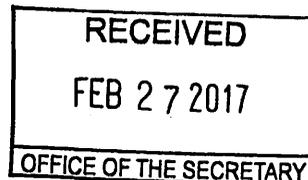


**HARD COPY**

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



**ADMINISTRATIVE PROCEEDING  
File No. 3-16359**

**In the Matter of**

**Glen Allan Galemmo,**

**Respondent.**

**BRIEF IN OPPOSITION TO  
RESPONDENT'S REQUEST TO  
VACATE CERTAIN REMEDIAL  
SANCTIONS**

The Division of Enforcement ("Division"), by counsel and pursuant to the Order Requesting Additional Briefing on this matter entered on February 1, 2017, respectfully submits this Brief in Opposition to Respondent's Request to Vacate Certain Remedial Sanctions. Respondent has requested that the Commission vacate the part of its January 23, 2015 Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions (the "Order") that barred him from association with any nationally recognized statistical rating organization ("NRSRO") or municipal advisor. For the reasons set forth herein, the Commission should deny Respondent's request.

**I. BACKGROUND**

**A. The Commission's Order**

On January 23, 2015, the Commission issued the above-referenced Order against Respondent Glen Allan Galemmo ("Respondent" or "Galemmo"), finding that:

- (1) Galemmo was the managing partner of Queen City Advisors, LLC, an unregistered investment adviser located in Cincinnati, Ohio that managed Queen City Investment Fund II, LLC, a hedge fund controlled by Galemmo;
- (2) Galemmo, between March 2002 and September 2012, was a registered representative at three brokerage firms located in New York and New Jersey;
- (3) Galemmo pled guilty on December 17, 2013 to one count of wire fraud in violation of Title 18 United States Code, Section 1343 and one count of money laundering in violation of Title 18 United States Code, Section 1956 before the United States District Court for the Southern District of Ohio, in United States v. Glen Galemmo, Case No. 1:13-CR-141;
- (4) The counts to which Galemmo pled guilty alleged, inter alia, that he devised a scheme to defraud in order to obtain money and property by means of false and fraudulent pretenses, representations and promises, that the scheme included a material misrepresentation or concealment of a material fact, that Galemmo had the intent to defraud, and that he used or caused another to use wire, radio or television communications in interstate commerce in furtherance of the scheme; and
- (5) Galemmo stipulated that he perpetrated a scheme to defraud investors by soliciting millions of dollars under false pretenses, failing to invest investor's funds as promised, and misappropriating and converting investors' funds to Galemmo's own benefit.

Galemmo consented to the entry of the Commission's order, admitting to his guilty plea in the criminal case.

Based on these findings, the Commission deemed it appropriate and in the public interest to impose certain sanctions as agreed to by Respondent in his Offer of Settlement. Among other things, the Commission barred Galemmo from association with any NRSRO or municipal advisor.

**B. The Commission's Response to the Decision in *Koch v. SEC***

On July 14, 2015, the United States Court of Appeals for the D.C. Circuit issued a decision in Koch v. SEC, 793 F.3d 147 (D.C. Cir. 2015) that granted in part a petition for review of a Commission order imposing sanctions for violations of the securities laws. In Koch, the Petitioners challenged a Commission order that, among other things, imposed NRSRO and municipal advisor bars against an investment adviser. The Court held that the Commission's use of the remedial provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") to impose NRSRO and municipal advisor bars based on conduct that took place prior to the July 21, 2010 effective date of Dodd-Frank was impermissibly retroactive. The Court, therefore, vacated the NRSRO and municipal advisor bars against Koch because such remedies were not available at the time of the conduct at issue. Id. at 158.

On October 9, 2015, the Commission issued a statement concerning the Koch decision, announcing that it had determined not to seek further review of the Court's decision. Commission Statement Regarding Decision in Koch v. SEC (Oct. 9, 2015).<sup>1</sup> The Commission also provided a procedure by which respondents subject to Commission orders imposing NRSRO and/or municipal advisor bars could request that the Commission vacate those bars if the respondent believes "that the Koch decision affects the bar(s) in [its] case *because all of the conduct relevant to such bar(s) occurred before July 22, 2010.*" Id. (emphasis added).

---

<sup>1</sup> Available at <http://www.sec.gov/news/statement/commission-statement-regarding-koch-v-sec.html>.

**C. Respondent's Request for the Commission to Vacate the NRSRO and Municipal Advisor Bars Entered Against Him**

On April 11, 2016, Respondent filed a request to vacate the NRSRO and municipal advisor bars entered against him. On February 1, 2017, the Commission entered an order requesting additional briefing from Respondent and the Division of Enforcement addressing the question of whether conduct supporting the imposition of the NRSRO and municipal advisor bars occurred on or after Dodd-Frank's July 21, 2010 effective date and, if so, whether Respondent's request to vacate the bars should be granted.

**II. ARGUMENT**

**A. The Commission's NRSRO and Municipal Advisor Bars Entered Against Respondent Are Not Impermissibly Retroactive Because a Significant Portion of Respondent's Conduct Occurred After July 21, 2010.**

In Koch, the D.C. Circuit vacated NRSRO and municipal advisor bars that were based entirely on conduct that occurred prior to the effective date of Dodd-Frank. The Court held that application of the NRSRO and municipal advisor bars created by Dodd-Frank was impermissibly retroactive because it attached new legal consequences to events that had come to an end before the effective date of Dodd-Frank. Koch 793 F.3d at 158. However, nothing in the Court's decision suggests that NRSRO and municipal advisor bars must be vacated when they are supported by conduct that occurred after the July 21, 2010 effective date of Dodd-Frank, even if part of the conduct occurred before the effective date.

A significant portion of the fraudulent conduct underlying Galemmo's guilty plea occurred after July 21, 2010. In his guilty plea, Galemmo admitted to perpetrating a scheme to defraud investors from at least 2005 through July 17, 2013, nearly three years after the effective date of Dodd-Frank. Ex. A, Plea Agreement of Glen Galemmo, United States v. Glen Galemmo, 1:13-cr-141, at 10. The fact that a portion of Galemmo's conduct occurred before the effective date of

Dodd-Frank took effect does not prohibit the Commission from imposing the NRSRO and municipal advisor bars based on the conduct that occurred after July 21, 2010.

**B. The Commission Should Not Vacate the NRSRO and Municipal Advisor Bars Entered Against Respondent Because His Post-Dodd-Frank Conduct Satisfies the Statutory Requirements for an Industry-Wide Bar.**

Respondent Galemmo's post-Dodd-Frank conduct fully supports the Commission's conclusion that it is in the public interest to impose the NRSRO and municipal advisor bars entered against him in this case. To determine whether an industry-wide bar is in the public interest, Courts consider the factors set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). See, e.g., Douglas L. Swenson, CPA, Admin. Proc. Rulings Release No. 795, 2015 SEC LEXIS 1957, at \*13 (May 19, 2015). Those factors include "the egregiousness of the [respondent's] actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the [respondent's] assurances against future violations, the [respondent's] recognition of the wrongful nature of his conduct, and the likelihood that the [respondent's] occupation will present opportunities for future violations." Id. at \*13-14 (citing Steadman, 603 F.2d at 1140); see also, SEC v. First City Fin. Corp., 890 F.2d 1215, 1228 (D.C. Cir. 1989) (noting that "no single factor is determinative").

In his plea agreement, Galemmo admitted to perpetrating and concealing his fraudulent scheme well after July 21, 2010. For example, to persuade investors to invest with him, Galemmo distributed promotional materials to prospective investors that reported false returns for each year through 2012. Ex. A at 11. Galemmo also admitted to sending communications to investors and prospective investors in 2011 that misrepresented the state of the fund. Id. at 11-12. In addition, after July 2010, Galemmo raised at least \$1.5 million from at least eight investors and used

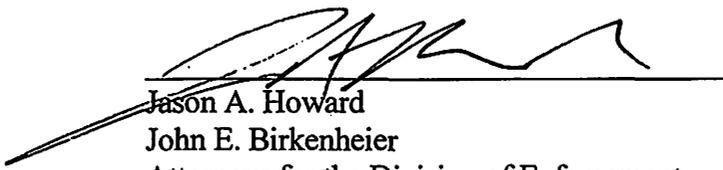
investor proceeds to pay other investors. Id. at 12-13. As late as April 2013, Galemmo distributed fraudulent account statements to investors that reported fake account values. Id. at 13.

Galemmo's post-Dodd-Frank conduct warrants an industry-wide bar. First, Galemmo's scheme was egregious, as he repeatedly lied to and deceived investors and prospective investors and misappropriated investor assets. Second, Galemmo ran his fraudulent scheme for nearly ten years, continually deceiving existing investors about their returns and luring new investors to prop up his scheme. Third, Galemmo's admission to guilt came months after his scheme was exposed and as he was facing a severe criminal sentence. Such self-serving statements should not factor into the Commission's analysis of the appropriateness of Galemmo's sanction.

### III. CONCLUSION

For the reasons set forth herein, the Commission should not vacate the NRSRO and municipal advisor bars entered against Galemmo in the Order.

Respectfully submitted,



Jason A. Howard  
John E. Birkenheier  
Attorneys for the Division of Enforcement  
U.S. Securities and Exchange Commission  
175 W. Jackson Blvd., Suite 900  
Chicago, Illinois 60604  
Telephone: (312) 353-7390  
Facsimile: (312) 353-7398

Dated: February 24, 2017

# EXHIBIT A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

RECEIVED  
13 DEC 17 10:10:00  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,

v.

GLEN GALEMMO,  
Defendant.

: CASE NO. \_\_\_\_\_  
: **1113CR - 141**  
: **J. WEBER**  
: PLEA AGREEMENT  
:  
:

The United States Attorney for the Southern District of Ohio and the defendant, individually and through counsel, pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure, agree as follows:

1. **Offense of Conviction:** The Defendant agrees to waive indictment and plead guilty to the information currently pending against him, which charges him with Wire Fraud (Count One), in violation of 18 U.S.C. § 1343 and Money Laundering (Count Two), in violation of 18 U.S.C. § 1956. The Defendant admits that he is, in fact, guilty of these offenses and will so advise the Court.

The United States Attorney for the Southern District of Ohio will not further prosecute the Defendant for the conduct described in the Information and attached Statement of Facts.

2. **Elements of the Offense:** The elements of the offense to which the Defendant has agreed to plead guilty, and which the United States Attorney's Office (USAO) would prove if the case went to trial, are as follows:

**Count One (Wire Fraud)**

- a. That the Defendant devised a scheme to defraud in order to obtain money or property, that is to defraud investors to obtain money and property by means of false and fraudulent pretenses, representations, and promises;
- b. That the scheme included a material misrepresentation or concealment of a material fact;
- c. That the Defendant had the intent to defraud;
- d. That the Defendant used or caused another to use wire, radio or television

communications in interstate commerce in furtherance of the scheme; and

- e. That some or all of the acts alleged in the Information occurred in the Southern District of Ohio, on or about the dates alleged in the Information.

**Count Two (Money Laundering)**

- a. That the Defendant conducted a financial transaction;
- b. That the financial transaction involved property that represented the proceeds of wire fraud in violation of 18 U.S.C. § 1343;
- c. That the Defendant knew that the property involved in the financial transaction represented the proceeds of some form of unlawful activity; and
- d. That the Defendant knew that the transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership, control of the proceeds of said specified unlawful activity; and
- e. That some or all of the acts alleged in the Information occurred in the Southern District of Ohio, on or about the dates alleged in the Information.

3. **Penalties:** The maximum sentence is as follows:

- a. *Count One:* Not more than twenty years imprisonment, a fine not to exceed \$250,000 or, more than the greater of twice the gross gain by the defendant or twice the gross loss to another, and a term of supervised release not longer than three (3) years;
- b. *Count Two:* Not more than twenty years imprisonment, a fine not to exceed the greater of either \$500,000 or twice the value of the property involved in the transaction, and a term of supervised release not longer than three (3) years;
- c. Additional imprisonment if the Defendant violates the conditions of his supervised release;
- d. Restitution and forfeiture; and
- e. A mandatory special assessment of \$200, due prior to sentencing.

4. **Waiver of Rights:** The Defendant understands that by entering into this agreement, he surrenders certain rights, among others, as outlined below:

- a. To be represented by an attorney at every stage of the proceeding, and that, if necessary, one will be appointed to represent him;

- b. To plead not guilty and to be tried by a jury;
- c. To be assisted by counsel during such trial;
- d. To confront and cross-examine adverse witnesses;
- e. To compel witnesses for the defense;
- f. Not to be compelled to testify;
- g. To be presumed innocent throughout trial and until a jury finds proof of guilt beyond a reasonable doubt; and
- h. To appeal the jury's verdict and the Court's decisions regarding the admissibility of evidence.

By pleading guilty, the Defendant understands that he will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status if the he is not a United States citizen.

- 5. **Waiver of Defenses:** The Defendant waives all defenses based on the statute of limitations and the Speedy Trial Act as to any charges that are not time-barred as of the date that Defendant signs this agreement.
- 6. **Use of Statements:** The Defendant waives any protection afforded by Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, and § 1B1.8(a) of the United States Sentencing Guidelines Manual. Any statements made by Defendant in the course of plea discussions, in any proceeding under Rule 11 of the Federal Rules of Criminal Procedure, and during any cooperation with law enforcement authorities will be admissible against Defendant without limitation in any civil or criminal proceeding.
- 7. **Applicability of Advisory Sentencing Guidelines:** The Defendant understands that the sentence in this case will be imposed by the Court. In determining an appropriate sentence, the Court will consider the factors outlined in 18 U.S.C. § 3553(a), along with the applicable advisory, sentencing range under the United States Sentencing Guidelines ("U.S.S.G.").
- 8. **Factual and Advisory Guidelines Stipulation:** The parties agree to the Statement of Facts set forth in Attachment A, and incorporate them here by reference, and to the following advisory sentencing guideline factors:
  - a. *Count One:* Wire Fraud, in violation of 18 U.S.C. § 1343.

- i. Pursuant to U.S.S.G. § 2B1.1(a)(1), the base offense level is 7, because the statutory maximum sentence for wire fraud is 20 or more years.
  - ii. Pursuant to U.S.S.G. § 2B1.1(b)(1)(K), 20 levels are added because the loss to investors exceeded \$7,000,000, but was less than \$20,000,000.
  - iii. Pursuant to U.S.S.G. § 2B1.1(b)(2)(B), 4 levels are added because the offense involved more than 50 victims but less than 250 victims.
  - iv. The government contends that pursuant to U.S.S.G. § 2B1.1(b)(18), 4 levels are added because the offense involved a violation of securities and/or commodities law and at the time of the offense the defendant was a registered broker or dealer or a person associated with a registered broker or dealer, and/or the defendant was a commodity pool operator. The final offense level for Count I is 35 (government's position) or 31 (the defendant's position).
- b. *Count Two: Money Laundering*, in violation of 18 U.S.C. § 1956(a)(1).
- i. Pursuant to U.S.S.G. § 2S1.1(a)(1), the base offense level is the offense level from Count I.
  - ii. Pursuant to U.S.S.G. § 2S1.1(b)(2)(B), 2 levels are added because Count Two is a violation of 18 U.S.C. § 1956, bringing the final offense level for Count II to 37 (government's position) or 33 (the defendant's position).
- c. *Grouping*: Pursuant to U.S.S.G. § 3D1.2(d), Counts One and Two group and the combined offense level becomes 37 (government's position) or 33 (the defendant's position).
- d. The USAO does not oppose a 2 level reduction in offense level pursuant to U.S.S.G. § 3E1.1 based upon the Defendant's acceptance of responsibility, provided that the Defendant's conduct continues to demonstrate compliance with the terms of § 3E1.1.
- e. The USAO agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional 1 level decrease in recognition of the Defendant's timely notification of his intention to plead guilty. However, the USAO reserves the right to oppose any adjustment for acceptance of responsibility at sentencing if the Defendant: (1) gives conflicting statements about his involvement in the offense; (2) is untruthful with the Court, this Office, or the United States Probation Office; (3) obstructs justice prior to sentencing; (4) engages in any criminal conduct between the date of this agreement and the date of

sentencing; or (5) attempts to withdraw his plea of guilty. The final offense level is 34 (government's position) or 30 (the defendant's position).

- f. There is no agreement as to the Defendant's criminal history or criminal history category, and the Defendant understands that his criminal history could affect his advisory sentencing guideline range.
9. **Waiver of Appeal:** The Defendant waives the right to appeal the sentence imposed, including the right conferred by 18 U.S.C. § 3742(a), except that the Defendant reserves the right to appeal a sentence of imprisonment that exceeds 188 months. This waiver shall not be construed to bar a claim by the Defendant of ineffective assistance of counsel or prosecutorial misconduct. The government reserves the right to appeal a sentence of imprisonment below 97 months.
  10. **Freedom of Information Act:** The Defendant waives all rights under the Freedom of Information Act relating to the investigation and prosecution of him and agrees not to file any request for documents.
  11. **Forfeiture:** The Defendant agrees to forfeit to the United States of America the property listed below pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) as proceeds of wire fraud and/or 18 U.S.C. § 982(a)(1) property involved in money laundering. The Defendant further agrees to waive all legal and equitable defenses to the forfeiture of the property listed below (hereinafter "the subject property") and agrees not to challenge the forfeiture in any manner:
    - a. Real property known and numbered as 2230 Park Avenue, Cincinnati, Hamilton County, Ohio 45206 with all appurtenances, improvements, and attachments thereon;
    - b. The Contents of US Bank Account x5618 in the name of Queen City Investment Fund II ("US Bank x5618") in the amount of Four Hundred Thirteen Dollars and Ninety-Eight Cents (\$413.98);
    - c. The Contents of US Bank Account x8448, in the name of Queen City Holdings, LLC, ("US Bank x8448"), in the amount of Three Hundred Fifty-Two Dollars and Sixty-Four Cents (\$352.64);
    - d. The Contents of US Bank Account x4670, in the name of QFC, LLC, ("US Bank x4670") in the amount of Four Hundred Twenty-four Thousand Two Hundred Thirty-eight Dollars and Three Cents (\$424,238.03);

- e. The Contents of Keybank Account x5922, in the name of Glen and Kristine Galemmo, ("Keybank x5922") in the amount of Thirty-Six Thousand Fifty-Nine Dollars and Twenty Cents (\$36,059.20);<sup>1</sup>
- f. The Contents of Dorman Trading Account x633, in the name of QFC, LLC, ("Dorman x633") in the amount of Ten Thousand Seven Hundred Seventy-Two Dollars and Thirty-Six Cents (\$10,772.36);
- g. The Contents of Dorman Trading Account x695, in the name of QFC, LLC, ("Dorman x695") in the amount of Five Thousand Dollars (\$5,000.00);
- h. The Contents of Dorman Trading Account x696, in the name of QFC, LLC, ("Dorman x696") in the amount of One Hundred Ninety-Two Thousand Four Hundred Fifty Dollars and Twenty-Five Cents (\$192,450.25);
- i. The Contents of Interactive Brokers, LLC Account x016, in the name of QFC, LLC, ("Interactive x016") in the amount of Five Hundred Fourteen Thousand One Hundred Seventy-Six Dollars and Sixty-Five Cents (\$ 514,176.65);
- j. The Contents of Interactive Brokers, LLC Account x438, in the name of QFC, LLC, ("Interactive x438") in the amount of One Thousand Seven Hundred Sixty Six Dollars and Thirty-Five Cents (\$1,766.35);
- k. Real property known and numbered as 1849 Madison Avenue, Cincinnati, Hamilton County, Ohio 45206 with all appurtenances, improvements, and attachments thereon;
- l. Real property known and numbered as 6000 Royal Marco Way, Unit 454, Marco Island, Florida 34145 with all appurtenances, improvements, and attachments thereon;
- m. The Contents of Key Bank Account X5628 in the name of QC Power Strategies Fund, LLC ("Key Bank X5628") in the amount of Four Hundred Forty Thousand Three Hundred Seventy Dollars and Seventy-Eight Cents (\$440,370.78);
- n. A 2007 GMC Yukon XL, VIN 1GKFK66897J236949, titled to Kristine Galemmo;

---

<sup>1</sup> The Defendant's agreement to forfeit his interest in the Contents of Key Bank Account x5922, does not preclude Kristine Galemmo from asserting a claim in the account based upon her own interest in the account.

- o. A 2007 GMC Acadia, VIN 1GKER23787J159616, titled to Kristine Galemmo;
- p. A 2004 Nissan 350Z, VIN JN1AZ36A04M251517, titled to Jones-Morris Group, LLC;
- q. A 2012 Audi A8, VIN WAURVAFD1CN017564, titled to QFC, LLC;
- r. A 2013 Toyota Highlander, VIN 5TDDK3EH2DS194089, titled to Kristine Galemmo;
- s. The Contents of First Citizens Bank Account X1609 in the name of Kristine Galemmo in the amount of One Hundred Two Thousand Twenty-Six Dollars and Ninety-Two Cents (\$102,026.92); and
- t. The Contents of First Citizens Bank Account X3209 in the name of Kristine Galemmo in the amount of Twelve Thousand Three Dollars and Two Cents (\$12,003.02).

The Defendant agrees to assist the United States to resolve in its favor any claims by another individual to the subject property. The Defendant agrees to take all necessary steps to pass clear title to the subject property to the United States, and to testify truthfully in any forfeiture proceeding. The defendant agrees not to contest the administrative or judicial forfeiture of the subject property and to consent to the entry of judgments and orders of forfeiture of the subject property.

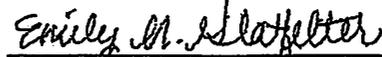
12. **Restitution:** The Defendant agrees to pay restitution in an amount to be determined by the Court. The Defendant acknowledges that the Court shall determine a monthly payment schedule. Such payments will be completed within the period of his supervised release. In the event the Defendant is unable to pay completely the total amount of restitution owed prior to termination of the supervised release period, he agrees to make regular monthly payments toward such liability in an amount to be determined by the Court. Such amount will be set in accordance with the Defendant's financial ability.
13. **Tax Liability:** The Defendant agrees that nothing in this agreement forecloses or limits the ability of the IRS to examine and make adjustments to any return filed pursuant to this agreement, and that the defendant will not, after filing the returns, file any claim for refund of taxes, penalties or interest for amounts attributable to the returns filed in connection with this plea agreement. The Defendant further agrees:
- a. to file with the IRS complete and accurate amended U.S. Individual Income tax returns (defendant's personal returns) for all previously-filed incomplete or inaccurate tax returns, including the 2011 tax year and periods up to the

date of sentencing;

- b. to fully cooperate with the IRS in order to determine and calculate all taxes, interest, and penalties due and owing by the defendant to the United States, including but not limited to making defendant's books and records available, and providing supporting documentation to the IRS for examination and copying upon reasonable request;
  - c. to pay to the IRS all taxes, penalties, and interest due and owing by the defendant to the United States, including but not limited to all taxes, penalties, and interest owed on all returns filed pursuant to this plea agreement, or, if financially unable to do so, make repayment arrangements which are satisfactory to the IRS;
  - d. to comply with the tax laws of the United States; and
  - e. to allow the contents of any criminal file maintained by this office or IRS Criminal Investigation to be given to the IRS Examination and Collection Divisions in order to investigate any and all civil taxes and penalties that may be due and owing by defendant. With respect to disclosure of the criminal file, the defendant waives any rights under 26 U.S.C. § 7213, and any other right of privacy with respect to the Defendant's tax returns and return information.
14. **Court Not A Party:** The Defendant understands that the Court is not a party to this agreement and it is within the sole discretion of the Court to impose the sentence in this case. The Defendant further understands that the Court is not obligated to accept the parties' sentencing guidelines stipulation and may impose a sentence up to the statutory maximum sentence stated above. The Defendant understands that if the Court imposes a sentence up to the statutory maximum, the Defendant cannot, for that reason alone, withdraw his guilty plea, and will remain bound by this agreement.
15. **Violation of Plea Agreement:** The Defendant understands that in the event he breaches this agreement:
- a. The Defendant shall not have the right to withdraw the guilty plea; and
  - b. The USAO will be relieved of all of its obligations under this agreement and may institute or maintain any charges or sentencing recommendations that would otherwise be prohibited by this agreement.
16. **Entire Agreement:** There are no agreements, understandings or promises between the parties other than those contained in this agreement.

Respectfully submitted,

CARTER M. STEWART  
United States Attorney



EMILY N. GLATFELTER (0075576)  
Assistant United States Attorney  
221 East Fourth Street  
Suite 400  
Cincinnati, Ohio 45202

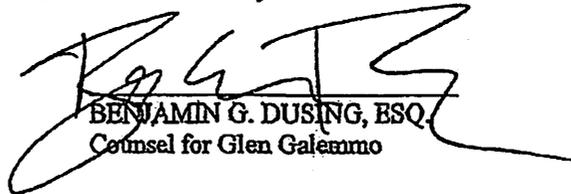
I have read this agreement and carefully reviewed every part of it with my attorney. I understand it, I voluntarily agree to it, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

12/15/13  
Date

  
GLEN GALEMMO  
Defendant

I am Glen Galemmo's attorney. I have carefully reviewed every part of this agreement with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

1/16/13  
Date

  
BENJAMIN G. DUSING, ESQ.  
Counsel for Glen Galemmo

**ATTACHMENT A:  
STATEMENT OF FACTS**

*The United States and Defendant Glen Galemmo stipulate and agree that if this case proceeded to trial, the United States would prove the facts set forth below beyond a reasonable doubt. They further stipulate and agree that these are not all of the facts that the United States would prove if this case had proceeded to trial.*

At some point prior to 2005, through July 17, 2013, in the Southern District of Ohio and elsewhere, the defendant, **GLEN GALEMMO** ("**GALEMMO**"), perpetrated a scheme to defraud his investors by soliciting millions of dollars under false pretenses, failing to invest investor's funds as promised, and misappropriating and converting investors' funds to **GALEMMO**'s own benefit without the knowledge or authorization of the investors, using interstate wire communications to execute the scheme to defraud.

The defendant, **GALEMMO** is the sole owner and operator of Queen City Investments a/k/a Queen City Investment Fund II, LLC a/k/a Queen City Holdings, LLC a/k/a Queen City Hedge Fund, LLC a/k/a QFC, LLC (hereinafter "**Queen City Investments**"), which had its principal place of business in Cincinnati, Ohio. **GALEMMO** also formed with others or caused to be formed the following entities between 2011 and 2013: Sentinel Strategy Fund, LTD; Sentinel Holdings Property, LLC; Sentinel Blackbox, LLC; Jones-Morris Group, LLC; Vasuda Fund; Vasuda Advisors, LLC; PSIS, LLC; QC Power Strategies Fund Sweep Account, LLC; Glen Rock, LLC; QC Power Strategies Fund, LLC and; QC Power Strategies Fund II, LLC. In addition to owning and operating several investment businesses, **GALEMMO**, operated Midwest Hoops Sports Complex in Florence, Kentucky and Midwest Sportsplus, LLC in Cincinnati, Ohio, both of which are sports entertainment complexes.

Since at least 2003, **GALEMMO** has marketed himself as someone experienced in the financial services industry, licensed as a Series 7, General Securities representative, Series 8, General Securities Sale Supervisor, Series 24, General Securities Principal, Series 63 and Uniform State Agent with the National Association of Securities Dealers.

From at least 2003 through July 17, 2013, **GALEMMO** operated a hedge fund and offered various investment opportunities to clients in the Southern District of Ohio and elsewhere. For example, **GALEMMO** offered clients the opportunity to invest in his hedge fund and to roll over their retirement accounts for him to manage. In addition, **GALEMMO** offered a small number of clients the opportunity to take advantage of short-term investment opportunities in the form of short-term loans.

**GALEMMO** solicited prospective clients to invest with him based upon his promise to invest client funds in a private equity fund, whose flexibility allowed for greater investment opportunities and was capable of "going short" to provide higher protection from losses. **GALEMMO** often provided a "confidential business overview," an "offering memorandum"

and a "subscription agreement" to potential clients outlining the investment strategy of Queen City Investments. In reality, these strategies were meaningless because GALEMMO invested only a small amount of the money that he received from clients, using the vast majority of the money to pay investors and his own personal expenses.

To persuade individuals to invest with him, GALEMMO provided promotional materials to potential investors. These promotion materials falsely stated that the percentage of returns for Queen City Investments was 17.15% in 2008, 32.35% in 2009, 40.81% in 2010, 30.12% in 2011, and 32.64% in 2012. The promotional materials further compared Queen City Investment's performance to the S & P 500 reported gains in these same years, -38.49% in 2008, 23.45% in 2009, 12.78% in 2010, 0% in 2011 and 12.31% in 2012, falsely representing that Queen City Investment's returns for the same period was much higher. Some promotional materials also noted that the "[f]und was established in 2001 and has averaged over 30% returns over the past 7 years." GALEMMO knew these representations were false, because among other things, he failed to invest clients' money as promised. Notwithstanding his promises to the contrary, GALEMMO operated a fraudulent investment scheme in which GALEMMO used clients' money to pay other investors and to pay his own personal expenses, rather than invest the funds as promised.

The materials that GALEMMO provided to investors and potential investors falsely represented that the fund was routinely audited. For example, the "confidential business overview" that GALEMMO provided to potential investors listed a specific audit firm used by the fund, when in fact, the audit firm had not audited the company since 2003 and GALEMMO had no continuing relationship with the audit firm. In addition, the operating agreement that GALEMMO provided to investors falsely indicated that investors would receive annual, financial statements that had been independently audited.

GALEMMO falsely told investors and potential investors that their funds were invested in stocks, bonds, futures, and commodities. From time to time, GALEMMO even falsely identified specific stocks that the fund had bought and/or sold. For example, in February 2010, GALEMMO sent an email to his clients to provide "a quick synopsis of why we had such a high return in January." The email falsely stated that "65-70% of our positions in these 5 stocks from the previous year were sold in early January (for tax purposes). Haliburton HAL, Teva Pharmaceutical Industries TEVA, Apple AAPL, Goldman Sachs GS, Amazon.com AMZN. Those large gains were then credited for January 2010 along with the outside PUT position in Goldman Sachs and the outright short position on Amazon.com. Those were the biggest contributing factors in the high return." In reality, GALEMMO had not invested in or sold any of these stocks and did not have any trading accounts at this time. The "high return" in January 2010 was completely fictitious.

Likewise, on or about August 8, 2011, in the Southern District of Ohio, the defendant, GLEN GALEMMO, did knowingly transmit and caused to be transmitted in interstate commerce an email communication to investors falsely representing that the fund was "fine" despite the current market status, explaining that he sold 10% of "our positions" and that "the fund was protected by our long position in the vix index," when, in fact, the fund was actually

depleted and GALEMMO had invested virtually none of the investor money that he had received.

GALEMMO sent updates to his clients via email or mail regarding their investments. These communications persuaded clients to continue investing with GALEMMO by falsely representing that the fund was performing well. For example, in March 2011, to assuage fears concerning the market's volatility, and to encourage clients to continue investing, GALEMMO emailed his clients that "[d]espite the recent events around the world, we have held strong and steady. The fund is positioned for the current downturn. . . . Through these turbulent times, the fund will be managed very conservatively to avoid any major draw downs on fund performance." Contrary to GALEMMO's email, the fund was underwater and contained virtually no money. Furthermore, GALEMMO did not have any trading accounts open at this time.

GALEMMO created a business environment to generate the impression of a legitimate investment business in which client funds were actively invested as promised to conceal the fact that no such business was being conducted. For example, in 2012, GALEMMO purchased 2230 Park Avenue, Cincinnati, Ohio and moved his business operations to that location. Investor money was used to renovate the business and furnish the office. GALEMMO outfitted his office with over ten (10) large computer screens to give investors the impression that he was constantly monitoring the market. GALEMMO also created fictitious trading account statements from Goldman Sachs and Lightspeed Trading, which showed account balances of \$100,462,491.26 and \$83,652,314.26, respectively. GALEMMO maintained these statements in his office and these statements were shown to investors. In truth and fact, the Goldman Sachs and Lightspeed Trading account statements were completely fictitious, as Queen City Investments did not even have trading accounts open with these companies for the time period covered by the statements.

From 2006 to July 2013, GALEMMO received approximately \$87 million cumulatively from individual investors, trusts, charitable organizations, and retirement accounts. During this time period, GALEMMO also received approximately \$29 million from some of these investors in the form of short term loans. GALEMMO received these funds through interstate wire transfers and through mailings delivered by the United States Postal Service. The vast majority of these funds were never invested in anything. Rather, the funds were paid to other investors in the form of principle and/or interest payments or spent by GALEMMO to finance other businesses or pay for personal expenses.

For example, Investor A invested in GALEMMO's hedge fund and opened an IRA account with GALEMMO. In or about late April 2012, Investor A requested a withdrawal from GALEMMO of a portion of the money that Investor A had invested with GALEMMO. The request was for \$1,500,000. GALEMMO did not have the \$1,500,000 that Investor A had requested. Between April 30, 2012 and May 1, 2012 (both dates being approximate), GALEMMO received deposits from eight (8) other investors, totaling \$1,500,000. The deposits were deposited into the QFC, LLC account X4670. On or about May 1, 2012, GALEMMO then caused \$1,300,000 to be wired from QFC, LLC account X4670 to Investor A and \$30,000 to be

wired to Investor B. A day later, after depositing additional funds into the QFC, LLC account X4670 (approximately \$150,000 from another investor), GALEMMO caused an additional \$200,000 to be wired to Investor A, totaling the \$1,500,000 that Investor A had requested to withdraw from the fund. When GALEMMO caused the \$1,500,000 to be wired to Investor A, he knew that the money he was wiring were deposits from other investors, that is proceeds of his illegal investment scheme. GALEMMO wired the \$1,500,000 with the intent to conceal or disguise the nature and source of the funds being wired to Investor A.

To induce investors to continue to invest with him, GALEMMO mailed or emailed monthly statements to investors purporting to show clients their account balances. To create the monthly statements, each client's principal investment balance was merely multiplied by a fictitious percentage of return, consistent with the returns that GALEMMO had promised to his clients. The statements were false, showing positive account balances and fictitious earnings, when in fact, the money had not been invested as promised. For example, GALEMMO issued account statements for approximately 260 different investment accounts for the month of April 2013 reporting that these accounts held a total of approximately \$109 million. In fact, Queen City Investments held only a small fraction of that balance on behalf of clients. Based upon these fictitious earnings reported in the fraudulent statements, the investors continued to invest more with GALEMMO and referred other investors to GALEMMO. GALEMMO also caused Schedule K-1's to be issued to investors for tax purposes, which reported fictitious gains. Investors relied on these documents to file their tax returns and paid taxes on the fictitious gains reported to them.

In addition, GALEMMO persuaded some investors to roll over their IRAs or 401K accounts (hereinafter "retirement accounts") to Queen City Investments through an IRA custodian firm such as Millennium Trust Company or Pensco Trust Company. Investors sent funds to Millennium and Pensco to deposit into their retirement accounts and Millennium and Pensco then passed the funds onto GALEMMO to invest. GALEMMO then provided information about the retirement account balances to Millennium and Pensco, which Millennium and Pensco relied upon to issue quarterly statements to investors. The account balance information that GALEMMO provided to Millennium and Pensco, and which they relied upon to issue quarterly statements to investors, was false. These fraudulent quarterly statements lulled investors into a false sense of security that their retirement accounts were safe and earning profits under GALEMMO, encouraging them to continue investing with GALEMMO.

Besides using investor money to pay other investors, GALEMMO used investor money to pay for the mortgage on his home, to purchase his office building and vacation condominium, to purchase vehicles for himself and family members, to pay for expenses incurred by the sports complexes he operated, private school tuition for his children, and assorted personal expenses directly out of the Queen City Investments bank accounts.

GALEMMO's investment scheme involved more than 50 victims but less than 250 victims. The loss amount resulting from GALEMMO's investment scheme exceeded \$7,000,000 but was less than \$20,000,000.

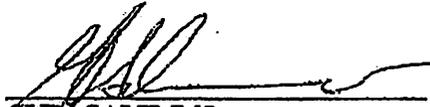
Proceeds from the investment scheme, that is investor money, was used to purchase the following property or fund the following accounts, which the defendant agrees are subject to forfeiture:

- a. Real property known and numbered as 2230 Park Avenue, Cincinnati, Hamilton County, Ohio 45206 with all appurtenances, improvements, and attachments thereon;
- b. The Contents of US Bank Account x5618 in the name of Queen City Investment Fund II ("US Bank x5618") in the amount of Four Hundred Thirteen Dollars and Ninety-Eight Cents (\$413.98);
- c. The Contents of US Bank Account x8448, in the name of Queen City Holdings, LLC, ("US Bank x8448"), in the amount of Three Hundred Fifty-Two Dollars and Sixty-Four Cents (\$352.64);
- d. The Contents of US Bank Account x4670, in the name of QFC, LLC, ("US Bank x4670") in the amount of Four Hundred Twenty-four Thousand Two Hundred Thirty-eight Dollars and Three Cents (\$424,238.03);
- e. The Contents of Keybank Account x5922, in the name of Glen and Kristine Galemno, ("Keybank x5922") in the amount of Thirty-Six Thousand Fifty-Nine Dollars and Twenty Cents (\$36,059.20);
- f. The Contents of Dorman Trading Account x633, in the name of QFC, LLC, ("Dorman x633") in the amount of Ten Thousand Seven Hundred Seventy-Two Dollars and Thirty-Six Cents (\$10,772.36);
- g. The Contents of Dorman Trading Account x695, in the name of QFC, LLC, ("Dorman x695") in the amount of Five Thousand Dollars (\$5,000.00);
- h. The Contents of Dorman Trading Account x696, in the name of QFC, LLC, ("Dorman x696") in the amount of One Hundred Ninety-Two Thousand Four Hundred Fifty Dollars and Twenty-Five Cents (\$192,450.25);
- i. The Contents of Interactive Brokers, LLC Account x016, in the name of QFC, LLC, ("Interactive x016") in the amount of Five Hundred Fourteen Thousand One Hundred Seventy-Six Dollars and Sixty-Five Cents (\$514,176.65);
- j. The Contents of Interactive Brokers, LLC Account x438, in the name of QFC, LLC, ("Interactive x438") in the amount of One Thousand Seven Hundred Sixty Six Dollars and Thirty-Five Cents (\$1,766.35);

- k. Real property known and numbered as 1849 Madison Avenue, Cincinnati, Hamilton County, Ohio 45206 with all appurtenances, improvements, and attachments thereon;
- l. Real property known and numbered as 6000 Royal Marco Way, Unit 454, Marco Island, Florida 34145 with all appurtenances, improvements, and attachments thereon;
- m. The Contents of Key Bank Account X5628 in the name of QC Power Strategies Fund, LLC ("Key Bank X5628") in the amount of Four Hundred Forty Thousand Three Hundred Seventy Dollars and Seventy-Eight Cents (\$440,370.78);
- n. A 2007 GMC Yukon XL, VIN 1GKFK66897J236949, titled to Kristine Galemmo;
- o. A 2007 GMC Acadia, VIN 1GKER23787J159616, titled to Kristine Galemmo;
- p. A 2004 Nissan 350Z, VIN JN1AZ36A04M251517, titled to Jones-Morris Group, LLC;
- q. A 2012 Audi A8, VIN WAURVAFD1CN017564, titled to QFC, LLC;
- r. A 2013 Toyota Highlander, VIN 5TDDK3EH2DS194089, titled to Kristine Galemmo;
- s. The Contents of First Citizens Bank Account X1609 in the name of Kristine Galemmo in the amount of One Hundred Two Thousand Twenty-Six Dollars and Ninety-Two Cents (\$102,026.92); and
- t. The Contents of First Citizens Bank Account X3209 in the name of Kristine Galemmo in the amount of Twelve Thousand Three Dollars and Two Cents (\$12,003.02).

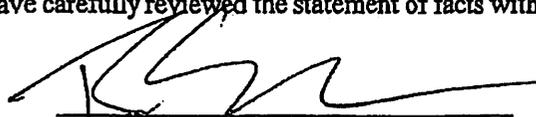
I have read the statement of facts, and have carefully reviewed it with my attorney. I acknowledge that it is true and correct.

12/15/13  
Date

  
\_\_\_\_\_  
GLEN GALEMMO  
Defendant

I am Glen Galemno's attorney. I have carefully reviewed the statement of facts with him.

1/16/13  
Date

  
BENJAMIN G. DUSING, ESQ.  
Counsel for GLEN GALEMMO

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

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16359**

**In the Matter of**

**Glen Allan Galemmo,**

**Respondent.**

**CERTIFICATE OF SERVICE**

Jason A. Howard, an attorney for the Division of Enforcement, hereby certifies that on February 24, 2017, he caused true and correct copies of the foregoing Brief in Opposition to Respondent's Request to Vacate Certain Remedial Sanctions to be served on the following:

**Honorable Brenda P. Murray**  
Chief Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-2557  
*(via UPS and by facsimile to 202-777-1031)*

**Mr. Brent J. Fields**  
Office of the Secretary  
U.S. Securities and Exchange Commission  
100 F. Street, N.E.  
Room 10915, Mail Stop 1090  
Washington, DC 20549-1106  
*(via UPS and by facsimile to 202-772-9324)*

**Benjamin G. Dusing**  
BGD Law  
50 East Rivercenter, Suite 820  
Covington, Kentucky 41011  
*Attorney for Respondent, Glen Allan Galemmo*  
*(via UPS and by e-mail to [bdusing@bgdlaw.com](mailto:bdusing@bgdlaw.com))*

Respectfully submitted,

Dated: February 24, 2017

  
Jason A. Howard