

**COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE SECRETARY OF THE COMMONWEALTH  
SECURITIES DIVISION  
ONE ASHBURTON PLACE, ROOM 1701  
BOSTON, MASSACHUSETTS 02108**

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IN THE MATTER OF: )

CITIZENS SECURITIES, INC., )

Docket No. E-2015-0103

RESPONDENT. )

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**ADMINISTRATIVE COMPLAINT**

**I. PRELIMINARY STATEMENT**

The Enforcement Section of the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (the “Enforcement Section” and the “Division,” respectively) files this Administrative Complaint (the “Complaint”) to commence an adjudicatory proceeding against Citizens Securities, Inc. (the “Respondent”) for violations of MASS. GEN. LAWS ch. 110A, the Massachusetts Uniform Securities Act (the “Act”), and 950 MASS. CODE REGS. 10.00-14.413 (the “Regulations”). The Enforcement Section alleges that Respondent engaged in acts and practices in violation of the Act and Regulations.

The Enforcement Section seeks an order: (1) finding as fact the allegations set forth below; (2) requiring Respondent to permanently cease and desist from further conduct in violation of the Act and Regulations in the Commonwealth; (3) requiring Respondent to establish, maintain and enforce reasonable supervisory procedures and policies to prevent violations of the Act and Regulations; (4) censuring Respondent; (5) requiring Respondent to engage an independent consultant to review written policies and procedures regarding the separation of retail bank and securities operations and obligations to senior investors and ensuring that such policies and

procedures include methods for enforcement and compliance oversight; (6) finding that all sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors; (7) requiring Respondent to provide restitution to fairly compensate Senior Investor for those losses attributable to the alleged wrongdoing; (8) imposing an administrative fine; and (9) taking any such further actions which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

## II. SUMMARY

In recent years, banks have expanded their traditional Federal Deposit Insurance Corporation (“FDIC”) insured products and services by adding retail securities operations. Federal financial laws that govern the relationship between retail bank employees and registered representatives of securities firms are in place to provide guidance and prevent confusion by bank customers.<sup>1</sup> However, banks that fail to adhere to these rules compromise investor protection.

Many Citizens Bank locations offer securities products through Citizens Securities in addition to retail banking services and FDIC insured products. Registered representatives of Citizens Securities have offices on the premises of Citizens Bank branches and these offices are often indistinguishable from the retail banking offices. Bank employees are incentivized to refer bank customers to these registered representatives because they receive compensation for qualified referrals. Customer confusion exists because of the similarity of the signage and logos and close physical proximity of Citizens Bank and Citizens Securities areas.

<sup>1</sup> Definition of Terms and Exemptions Relating to the “Broker” Exceptions for Banks and Exemptions for Banks Under Section 3(a)(5) of the Securities Exchange Act of 1934 and Related Rules; Final Rules, Fed. Reg. 72, 191 (Oct. 3, 2007) (to be codified at 12 C.F.R. pt. 218 and 17 C.F.R. pts. 240, 247). Notice of Filing of Proposed Rule Change by NASD Relating to Regulating the Conduct of Broker/Dealers Operating on the Premises of a Financial Institution, Fed. Reg. 61, 57 (Mar. 22, 1996).

In 2014, Senior Investor visited a Citizens Bank retail branch in Arlington, Massachusetts after selling a piece of real estate and depositing the proceeds in her Citizens Bank account. Senior Investor is an elderly Massachusetts resident and widow with limited investment experience and limited work experience outside the home. Shortly after the Senior Investor made deposit from her sale of real estate, a Citizens Bank employee referred Senior Investor to speak with a “financial consultant,” an employee of Citizens Securities co-located at the Citizens Bank branch. Senior Investor met with the recommended financial consultant but chose not to work with him. During a subsequent visit by Senior Investor to Citizens Bank in Arlington, the same Citizens Bank employee learned that Senior Investor did not wish to work with the initially referred financial consultant and made a referral to a second financial consultant, Financial Consultant.

In late 2014 and early 2015, Senior Investor and Financial Consultant met at several Citizens Bank branches and at the Massachusetts home of Senior Investor. At the time they worked together, Senior Investor did not know that Financial Consultant was an employee of Citizens Securities and not Citizens Bank. Employees of Citizens Securities and Citizens Bank work out of the same branch locations and they utilize the same branding and logos. The Citizens Bank branch where Senior Investor initially met Financial Consultant did not contain adequate signage disclosing the brokerage activities occurring at the bank. During the time they worked together, Financial Consultant and Senior Investor did not discuss that Financial Consultant worked for an entity other than Citizens Bank.

Over the course of several meetings at Citizens Bank branches in Massachusetts, Senior Investor and Financial Consultant discussed her risk tolerance and investment objectives, including the fact that Senior Investor did not want any exposure to the stock market. The effect

of these meetings was to make Senior Investor feel that her investment objectives were being met; however, this was not the case.

One of the two products that Senior Investor ultimately purchased, a portfolio of mutual funds, was recommended to her based on eleven questions that were inputted by Financial Consultant into Envestnet, an automated investment management platform. Envestnet, a robo-adviser, is registered as an investment adviser and is the machine that generates the customer's portfolio.

The portfolio of several hundred thousand dollars of mutual funds that Senior Investor purchased was partially comprised of funds with risky alternative and high-yield principal investment strategies. The portfolio, once generated, could not be modified by Financial Consultant. Senior Investor was not aware that Envestnet was responsible for the composition of her portfolio. Financial Consultant and Citizens Securities failed to adequately disclose that a third party computer program, not Financial Consultant, with whom Senior Investor had met multiple times, was responsible for the composition of her portfolio. After purchasing the Envestnet portfolio of mutual funds, Senior Investor realized that this product exposed her to the stock market and ultimately liquidated the portfolio at a loss of approximately \$7,000.

The second product that Senior Investor purchased was a complex structured product, a market-linked certificate of deposit, with a term of over six years. Senior Investor first came to know about market-linked certificates of deposit from the Citizens Bank employee who originally suggested that she meet with a financial consultant. Previously, Senior Investor only had experience purchasing traditional certificates of deposit. Although Senior Investor told Financial Consultant that she did not want any exposure to the stock market, after meeting with Financial Consultant she eventually purchased a complex market-linked certificate of deposit,

suggesting that she did not understand the difference between the two products which are both confusingly referred to as “certificates of deposit.” Over the course of several months, Senior Investor realized that the certificate of deposit that she was invested in was not a traditional certificate of deposit, however, she was hesitant to sell the market-linked certificate of deposit because of termination penalties that would be imposed.

Senior Investor’s experience illustrates Citizens Securities’ failure to meet their duties under state and federal securities law. Citizens Securities did not adequately disclose their relationships with Citizens Bank or with Envestnet, yielding investor confusion. Citizens Securities also failed to adequately disclose the risks associated with the products purchased by Senior Investor, ultimately leading her to liquidate her portfolio at a loss. Citizens Securities’ lack of adequate disclosure of relevant risks and relationships leaves Massachusetts investors at risk.

### **III. JURISDICTION AND AUTHORITY**

1. As provided for by the Act, the Division has jurisdiction over matters relating to securities pursuant to chapter 110A of Massachusetts General Laws.
2. The Enforcement Section brings this action pursuant to the authority conferred upon the Division by Sections 407A, 204, and 414 of the Act, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and the Regulations.
3. This proceeding is brought in accordance with Sections 204, 407A, and 414 of the Act and its Regulations.
4. The Enforcement Section reserves the right to amend this Complaint and/or bring additional administrative complaints to reflect information developed during the current and ongoing investigation.

#### **IV. RELEVANT TIME PERIOD**

5. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of July 2014 to the present (the “Relevant Time Period”).

#### **V. RESPONDENT**

6. Citizens Securities, Inc. (“Citizens Securities”) is a broker-dealer with headquarters in Massachusetts. Citizens Securities has a Financial Industry Regulatory Authority (“FINRA”) Central Registration Depository (“CRD”) number of 39550. Citizens Securities has been registered with Massachusetts as a broker-dealer since 1996.<sup>2</sup>

#### **VI. PRIOR DISCIPLINARY HISTORY**

7. On July 22, 2005, a final Consent Order was issued against Citizens Investment Services Corp., then known as CCO Investment Services Corp. (“Citizens”). This Consent Order consolidated three investigations into the practices of Citizens sales of variable annuities to seniors. Citizens admitted to the facts, which specifically included that the sales were the result of bank employee referrals and were transacted within Citizens retail bank locations.

#### **VII. OTHER RELEVANT INDIVIDUALS AND ENTITIES**

8. Citizens Securities Financial Consultant (“Financial Consultant”) is a resident of the state of Massachusetts. Financial Consultant has been registered as a broker-dealer agent with Massachusetts since 2001. Financial Consultant has been employed as an investment adviser representative and broker-dealer agent with Citizens Securities since 2003.

<sup>2</sup> Citizens Securities relies on an exclusion from the definition of investment adviser pursuant to MASS. GEN. LAWS ch. 110A, § 401(m)(1)(F).

9. Citizens Securities Supervisor (“Supervisor”) is a resident of the state of Massachusetts. Financial Consultant has been employed as a broker-dealer agent with Citizens Securities since 2013.

10. Citizens Financial Group, Inc. (“Citizens Bank”) is a corporation headquartered in Providence, Rhode Island.

11. Envestnet Asset Management, Inc. (“Envestnet”) is a corporation headquartered in Chicago, Illinois. Envestnet offers research, advisory resources and reporting services to financial advisors and institutions.

## **VIII. STATEMENT OF FACTS**

### **A. Cross-Selling and Referral of Citizens Bank Retail Customers to Citizens Securities**

12. Employees of Citizens Bank receive financial compensation for making qualified referrals of Citizens Bank retail customers to Citizens Securities.

13. Senior Investor was a retail bank customer of Citizens Bank for many years prior to her referral to Citizens Securities by a Citizens Bank employee.

14. Senior Investor is a resident of Massachusetts and an elderly widow with limited investment experience and limited work experience outside of the home.

15. After Senior Investor sold a piece of real estate and deposited the proceeds in her Citizens Bank account, a Citizens Bank employee recommended that Senior Investor meet with a financial consultant, an employee of Citizens Securities.

16. Senior Investor explained to the Citizens Bank employee that she would prefer not to work with the financial consultant initially recommended to her, so the Citizens Bank employee referred Senior Investor to another financial consultant, Financial Consultant.

17. Referrals made by Citizens Bank employees are tracked through a platform known as Sales Force that is utilized and accessed by Citizens Securities employees.

18. Financial Consultant testified that until he became a “tier two” financial consultant, referrals by Citizens Bank employees were “a regular occurrence.”

19. Senior Investor stated that during the time she worked with Financial Consultant, she believed he was a Citizens Bank employee.

#### **B. Establishment of Advisory Relationship with Financial Consultant**

20. After the referral by the Citizens Bank employee, Senior Investor had several in-person meetings at Citizens Bank branches in Massachusetts and multiple phone conversations with Financial Consultant.

21. Senior Investor and Financial Consultant discussed Senior Investor’s investment objectives and risk tolerance.

22. Financial Consultant inputted answers to eleven questions regarding Senior Investor’s financial profile into Envestnet.

23. During the course of their initial meetings, Senior Investor indicated to Financial Consultant that she did not want exposure to the stock market.

24. Additionally, the investment management agreement executed by Senior Investor and Financial Consultant in February of 2015 (“Investment Management Agreement”) indicated that Senior Investor had an investor risk rating of “conservative” with a low risk tolerance.

#### **C. Investments Recommended to Senior Investor**

25. As a result of meeting Financial Consultant, Senior Investor purchased a market-linked certificate of deposit valued at approximately \$100,000 and a portfolio of registered funds valued at several hundred thousand dollars.



26. In January of 2015, Senior Investor, who had prior experience only with traditional certificates of deposit, invested \$100,000 in a market-linked certificate of deposit with a six and a half year term and onerous termination penalties.

27. Financial Consultant told Senior Investor that she could double her money in six years by investing in a market-linked certificate of deposit.

28. The Citizens Securities' *Sales to Seniors Policy* refers to market-linked certificates of deposit as a "complex product."

29. In a follow up phone call to Senior Investor by a Citizens Securities employee, the Citizens Securities employee asked Senior Investor whether she had discussed and was comfortable with the terms of the market-linked certificate of deposit.

30. During the call, Senior Investor indicated to the Citizens Securities employee that she was comfortable with the terms of the market-linked certificate of deposit, but that she "was not very literate" in financial matters and that she "had one hundred percent trust" in Financial Consultant.

#### **D. Advisory Activities of Investnet**

31. Within approximately one month of purchasing the market-linked certificate of deposit, in early 201 Senior Investor also purchased a portfolio of registered funds through Financial Consultant.

32. The portfolio of registered funds purchased by Senior Investor contained several funds with aggressive principal investment strategies, including an alternative fund and an emerging markets fund.

33. Financial Consultant inputted information provided by Senior Investor into Investnet, an automated advisory platform required to be used by Citizens Securities financial consultants who open managed accounts.
34. The Investment Management Agreement entered into by Senior Investor names CCO Investment Services Corporation (now known as Citizens Securities) as the advisor and Investnet as the “platform manager.”
35. Once Senior Investor’s risk tolerance was entered into Investnet, the platform offered just two fund complexes from which a portfolio could be generated.
36. After Financial Consultant selected a fund complex in Investnet, Investnet produced a recommended portfolio for Senior Investor.
37. Financial Consultant could select the fund complex from a limited number of options provided by Investnet, but he could not alter the recommendation generated by Investnet once the fund complex was selected.
38. Investnet provided a predetermined “bundle” of funds that could not be modified or re-allocated by the Financial Consultant.
39. When asked by the Division whether the assets allocated to each fund in the portfolio were already predetermined, Financial Consultant testified, “[t]hat’s absolutely correct.”
40. Additionally, when asked about how investors are placed into categories of investments, Financial Consultant testified “...[T]he determination is not being made by an advisor. The determination is being made by Investnet Systems that categorizes [fund complex] portfolios to certain categories.”
41. Investnet’s program calculates the recommendation based upon the inputted information in response to a limited number of questions.

42. Financial Consultant received a percentage of the management fee paid to Citizens Securities by Senior Investor for the portfolio of registered funds that she purchased.
43. After receiving initial compensation, Financial Consultant testified that he then received quarterly trailing compensation beginning in the second year following the purchase of a managed portfolio.
44. Financial Consultant also received a percentage of the commission paid to Citizens Securities for the market-linked certificate of deposit purchased by Senior Investor.
45. The Investment Management Agreement does not adequately state that Envestnet makes recommendations that cannot be modified by investment advisor representatives.
46. Financial Consultant never explained to Senior Investor how the recommendation to purchase the portfolio of registered funds was made.
47. Financial Consultant never described Envestnet to Senior Investor or explained how Envestnet worked.
48. Senior Investor stated that she expressed her concern regarding these investments to Financial Consultant and Citizens Securities.
49. Senior Investor ultimately liquidated her portfolio of registered funds at a loss of approximately \$7,000.

**E. Physical Proximity of Citizens Bank and Citizens Securities Operations**

50. Citizens Securities financial consultants generally meet with clients at Citizens Bank retail branch locations.
51. Citizens Securities and Citizens Bank employees work out of the same physical office space.

52. Citizens Securities and Citizens Bank use substantially the same visual branding, including the same white and green logo.

53. Financial Consultant did not explain to Senior Investor the distinctions between Citizens Bank and Citizens Securities.

54. Senior Investor did not understand the distinction between Citizens Bank and Citizens Securities during the time she worked with Financial Consultant.

55. The Citizens Bank branch where Senior Investor initially met with Financial Consultant did not contain adequate signage indicating which parts of the location constituted Citizens Securities workspaces.

56. The Citizens Bank branch where Senior Investor met with Financial Consultant also did not contain adequate signage indicating that securities sold are not FDIC insured, that there is no bank guarantee on the securities, and that the securities may lose value.

57. Citizens Securities' written procedures do not contain a section regarding providing information on the distinction between the retail bank and the broker-dealer to senior citizens.

#### **F. Insufficient Supervision and Enforcement of Citizens Securities Procedures**

58. As part of the Citizens Securities supervisory structure, financial consultants are supervised remotely.

59. Supervisor does not work out of the same retail branch as Financial Consultant.

60. Supervisor is responsible for nineteen financial consultants, including Financial Consultant, who work out of various branches in the metro-Boston area.

61. Due to their locations, these financial consultants are not supervised in a face-to-face capacity on a day-to-day basis.

62. Supervisor supervises financial consultants at these branches and reviews for appropriately placed signage.

63. Supervisor testified that he would typically discuss signage and other physical elements of the bank with retail bank personnel.

#### **G. Citizens Securities Compensation Structure**

64. The compensation of Citizens Securities Senior Regional Sales Managers is directly tied to the performance of the individuals they supervise, the Citizens Securities registered representatives working within retail bank locations.

65. The compensation of Citizens Securities' registered representatives is directly tied to their sales.

66. Financial Consultant testified that Citizens Securities utilizes a payout grid that is tiered and that "the higher the production, the higher the actual percentage payout to the financial consultant."

Citizens Securities' registered representatives must meet certain production revenues. If they do not meet these requirements, they are subject to certain "management intervention" including, "placing that consultant on a warning to improve their performance."

#### **H. Heightened Duty to Senior Customers**

68. Citizens Securities maintains specific Written Supervisory Procedures regarding senior citizens entitled "Sales to Seniors Policy."

69. The Sales to Seniors Policy references specific limitations on the certain products, including market-linked certificates of deposit.

70. The Sales to Seniors Policy provides "[w]hen doing Business with senior clients, RRs (registered representatives) have a heightened obligation to make sure that the senior fully understands all aspects of the products and transactions."
71. The Sales to Seniors Policy states that "RRs must also ensure that they make all necessary disclosures regarding investment products."
72. The Sales to Seniors Policy also provides "[i]t is important to first look at a person's current cognitive level. Age and level of education can heavily impact progression of cognitive aging."
73. Financial Consultant testified that he did not discuss Senior Investor's educational background with her.
74. Financial Consultant testified that he was not aware of Senior Investor's educational background.
75. Senior Investor has no advanced education beyond high school and limited investment experience.
76. Additionally, the policy includes a citation to "CSI Compliance Manual: Section VI: Conducting Business in a Bank."
77. A section with such title does not exist in the compliance manual in effect at the time the Sales to Seniors Policy was adopted or in any subsequent version of the compliance manual.
78. Citizens Securities' policies establish that financial consultants have a heightened duty to seniors, particularly in situations in which they may be at risk of experiencing difficulty understanding investment products.
79. In at least one transaction with a senior customer, Citizens Securities did not provide any documentation or explanation beyond what would be provided to a non-senior customer.

80. Citizens Securities failed to maintain and enforce its policies and procedures with regard to seniors.

### **I. Failure to Provide Required Disclosures**

81. The Managed Account Solutions Tri-Party Agreement (“MAS Agreement”) is an agreement made between Citizens, Envestnet and the clearing firm.

82. The MAS Agreement provides that Envestnet will “provide certain investment advisory services to [Citizens Securities] and [Citizens Securities’] end customers.”

83. The MAS Agreement also provides that “Envestnet agrees to deliver to each Client a copy of Envestnet’s Form ADV, Schedule H or Part II as applicable.”

84. On February 27, 2015, during a meeting with Financial Consultant, Senior Investor signed the Investment Management Agreement.

85. The Investment Management Agreement is part of the account opening documentation.

86. The Investment Management Agreement contains an “Acknowledgement” section that specifically requires the investor to affirm that they have “received the Form ADV, Part 2A, Part 2B and privacy policy for Advisor and any applicable Sub-Manager or Model-Provider chosen for Client’s Accounts.”

87. Senior Investor believes that she never received these documents.

88. The “Acknowledgement” section of the Investment Management Agreement also states that the investor is affirming that he/she understands the Envestnet program and the risks associated with any investment in the program.

89. Despite signing the Acknowledgement section of the Investment Management Agreement, Senior Investor did not understand the Envestnet program because Financial Consultant never discussed Envestnet or explained how it worked.

90. Senior Investor told Financial Consultant on several occasions that she did not want exposure to the stock market.

91. Despite signing the Investment Management Agreement, Senior Investor did not understand that the investment she made with Financial Consultant would expose her to the stock market.

## IX. VIOLATIONS OF LAW

### A. Count I – Violations of MASS. GEN. LAWS ch. 110A, § 204(a)(2)(G)

92. Section 204 of the Act provides, in pertinent part:

(a) The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds [...] (2) that the applicant or registrant [...]:

G. has engaged in any unethical or dishonest conduct or practices in the securities, commodities or insurance business.

93. 950 MASS. CODE REGS. 12.204(1)(a) provides in pertinent part:

(1) Dishonest and Unethical Practices in the Securities Business.

(a) Broker-dealers. Each broker-dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business. Acts and practices, including, but not limited to the following, are considered contrary to such standards and constitute dishonest or unethical practices which are grounds for imposition of an administrative fine, censure, denial, suspension or revocation of a registration, or such other appropriate action:

4. Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer.

94. 950 MASS. CODE REGS 12.204(1)(a) provides in pertinent part:

(1) Dishonest and Unethical Practices in the Securities Business.

(a) Broker-dealers. Each broker-dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of



its business. Acts and practices, including, but not limited to the following, are considered contrary to such standards and constitute dishonest or unethical practices which are grounds for imposition of an administrative fine, censure, denial, suspension or revocation of a registration, or such other appropriate action:

18. Making any advertising or sales presentation either in written or oral form, in such a fashion as to be deceptive or misleading, including, but not limited to, the following:

a. Distributing any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure.

95. 950 MASS. CODE REGS 12.204(1)(a) provides in pertinent part:

(1) Dishonest and Unethical Practices in the Securities Business.

(a) Broker-dealers. Each broker-dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business. Acts and practices, including, but not limited to the following, are considered contrary to such standards and constitute dishonest or unethical practices which are grounds for imposition of an administrative fine, censure, denial, suspension or revocation of a registration, or such other appropriate action:

28. Failing to comply with any applicable provision of FINRA member conduct rules or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.

96. The FINRA rule provides in pertinent part:

FINRA Rule 3160. Networking Arrangements Between Members and Financial Institutions

(a) Standards for Member Conduct

Except as otherwise provided in this Rule, a member that is a party to a networking arrangement under which the member conducts broker-dealer services on or off the premises of a financial institution is subject to the following requirements:

(1) Setting

A member that conducts broker-dealer services on the premises of a financial institution shall:

(A) be clearly identified as the person providing broker-dealer services and shall distinguish its broker-dealer services from the services of the financial institution;

(B) conduct its broker-dealer services in an area that displays clearly the member's name; and

(C) to the extent practicable, maintain its broker-dealer services in a location physically separate from the routine retail deposit-taking activities of the financial institution.

(2) Networking Agreements

(A) Networking arrangements between a member and a financial institution shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements and include all broker-dealer obligations, as applicable, set forth in Rule 701 of SEC Regulation R. Independent of their contractual obligations, members shall comply with all broker-dealer obligations, as applicable, under Rule 701 of SEC Regulation R.

(B) The member shall ensure that the written agreement stipulates that supervisory personnel of the member and representatives of the SEC and FINRA will be permitted access to the financial institution's premises where the member conducts broker-dealer services, as applicable, in order to inspect the books and records and other relevant information maintained by the member with respect to its broker-dealer services.

(3) Customer Disclosure

(A) At or prior to the time that a customer account is opened by a member that is a party to a networking arrangement, the member shall disclose in writing to each customer that the broker-dealer services are being provided by the member and not by the financial institution, and that the securities products purchased or sold in a transaction are:

(i) not insured by the Federal Deposit Insurance Corporation ("FDIC");

(ii) not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

(iii) subject to investment risks, including possible loss of the principal invested.

(B) The disclosures required by paragraph (a)(3)(A) of this Rule also shall be made orally by a member that is a party to a networking arrangement for any customer account opened on the premises of a financial institution.

(4) Communications with the Public

(A) All member confirmations and account statements shall indicate clearly that the broker-dealer services are being provided by the member.

(B) Retail communications, including material published, or designed for use, in radio or television broadcasts, Automated Teller Machine ("ATM") screens, billboards, signs, posters and brochures, that announce the location of a financial institution where broker-dealer services are provided by the member or promote the name or services of the financial institution or that are distributed by the member on the premises of a financial institution or at such other location where the financial institution is present or represented shall include the disclosures required by paragraph (a)(3) of this Rule. The following legend may be used to provide these disclosures in retail communications, provided that such disclosures are displayed in a conspicuous manner:

- Not FDIC Insured
- No Bank Guarantee
- May Lose Value

(C) As long as the omission of the disclosures required by paragraph (a)(4)(B) of this Rule would not cause the retail communications to be misleading in light of the context in which the material is presented, such disclosures are not required with respect to messages contained in:

(i) radio broadcasts of 30 seconds or less;

(ii) electronic signs, including billboard-type signs that are electronic, time and temperature signs and ticker tape signs, but excluding messages contained in such media as television, online services or ATMs; and

(iii) signs, such as banners and posters, when used only as location indicators.

(5) Notifications of Terminations

A member shall promptly notify the financial institution if any associated person of the member who is employed by the financial institution is terminated for cause by the member.

(b) Definitions

For purposes of this Rule, the following terms shall have the meanings specified below:

(1) "Financial institution" shall mean federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions required by law.

(2) "Networking arrangement" shall mean a contractual or other written agreement between a member and a financial institution under which the member offers broker-dealer services on or off the premises of the financial institution.

(3) "Broker-dealer services" shall mean investment banking or securities business as defined in Article I of the FINRA By-Laws.

97. The Enforcement Section herein re-alleges and restates the allegations of fact set forth in paragraphs 1 through 91 above.

98. The conduct of Respondent, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 204(a)(2)(G).

**B. Count II – Violation of MASS. GEN. LAWS ch. 110A, § 204(a)(2)(J)**

99. Section 204 of the Act provides, in pertinent part:

(a) The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds [...] (2) that the applicant or registrant [...]:

J. has failed reasonably to supervise agents, investment adviser representatives or other employees to assure compliance with this chapter.

100. The Enforcement Section herein re-alleges and restates the allegations of fact set forth in paragraphs 1 through 91 above.

101. The conduct of Respondent, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 204(a)(2)(J).

**X. STATUTORY BASIS FOR RELIEF**

Section 407A of the Act provides, in pertinent part:

(a) If the secretary determines, after notice and opportunity for hearing, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order issued thereunder, he may order such person to cease and desist from such unlawful act or practice and may take such affirmative action, including the imposition of an administrative fine, the issuance of an order for an accounting, disgorgement or rescission or any other such relief as in his judgment may be necessary to carry out the purposes of [the Act].

MASS. GEN. LAWS ch. 110A, § 407A.

## **XI. PUBLIC INTEREST**

For any and all of the reasons set forth above, it is in the public interest and will protect Massachusetts investors for the Director to enter an order finding that such “action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter [MASS. GEN. LAWS ch. 110A].”

## **XII. RELIEF REQUESTED**

The Enforcement Section of the Division requests that an order be entered:

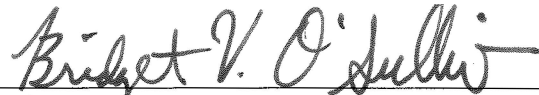
- A. Finding as fact the allegations set forth in paragraphs 1 through 91, inclusive of the Complaint;
- B. Requiring Respondent to permanently cease and desist from further conduct in violation of the Act and Regulations in the Commonwealth;
- C. Requiring Respondent to establish, maintain and enforce reasonable supervisory procedures and policies to prevent violations of the Act and Regulations;
- D. Censuring Respondent;
- E. Requiring Respondent to engage an independent consultant to review written policies and procedures regarding the separation of retail bank and securities operations and

obligations to senior investors and ensuring that such policies and procedures include methods for enforcement and compliance oversight;

- F. Finding that all sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors;
- G. Requiring Respondent to provide restitution to fairly compensate Senior Investor for those losses attributable to the alleged wrongdoing;
- H. Imposing an administrative fine; and
- I. Taking any such further actions which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

**MASSACHUSETTS SECURITIES DIVISION  
ENFORCEMENT SECTION**

By its attorneys,



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Dated: January 7, 2016