

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

IN THE MATTER OF:)	
)	
COMMONWEALTH FINANCIAL NETWORK)	CONSENT ORDER
- NON TRADED REITS)	
)	E-2013-0046
)	

RECEIVED
2013 MAY 22 AM 9:29
OFFICE OF THE SECRETARY OF THE COMMONWEALTH SECURITIES DIVISION

I. INTRODUCTION

This Consent Order (“Order”) is entered into by the Massachusetts Securities Division (“Division”) and Commonwealth Financial Network (hereinafter “Respondent”) in connection with an investigation initiated by the Division on January 3, 2013 concerning non-traded REITs sold by Respondent. On May 15, 2013, Respondent submitted an Offer of Settlement (“Offer”) to the Division for the purpose of disposing the allegations set forth in the Offer. Respondent, admitting to the Statements of Fact as set forth in Section V and neither admitting nor denying the Violations of Law set out in Section VI herein, and consents solely for the purpose of these proceedings to the entry of this Order by the Division, consistent with the language and terms of the Offer, settling the claims brought hereby with prejudice.

II. JURISDICTION AND AUTHORITY

1. The Massachusetts Securities Division is a division of the Office of the Secretary of the Commonwealth with jurisdiction over matters relating to securities, as provided for by the Act. The Act authorizes the Division to regulate: 1) the offers, sales, and purchases of securities; 2) those individuals and entities offering and/or selling

securities; and 3) those individuals and entities transacting business as investment advisers within the Commonwealth.

2. The Division instituted this action pursuant to the enforcement authority conferred upon it by § 407A of the Act and MASS. GEN. LAWS ch. 30A, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and all Regulations and rules promulgated thereunder.
3. The proceeding was brought in accordance with §§ 204 and 407A of the Act and its Regulations. Specifically, the acts and practices constituting violations occurred within the Commonwealth of Massachusetts.

III. RELEVANT TIME PERIOD

4. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of January 1, 2005 to the present (the “Relevant Time Period”).

IV. RESPONDENT

5. Commonwealth Financial Network (“Commonwealth”) is an entity currently registered as a broker-dealer firm in Massachusetts. Commonwealth maintains Central Registration Depository (“CRD”) number 8032. Commonwealth’s principal place of business is located at 29 Sawyer Road, Waltham, Massachusetts, 02453.

V. STATEMENTS OF FACT

A. Introduction

6. Pursuant to the Enforcement Section’s investigation, the Enforcement Section reviewed 1,499 Massachusetts resident transactions executed over a six year period with a total of \$50,935,172.48 invested by Massachusetts residents.

7. The Enforcement Section focused on two non-traded REIT products approved for sale by Commonwealth—Inland American Real Estate Trust, Inc. (“Inland American”) and Inland Diversified Real Estate Trust, Inc. (“Inland Diversified”) (collectively the “Inland Products”).
8. In total Commonwealth registered representatives (hereinafter “Commonwealth Representatives”) sold Inland Products in violation of prospectus requirements in 42¹ transactions resulting in \$2,074,710.00 of improper sales.

B. Commonwealth Has Maintained a Non-Traded REIT Platform

9. The Enforcement Section subpoenaed documents specific to Commonwealth’s compliance structure and the Inland Products, beginning on January 3, 2013.
10. In response to a subpoena issued by the Enforcement Section, Commonwealth produced a document dated June 1, 2007 titled Alternative Investment Department Due-Diligence Guidelines, outlining Commonwealth’s process for initially approving alternative investments for sale by Commonwealth Representatives—including non-traded REITs.
11. In relevant part, Commonwealth’s Alternative Investment Department Due-Diligence Guidelines document provides, “**Monitoring Client Accounts** - Commonwealth will check for client suitability upon opening a new account.”
12. According to the Alternative Investment Department Due-Diligence Guidelines document, for all private placement offerings, including real estate investment trusts, analysts review fee structure, proposed investment strategy, existing holdings, disclosure statements and all other relevant information.

¹ This amount represents 2.8% of the total sales to Massachusetts residents.

C. Commonwealth's Compliance Requirements for the Sale of Non-Traded REITs

a. Commonwealth's Compliance Manual and Written Supervisory Procedures

13. Commonwealth maintained compliance manuals (collectively the "Compliance Manuals") throughout the Relevant Time Period.
14. The Compliance Manuals provide specific requirements regarding the sale of alternative investment products to investors.
15. Commonwealth's Compliance Manuals identify non-traded REITs as alternative investments.
16. Commonwealth maintained policies in its Compliance Manuals specific to alternative investments including sales of non-traded REITs.
17. Starting in February 2008, Commonwealth's Compliance Manuals provided Liquidity Guidelines, stating:

Commonwealth limits a client's alternative investment exposure to:
No more than 30 percent of the client's investable net worth in alternative investments as a whole[;] [n]o more than 20 percent of the client's investable net worth in a single asset class (i.e. oil and gas, real estate, venture capital)[;] [n]o more than 10 percent of the clients' investable net worth in any one offering.

18. Subsequent Compliance manuals further provide:

For clients under the age of 75, the guidelines are as follows:

No more than 30 percent of the client's investable net worth in alternative investments as a whole[;] [n]o more than 20 percent of the client's investable net worth in a single asset class (i.e. oil and gas, real estate, venture capital)[;] [n]o more than 10 percent of the clients' investable net worth in any one offering.

For clients 75 and older, the guidelines change to:

No more than 20 percent of the client's investable net worth in illiquid investments[;] [n]o more than 15 percent of the client's investable net worth in in any one illiquid asset class[;] [n]o more than 10 percent of the client's investable net worth in any one illiquid product[.]

19. Each Commonwealth Compliance Manual also provide:

[N]ot . . . all recommendations within the limits of Firm liquidity guidelines are suitable for clients. RRs [registered representatives] must still determine whether the alternative investment recommended is suitable for the client given the client's financial status, tax status, investment objective, age, and liquidity/income needs. **Refer to the offering memorandum for product/state specific information and/or requirements.** (Emphasis added.)

20. Both Commonwealth's Written Supervisory Procedures ("WSP") and Office of Supervisory Jurisdiction Manuals ("OSJ Manual") for the Relevant Time Period also contain suitability requirements regarding non-traded REITs.

21. In addition to reiterating Commonwealth age and concentration guidelines, according to the May 2004 WSP, "[i]nvestments in direct placements [non-traded REITs] are generally illiquid and often entail a significant degree and variety of risk. For these reasons, it is essential that investors clearly and completely meet suitability requirements set forth in the offering materials."

22. The 2004 WSP also mandates, "The Direct Investments principal reviews the client financial profile versus the program requirements to help determine suitability. The principal also reviews the investment amount as a concentration of the client portfolio as part of the suitability review process."

23. As part of that process, Commonwealth's approval checklist stated, "[p]lease see product's prospectus if there are additional state suitability requirements. . . . [s]pecific products, such as Hedge Funds and Private Placements [including non-traded REITs], will have heightened suitability requirements."

24. Currently, Commonwealth maintains a supervisory structure including supervisory staff in Commonwealth's Direct Investments department responsible for the review and approval of the sale of direct investments, including non-traded REITs.
25. As part of the supervisory staff responsible for the review and approval of the sale of direct investments, supervising principals undergo a thirty-day complex product training program prior to their reviewing and approving any complex product and quarterly training thereafter.

b. Commonwealth's Alternative Investment Processing Form

26. As each Compliance Manual states, "An Alternative Investment Processing Form must be completed for each transaction and submitted for approval to the appropriate designated Supervisor."
27. Among other information, Commonwealth's Alternative Investment Processing Form ("Alternative Investment Form") required listing an investors investable assets.
28. The Alternative Investment Form mandates calculating an individual investor's percentage of total investment portfolio in alternative investments by combining all alternative investments held by an investor and dividing by investable assets.
29. Commonwealth's Alternative Investment Form in relevant part, defines investable assets as "exclusive of home, auto, [and] furnishings."

D. The Enforcement Section's Investigation into Inland Products

a. Inland American

30. The Inland Group, Inc. ("Inland") created Inland American, a non-traded REIT on October 4, 2004.

31. Commonwealth produced a statement on January 16, 2013, in response to a subpoena indicating that Commonwealth approved Inland American on October 4, 2005.
32. Commonwealth contracted with Inland for sale of Inland American shares through a Soliciting Dealers Agreement (“Inland Agreement One”) entered into on October 4, 2005.
33. Commonwealth again contracted with Inland for sale of Inland American shares through an additional Soliciting Dealers Agreement (“Inland Agreement Two”) entered into on August 6, 2007.
34. Both Inland Agreement One and Inland Agreement Two included the following restriction: “[I]f the investor is a resident of . . . Massachusetts. . . the investor’s investment in the Shares **may not exceed ten percent (10%) of the investor’s liquid net worth . . .**” (Emphasis added).
35. Inland American prospectuses contained heightened Massachusetts specific suitability standards.
36. All Inland American prospectuses stated that Massachusetts residents must have a minimum net worth of at least \$250,000; or both a minimum annual gross income of at least \$70,000 and a minimum net worth of at least \$70,000.
37. Starting with the August 31, 2005 prospectus and including the December 8, 2006 prospectus, Inland American prospectuses further provided, “[i]n addition to meeting the applicable minimum suitability standards . . . **your investment may not exceed (10.0%) of your liquid net worth.**” (Emphasis added).

38. The August 1, 2007 and January 7, 2009 Inland American prospectuses likewise provided, that with respect to Massachusetts residents, “**your investment may not exceed 10% of your liquid net worth . . .**” (Emphasis added).
39. The Enforcement Section subpoenaed documents and interrogatory responses detailing all sales of the investment product Inland American to all Massachusetts residents from January 1, 2005 to January 3, 2013.
40. Commonwealth identified 1133 Massachusetts resident transactions involving Inland American from January 1, 2005 to January 3, 2013.
41. In total, Massachusetts investors invested approximately \$40,379,186.12 in Inland American.

b. Inland Diversified

42. The Inland Group, Inc. (“Inland”) created Inland Diversified, a non-traded REIT in June 2008.
43. Commonwealth produced a statement on January 16, 2013, in response to a subpoena indicating that Commonwealth approved Inland Diversified on December 11, 2009.
44. Commonwealth contracted with Inland for sale of Inland Diversified shares through a Soliciting Dealers Agreement (“Inland Agreement Three”) entered into on December 11, 2009.
45. Inland Agreement Three included the following restriction: “Massachusetts . . . investor’s investment in the **Shares may not exceed ten percent (10%) of investor’s liquid net worth. . .**” (Emphasis added).
46. Inland Diversified prospectuses contained heightened Massachusetts specific suitability standards.

47. All Inland Diversified prospectuses stated that Massachusetts residents must have a minimum net worth of at least \$250,000; or both a minimum annual gross income of at least \$70,000 and a minimum net worth of at least \$70,000.
48. Starting with the August 24, 2009 prospectus and all Inland Diversified prospectuses further provided, “[i]n addition to meeting the applicable minimum suitability standards . . . **your investment may not exceed (10%) of your liquid net worth.**” (Emphasis added).
49. The Enforcement Section subpoenaed documents and interrogatory responses detailing all sales of the investment product Inland Diversified to all Massachusetts residents from January 1, 2005 to January 3, 2013.
50. Commonwealth identified 366 Massachusetts resident transactions involving Inland Diversified from January 1, 2005 to January 3, 2013.
51. In total, Massachusetts investors invested approximately \$10,555,986.36 in Inland Diversified.

E. Commonwealth’s Approval of Massachusetts Resident Transactions

52. Pursuant to the Enforcement Section’s investigation, Commonwealth identified 1,499 Massachusetts resident transactions in two Inland non-traded REIT products with a total of \$50,935,172.48 invested.
 - a. **Commonwealth Representatives Sold Non-traded REITs in Excess of Heightened Massachusetts Prospectus Requirements**
53. Commonwealth Representatives sold non-traded REITs in excess of Massachusetts maximum concentration limits imposed by non-traded REIT prospectuses in 42 Massachusetts resident transactions.

54. Commonwealth Representatives sold non-traded REITs in excess of Massachusetts heightened ten percent (10%) concentration limits in 39 Inland American Massachusetts resident transactions.²
55. The 39 identified Inland American Massachusetts resident transactions, which violated heightened prospectus requirements, totaled \$1,956,710.00.
56. Commonwealth Representatives sold non-traded REITs in excess of Massachusetts heightened ten percent (10%) concentration limits in three (3) Inland Diversified Massachusetts resident transactions.³
57. The three (3) Inland Diversified Massachusetts resident transactions violated specific prospectus requirements for a total of at least \$118,000.00.
58. In summation, Commonwealth Representatives sold non-traded REITs in excess of Massachusetts heightened concentration limits in 39 Inland American Massachusetts resident transactions for a total of \$1,956,710.00 and three (3) Inland Diversified Massachusetts resident transactions for a total of \$118,000.00.

VI. VIOLATIONS OF SECURITIES LAWS

a. Count I - Violations of § 204(a)(2)(G) by Commonwealth

59. Section 204(a)(2)(G) 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 (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any

² The 39 sales ranged from 10.07% to 20% of the investors' liquid net worth. In addition, several were accompanied by comfort letters signed by the investors acknowledging that their requested investment exceeded the 10% limit.

³ These three sales ranged from 10.48% to 10.77% of the investors' liquid net worth.

person directly or indirectly controlling the broker-dealer or investment adviser:—

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

60. 950 CODE MASS. REGS. §12.204 (1)(a)(28) 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. Failure 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..

61. The applicable FINRA rules provide in pertinent part:

2010. Standards of Commercial Honor and Principles of Trade

A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

62. The conduct of Commonwealth, as described above, constitutes violations of MASS.

GEN. LAWS ch. 110A, § 204(a)(2)(G).

b. Count II - Violations of § 204(a)(2)(J) by Commonwealth

d. Section 204(a)(2)(J) 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 (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any

person directly or indirectly controlling the broker-dealer or investment adviser:—

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

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

VII. ORDER

Commonwealth consents to the entry of this Order,

IT IS HEREBY ORDERED:

Respondent in full settlement of these matters admits to the Statements of Facts as set forth in Section V, and neither admits nor denies the Violations of Law set out in Section VI herein, makes the following representations, and agrees to the undertakings herein as part of the Order:

- A. Respondent agrees to permanently cease and desist from conduct in violation of the Act and Regulations in the Commonwealth;
- B. Respondent agrees to be censured by the Division;
- C. Respondent agrees to offer restitution⁴ to all Commonwealth customers who were Massachusetts residents at the time they purchased a non-traded REIT in their Commonwealth account (regardless of whether the shares of the non-traded REIT are presently held in an Commonwealth account or the individual or entity no longer

⁴ Restitution as used in this Order means the offer by Respondent to purchase from customers, as further defined herein, their presently held non-traded REIT shares at the purchase price as reflected in the corresponding non-traded REIT offering document.

resides in Massachusetts) between January 1, 2005 and the present (as identified on Appendix 1⁵ hereto) in violation of any of the following:

- a. Those transactions made in violation of the Massachusetts maximum ten percent (10%) concentration limitation imposed by certain non-traded REIT prospectuses, including all transactions which singularly exceed the ten percent (10%) concentration limitation, and all transactions which, when combined with other purchases by the same investor in the same non-traded REIT, exceed the ten percent (10%) concentration limitation;
 - b. Those transactions made in violation of non-traded REIT prospectus prescribed net worth and annual income suitability standards; or
 - c. Those transactions made in violation of Respondent's Compliance Manual and Written Supervisory Procedures prescribed alternative investment suitability requirements.
- D. Respondent agrees that the offer of restitution shall be sent to Massachusetts investors identified in Section VII, subsection C, in a letter ("Offer Letter One") sent to the address of record for such investors, a draft of which shall be provided to the Division within thirty (30) days of entry of the Order, and a finalized version not unacceptable to the Division, which shall be mailed to Massachusetts investors identified in Section VII, subsection C within fifteen (15) days of the Division's approval of such letter. Offer Letter One will remain open for ninety (90) days. Within thirty (30) days of entry of the Order, Respondent shall provide the Division with a list of the names and addresses of all Massachusetts residents listed on Appendix 1. Within thirty (30) days

⁵ Appendix 1 shall include all Inland Products transactions identified within Section VII, Subsection C, subparts (a)-(c).

of the mailing of Offer Letter One, Respondent shall provide the Division with a list of all Massachusetts residents for whom Respondent receives an offer as returned to sender (“Undeliverable Massachusetts Residents”). To the extent the Division has access to different mailing address information for Undeliverable Massachusetts Residents; Respondent agrees to mail a second Offer Letter One to Massachusetts residents within 30 days of the Division’s providing such different address. Massachusetts residents who choose to accept the offer of restitution shall be required to sign a release in a form not unacceptable to the Division, agreeing to waive any further claims against Respondent or its agents relating to any violation identified in Section VII, subsection C, subpart a through c, giving rise to the offer of restitution, and agreeing to offset any additional claims relating to identified transactions by the amount received by this offer of settlement. In addition, eligible customers who choose to accept the offer of restitution must agree to tender their existing shares in the non-traded REIT giving rise to the offer of restitution to Respondent or its designee, as a precondition to receipt of the payment of restitution by Respondent.⁶ The offer of restitution shall be in the form of a bank check unless requested otherwise by the Massachusetts resident. Respondent shall be permitted to reduce its offer of restitution to each client listed on Appendix 1 by the number of previously redeemed shares (if any) by the REIT company at issue. In all instances where any Massachusetts resident listed on Appendix 1 previously redeemed shares at a discount or incurred any fees or charges directly related to the previous redemption of shares, Respondent shall

⁶ As pertaining to any investor who may have a physical certificate(s) of the identified non-traded REITs, Respondent will provide these Massachusetts residents additional time to locate all physical certificate(s) not unacceptable to the Division.

compensate the Massachusetts resident for any difference in redemption price and for said fees and charges.

E. Within forty-five (45) days of the expiration of Offer Letter One, Respondent agrees to prepare, and submit to the Division, a report detailing the amount of funds reimbursed pursuant to the Order, which shall include:

- i. Identification of all accepted and verified offers;
- ii. Dates, amounts, and methods of the transfer of funds for all recessionary payments;
- iii. Identification and detailed descriptions of any objections received by Respondent.

F. Respondent further agrees to undertake the identification of all Commonwealth customers who were Massachusetts residents at the time they purchased a non-traded REIT in their Commonwealth account (regardless of whether the shares of the non-traded REIT are presently held in an Commonwealth account or the individual or entity no longer resides in Massachusetts) between January 1, 2005 and the present. This identification process will be completed within thirty (30) days of the entry of the Order. Respondent agrees to offer restitution to those further Commonwealth clients identified on Appendix 2⁷ as a result of the above-referenced identification process, if the identified transaction(s) was made in violation of any of the following:

- a. Those transactions made in violation of the Massachusetts maximum ten percent (10%) concentration limitation imposed by certain non-traded REIT prospectuses, including all transactions which singularly exceeded the ten

⁷ Appendix 2 shall include all transactions identified within Section VII, Subsection F, subparts (a) – (c).

percent (10%) concentration limitation, and all transactions which, when combined with other purchases by the same investor in the same non-traded REIT, exceed the ten percent (10%) concentration limitation;

- b. Those transactions made in violation of non-traded REIT prospectus prescribed net worth and annual income suitability standards; or
- c. Those transactions made in violation of Respondent's Compliance Manual and Written Supervisory Procedures prescribed alternative investment suitability requirements.

G. Respondent agrees that the offer of restitution shall be sent to Massachusetts investors identified in Section VII, subsection F, in a letter ("Offer Letter Two") sent to the address of record for such investors, a draft of which shall be provided to the Division within thirty (30) days of the completion of the above referenced identification process, and a finalized version not unacceptable to the Division, which shall be mailed to Massachusetts investors identified in Section VII, subsection F within fifteen (15) days of the Division's approval of such letter. Offer Letter Two will remain open for ninety (90) days. Within thirty (30) days of entry of the Order, Respondent shall provide the Division with a list of the names and addresses of all Massachusetts residents listed on Appendix 2. Within thirty (30) days of the mailing of Offer Letter Two, Respondent shall provide the Division with a list of all Massachusetts residents for whom Respondent receives an offer as returned to sender ("Undeliverable Massachusetts Residents"). To the extent the Division has access to different mailing address information for Undeliverable Massachusetts residents, Respondent agrees to mail a second Offer Letter Two to Massachusetts residents

within 30 days of the Division's providing such different Massachusetts residents who choose to accept the offer of restitution shall be required to sign a release in a form not unacceptable to the Division, agreeing to waive any further claims against Respondent or its agents relating to any violation identified in Section VII, subsection F, subpart a through c, giving rise to the offer of restitution, and agreeing to offset any additional claims relating to identified transactions by the amount received by this offer of settlement. In addition, eligible customers who choose to accept the offer of restitution must agree to tender their existing shares in the non-traded REIT giving rise to the offer of restitution to Respondent or its designee, as a precondition to receipt of the payment of restitution by Respondent.⁸ The offer of restitution shall be in the form of a bank check unless requested otherwise by the Massachusetts resident. Respondent shall be permitted to reduce its offer of restitution to each client listed on Appendix 2 by the number of previously redeemed shares (if any) by the REIT company at issue. In all instances where any Massachusetts resident identified in the above referenced identification process previously redeemed shares at a discount or incurred any fees or charges directly related to the previous redemption of shares, Respondent shall compensate the Massachusetts resident for any difference in redemption price and for said fees and charges.

- H. Within forty-five (45) days of the expiration of Offer Letter Two, Respondent agrees to prepare, and submit to the Division, a report detailing the amount of funds reimbursed pursuant to the Order, which shall include:

⁸ As pertaining to any investor who may have physical certificates of the identified non-traded REITs, Respondent will provide these Massachusetts residents additional time to locate all physical certificate(s) not unacceptable to the Division.

- i. Identification of all accepted and verified offers;
 - ii. Dates, amounts, and methods of the transfer of funds for all recessionary payments;
 - iii. Identification and detailed descriptions of any objections received by Respondent.
- I. Respondent agrees to pay an administrative fine within ten calendar days following the date the Order executed pursuant to this Offer is entered into the docket in the amount of \$300,000.00 (USD). Payment shall be: (1) made by United States postal money order, certified check, bank cashier's check, bank money order, or wire; (2) made payable to the Commonwealth of Massachusetts; (3) either hand-delivered, mailed to One Ashburton Place, Room 1701, Boston, Massachusetts 02108; or wired per Division instructions; and (4) submitted under cover letter or other documentation that identifies payment by Respondent and the docket number of the proceeding;
- J. To the extent the following actions have not already been completed, the Chief Executive Officer ("CEO") of Respondent shall certify in writing to the Division within sixty (60) days of the date of entry of this Order the following in a written report to the Division ("Report"):
 - a. That Respondent has conducted a comprehensive review of (1) Respondent's policies and procedures for the sale of all alternative investments, including, but not limited to all non-traded REITs; (2) Respondent's policies and procedures for review and approval for the sale of all Alternative Investment products, including, but not limited to all non-

traded REITs; and (3) Respondent's training procedures for the approval and sale of all alternative investments;

b. At a minimum, Respondent shall enhance its policies and procedures to:

(1) Develop and implement mandatory Alternative Investment products training, including, but not limited to non-traded REITs, for all registered representatives and their OSJ supervisors before the registered representatives may sell, and before an OSJ supervisor may approve the sale, of non-traded REITs;

(2) Develop enhancements to Respondent's surveillance of the purchase of Alternative Investment products, including, but not limited to, non-traded REITS, and;

(3) Alter Respondent's Alternative Investment Form to include a plain language statement providing a reminder that prospectuses may contain different suitability requirements and methodologies for calculating liquid net worth and net worth and that in all instances, prospectus limitations and directives supersede Respondent's guidelines and methodologies. In addition, Respondent shall add to the Alternative Investment Form an additional line item reflecting the client's liquid net worth calculated in accordance with prospectus methodology, if different from Respondent's.

c. That as a result of that review, Respondent has made findings and conclusions regarding the firm's practices, policies, and procedures together

with recommendations for improvements and changes to such practices, policies and procedures, which shall be detailed in the Report;

d. That Respondent has adopted all required remediation as set forth in paragraph J(b) above, as well as such other and further recommendations for changes in practices, policies, and procedures; provided, however, that in the case of any recommendations not yet adopted, an undertaking as to when such recommendations will be made effective.

K. One year after the termination of the process set forth above in Section VII, subsection J(a-d), Respondent shall undergo, at its own expense, a review by its Supervisory Controls Unit to confirm the implementation of the recommendations set forth in the Report and to assess the efficacy of such changes to Respondent's practices, policies, and procedures. At the conclusion of this review, which in no case shall take more than sixty (60) days, Respondent's Supervisory Controls Unit shall issue a report of its findings and recommendations concerning Respondent's adherence to and the efficacy of the Report's recommendations. The report shall be promptly delivered to the Division within ten (10) days of its completion. No later than thirty (30) days after receipt of the report, Respondent shall provide a detailed, written response to any and all findings and recommendations in the Supervisory Controls Unit report to the Division, including, but not limited to, the reason(s) for any deficiencies identified, and a process and procedure to address said deficiencies, recommendations, or other issues identified in the report.

- i. Respondent shall retain copies of any and all report(s) as set forth in paragraphs J(a-d) and K above in an easily accessible place for a period of five years from the date of the reports.
- L. At the request of the Respondent, the Division's staff may extend, for good cause shown, any of the procedural dates set forth above;
- M. Respondent agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to, any payments made pursuant to any insurance policy, with regard to all amounts that Respondent shall pay pursuant to the Division's Order;
- N. Respondent and its designee agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any amounts that Respondent shall pay pursuant to the Division's Order, unless otherwise required by law;
- O. Respondent agrees that, upon issuance of this Order, if Respondent fails to comply with any of the terms set forth in the Division's Order, the Enforcement Section may take appropriate action pursuant to Sections 204, 407A and 408 of the Act. Additionally, Respondent agrees that, after a fair hearing and the issuance of an appropriate order finding that Respondent has not complied with the Order, the Enforcement Section may move to have the Order declared null and void, in whole or in part, and re-institute the administrative proceeding and associated investigation that had been brought against Respondent.

X. NO DISQUALIFICATION

The Order hereby waives any disqualification under the laws of the Commonwealth and all rules or regulations thereunder, including any disqualifications from relying upon the registration exemptions or safe harbor provisions that Respondent or its affiliates maybe subject to. The Order is not intended to subject Respondent to disqualification under federal securities laws, rules or regulations thereunder, or the rules and regulations of any self-regulatory agency, nor the laws, rules or regulations of the various states and U.S. Territories, including, without limitation, any disqualification from relying upon the registration exemptions or safe harbor provisions. In addition, the Order is not intended to form the basis for any such disqualifications.

**WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH**

By: 

Bryan J. Lantagne
Director
Massachusetts Securities Division
One Ashburton Place, Room 1701
Boston, MA 02108

May 22, 2013