative trading in that account, and after Broker A raised concerns about potentially manipulative trading in the Palermo Account in January 2014.

10. Palermo knew or should have known that Palermo’s actions and omissions with respect to the Palermo Account would contribute to Trader A’s manipulative trading. For example, on January 21, 2014, Palermo received an email inquiry from Broker A about potentially manipulative trading in the Palermo Account. Before responding to the email, Palermo forwarded the inquiry to Trader A, and the two spoke on the phone. The next day, Palermo sent an email to Broker A stating, among other things, that he had reviewed the trades in question and would be mindful of Broker A’s concerns in his future trading, hiding from Broker A the true identity of the individual who conducted trading in the Palermo Account. Contrary to Palermo’s assurances, neither Palermo nor Trader A took any corrective action in response to Broker A’s inquiry. Trader A then continued his manipulative trading in the Palermo Account for approximately another year. Throughout that year, Palermo and Trader A continued to

² While less typical for Trader A, Trader A sometimes also placed multiple sell orders to obtain beneficially priced executions, at artificially depressed prices, for his buy orders.

conceal from Broker A the true identity of the individual who was conducting trading in the Palermo Account.

11. By February 2015, when Palermo's arrangement with Trader A ended, Palermo received at least \$128,150 in illicit profits from Trader A's manipulative trading in that account.

Violations

12. As a result of the conduct described above, Palermo caused Trader A's violations of Section 17(a)(3) of the Securities Act.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act, Palermo cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act.

B. Palermo shall pay disgorgement of \$128,150 and prejudgment interest of \$22,860 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). Payment shall be made in the following installments: (1) \$100,000 within fourteen days of the entry of the Order; and (2) \$51,010 within six months of the entry of the Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement and prejudgment interest, plus any additional interest accrued pursuant to SEC Rule of Practice 600, shall be due and payable immediately, without further application.

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 Joseph Palermo 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 Joseph G. Sansone, Chief, Market Abuse Unit, Division of Enforcement, U.S. Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

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.

Vanessa A. Countryman
Acting Secretary