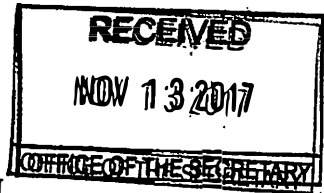


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UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



**ADMINISTRATIVE PROCEEDING  
FILE NO. 3-18250**

In the Matter of	)	
MARK MEGALLI,	)	
Respondent.	)	<b>RESPONDENT MARK MEGALLI'S ANSWER TO ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS</b>

Respondent Mark Megalli (“Respondent” or “Mr. Megalli”), by and through his undersigned attorneys, and pursuant to Rule 220 of the Securities and Exchange Commission’s (the “Commission”) Rules of Practice, hereby responds to the Commission’s Order Instituting Administrative Proceedings (the “Order”) as follows:

I.

The statements in section I of the Order are not allegations that require a response.

II.

A. RESPONDENT

1. The first sentence of paragraph II.A.1 of the Order is denied. Mr. Megalli has never served as a registered representative of any firm. The second sentence of this paragraph is admitted insofar as Mr. Megalli was an employee of Level Global Investors, L.P. (“Level Global”) from approximately August 2009 through approximately March 2011, not November 2011, as alleged in the Order. The third sentence of this paragraph is denied. The time period of Mr. Megalli’s securities law violations is from October 23, 2009, through July 19, 2010 (the date of the last trade in issue). Mr. Megalli was employed by Level Global during this time period, but Level Global was solely and exclusively an investment adviser.

B. ENTRY OF JUDGMENT

1. Respondent admits that the district court entered final judgment against him on December 17, 2015 (not December 15, 2015, as alleged in the Order) in the Commission's civil action, captioned *Securities and Exchange Commission v. Megalli*, No. 1:13-CV-3783-AT, in the United States District Court for the Northern District of Georgia (hereinafter, the "Civil Action"). Respondent states further that the judgment is a matter of public record and speaks for itself with regard to the details of the district court's judgment, which Mr. Megalli did not appeal.

2. With respect to the first through fifth sentences of paragraph II.B.2 of the Order, Respondent admits that, between October 23, 2009 and July 10, 2010, he traded securities of Carter's Inc. ("Carter's") on behalf of Level Global based in part on material, non-public information related to Carter's that he had received from Eric Martin ("Martin"), a former Carter's employee, that he did so knowing or consciously avoiding knowledge of the fact that such material, non-public information had been disclosed to Martin in breach of duty of trust or confidence owed to Carter's by a Carter's insider (that the Commission could prove was Richard Posey), and that such trading generated profits and avoided losses of approximately \$2.6 million solely to Level Global, not to the Respondent individually. All other factual allegations of the first through fifth sentences of paragraph II.B.2 of the Order are denied to the extent they are inconsistent with the facts established in relation to the Commission's Civil Action or in connection with the parallel criminal action against the Respondent, styled *United States v. Megalli*, No. 1:13-CR-422-RWS, and the Respondent's subsequent collateral attack on his conviction, styled *Megalli v. United States*, No. 1:15-CV-1433-RWS-AJB (collectively, the "Criminal Actions"). (Both the criminal action and habeas proceeding were filed and adjudicated

in the United States District Court for the Northern District of Georgia.) With regard to the last sentence of paragraph II.B.2 of the Order, Respondent states that, in response to the Order, he is not contesting his liability for insider trading, and that the entry of final judgment against Respondent in the Civil Action, which he never appealed, speaks for itself in relation to his violation of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.

III.

The statements in section III of the Order are not allegations that require a response.

IV.

The orders and other procedural contentions in section IV of the Order are not allegations that require a response.

Respondent denies each and every allegation of the Order not herein admitted, qualified, or denied. Respondent otherwise reserves the right to amend this Answer in light of further factual and legal developments that post-date this Answer, or as justice so requires.

For his affirmative defenses to the Order, Respondent states as follows:

AFFIRMATIVE DEFENSES

First Affirmative Defense

The relief sought by the Commission is barred by the doctrines of estoppel, laches, waiver, ratification, acquiescence, and/or the applicable statute of limitations.

Second Affirmative Defense

The allegations of the Order fail to state a claim upon which the Commission can take any remedial action.

Third Affirmative Defense

The relief sought by the Commission is punitive, and the Commission lacks statutory authority to order further punitive relief beyond the punishment already entered against Respondent in the Civil and Criminal Actions.

Fourth Affirmative Defense

The relief sought by the Commission is punitive, and entry of further punitive relief beyond the punishment already entered against Respondent in the Civil and Criminal Actions would be illegally disproportional to the Respondent's violations.

Fifth Affirmative Defense

The Commission lacks statutory authority to enter a collateral bar.

Respondent reserves the right to amend these affirmative defenses in light of future factual and legal developments that post-date this Answer, or as justice so requires.

Dated: November 6, 2017

Respectfully submitted,



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*Attorneys for Respondent Mark Megalli*

**CERTIFICATE OF SERVICE**


The undersigned hereby certifies that on this date a true and correct copy of the foregoing document was delivered to the following via facsimile and by depositing it in the U.S. mail, first class postage prepaid:

Office of the Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549  
Mailstop 1090  
Attn: Secretary of the Commission Brent J. Fields  
703.813.9793 (fax)

A true and correct copy of the foregoing document was delivered to the following via facsimile, via email and by depositing it in the U.S. mail, first class postage prepaid:

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U.S. Securities and Exchange Commission  
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Atlanta, GA 30326  
404.842.7679 (fax)  
huddlestonp@sec.gov

Dated: November 6, 2017

By:   
\_\_\_\_\_  
Paul N. Monnin