

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

IN THE MATTER OF:)	
)	
FIDELITY BROKERAGE SERVICES LLC,)	Docket No. E-2015-0078
)	
RESPONDENT.)	
)	
)	

ADMINISTRATIVE COMPLAINT

I. PRELIMINARY STATEMENT

The Registration, Inspections, Compliance and Examinations Section of the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (the “RICE Section” and the “Division,” respectively) files this Administrative Complaint (the “Complaint”) to commence an adjudicatory proceeding against Fidelity Brokerage Services LLC (“Fidelity” or “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 RICE Section alleges Fidelity acted in a dishonest and unethical manner and breached its obligation to observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business by 1) knowingly allowing unregistered investment advisers to utilize Fidelity’s trading platform to conduct unregistered activity in Fidelity customer accounts, including the accounts of Massachusetts residents, and 2) facilitating the transfer of funds from Fidelity customer accounts to compensate unregistered investment advisers for providing investment advisory services.

The RICE Section seeks an order: 1) finding as fact the allegations set forth below; 2) censuring Respondent; 3) requiring Respondent to permanently cease and desist from further dishonest and unethical conduct that allowed unregistered investment advisers to utilize the Fidelity trading platform to conduct unregistered investment advisory activity in the Commonwealth and to be compensated from Fidelity customer accounts for providing unregistered investment advisory services; 4) requiring Respondent to engage an independent compliance consultant to review written policies and procedures regarding trading authorizations and ensuring that such policies include methods for enforcement and compliance oversight; 5) finding that all sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors; 6) imposing an administrative fine on Respondent for each violation of the Act; and 7) taking any such further actions which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

II. SUMMARY

Investor protection is the responsibility of both the regulators and the regulated. Implicit with their obligations to protect investors, registered broker-dealers are required to act honestly and ethically. For at least ten years, Fidelity Brokerage Services LLC (“Fidelity”), a registered broker-dealer, has knowingly allowed its retail customers to be advised by least thirteen unregistered Massachusetts investment advisors, serving as a haven from regulatory oversight by ignoring blatant unregistered investment advisory activity. As such, Fidelity breached its duty to act honestly and ethically and breached its obligations to observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business.

But for Fidelity allowing their trading platform to be utilized, unregistered investment advisers would have had no business. By allowing unregistered advisory activity, Fidelity put its

own retail customers at risk and undeniably weakened the protections afforded to those retail customers through the Division's oversight of investment advisors who register with the Commonwealth. Fundamentally, registration is at the core of Fidelity's business and it is inexcusable that they would participate knowingly in unregistered activity.

Under the Massachusetts Uniform Securities Act, MASS. GEN. LAWS ch. 110A (the "Act"), persons located in Massachusetts who provide investment advice for a fee are required to register as investment advisers. Not only do investment advisers owe a fiduciary duty to their clients, but by requiring registration, the Act requires the investment adviser to open its books and records to inspection by the Division, and to comply with the Act and its corresponding Regulations at 950 MASS. CODE REGS. 10.00-14.413. The Act and Regulations prohibit investment advisers from providing services without a contract; exercising discretion without the proper financial requirements; charging performance fees to non-qualified clients, among other important safeguards intended to protect Massachusetts investors.

Unregistered IA 1, a Massachusetts resident, is a prime example of Fidelity knowingly allowing unregistered investment advisory activity. Unregistered IA 1 began his unregistered advisory activity around January 2005 when two individuals submitted trading authorization forms to Fidelity allowing Unregistered IA 1 unlimited trading ability on their Fidelity customer accounts. Over approximately the next ten years, the trading authorizations submitted by twenty additional Fidelity customers repeatedly indicated Unregistered IA 1's relationship to the Fidelity customer as the customer's "financial advisor," listing Unregistered IA 1's employment as "self-employed" and his occupation as "financial advisor." Those forms, which were unambiguous and also permitted Fidelity to conduct background checks on Unregistered IA 1, were ignored by Fidelity as Unregistered IA 1 conducted his openly unregistered advisory

activity. Unregistered IA 1's unregistered activity was so blatant that on three separate occasions, twice in 2006 and once in 2014, Fidelity instructed him to register. Despite its demonstrated knowledge of unregistered activity, Fidelity continued to allow Unregistered IA 1 to advise Fidelity customer accounts.

Over the approximate ten-year timeframe, seven Fidelity customers serviced by Unregistered IA 1 paid Unregistered IA 1 a total of \$732,271.83 in advisory fees from their Fidelity customer accounts. The majority of these disbursements noted that the payment to Unregistered IA 1 was for advisory fees. Over that timeframe, Unregistered IA 1 made approximately 12,389 trades in his own Fidelity accounts and more than twice that amount, approximately 28,958 trades, in his clients' Fidelity accounts through his trading authorizations.

Fidelity valued Unregistered IA 1's business because Unregistered IA 1 was an active trader, using Fidelity's active trader platform for his own accounts. Fidelity also highly valued Unregistered IA 1's advisory business by allowing his clients, whose Fidelity customer accounts would not have qualified for the same platform on their own, to utilize Fidelity's active trader platform by virtue of their relationship with, and trading authorization given to, Unregistered IA 1. In addition to giving Unregistered IA 1's clients access to cheaper commissions, Fidelity courted Unregistered IA 1's continued use of its trading platform to generate trade revenue for Fidelity by providing Unregistered IA 1 with gifts such as free trades, airline miles and tickets to professional sporting event, despite disclaiming such items as gifts at the time they were given. Finally, after more than ten years of openly flaunting its regulatory requirements, Fidelity conducted a "risk assessment" for unregistered activity and revoked Unregistered IA 1's trading authorizations on June 22, 2015.

Unregistered IA 1's example is emblematic of a systemic failure to detect and prevent unregistered activity. In July 2014, for the first time, Fidelity began assessing its internal risks of allowing unregistered investment adviser activity; an assessment which, upon information and belief, was expedited based on the Division's investigation. Fidelity's risk assessment identified ninety-three additional Massachusetts residents having fifteen or more trading authorizations over Fidelity customer accounts. Since January 1, 2015, thirteen Massachusetts unregistered advisers, including Unregistered IA 1, have had their trading authorizations revoked due to investment advisers' lack of registration with the Commonwealth. While Fidelity was concerned about its exposure to risk, at no time during the Division's investigation did Fidelity express concern about the risks to which it exposed its retail customer by allowing investment advisers to conduct unregistered activity. Fidelity's willful ignorance of and complete failure to detect and prevent unregistered activity has left Massachusetts individual investors, including Fidelity's own customers, at risk and constitutes a clear case of dishonest and unethical behavior.

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 the Massachusetts General Laws.
2. The RICE Section brings this action pursuant to the authority conferred upon the Division by Sections 204, 407A, 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. The RICE 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

4. Except as otherwise expressly stated, the conduct described herein occurred between January 1, 2005 and June 30, 2015 (the "Relevant Time Period").

V. RESPONDENT

5. Fidelity Brokerage Services LLC ("Fidelity") is a broker-dealer with its principal office located at 245 Summer Street, ZW9A, Boston, MA 02210 and a main address at 900 Salem Street, Smithfield, RI 02917. Fidelity is assigned Financial Industry Regulatory Authority ("FINRA") Central Registration Depository ("CRD") number 7784 and has been registered as a broker-dealer with the Commonwealth of Massachusetts since July 31, 1981.

VI. OTHER RELEVANT ENTITY AND INDIVIDUAL

6. Unregistered IA 1 is a Massachusetts resident who, as of May 1, 2015 provided continuous and regularly supervisory or management services to nineteen client accounts totaling over \$9,000,000 in assets. Unregistered IA 1's application with the Commonwealth of Massachusetts to register his sole proprietorship as an investment adviser, and himself as an investment adviser representative of that sole proprietorship have been pending since May 1, 2015. Unregistered IA 1 was last registered with the Commonwealth of Massachusetts as a broker-dealer agent between July 20, 2000 and April 7, 2004.

VII. STATEMENT OF FACTS

7. For over ten years Fidelity allowed unregistered investment advisers to utilize its trading platform to conduct investment advisory business.

8. The unregistered investment advisers had their clients submit trading authorization forms to Fidelity in order to give trading access to their investment adviser. Fidelity then allowed the unregistered investment advisers to trade on the Fidelity customer account.

9. Fidelity's standard trading authorization forms included a section requesting the nature of the relationship between the Fidelity customer and the authorized agent being given trading authorization. Many of these trading authorizations submitted to Fidelity clearly identified the unregistered investment advisers as having a financial adviser relationship with the Fidelity customer and often listed the unregistered investment advisers' employment as being "self-employed" and their occupation as a "financial adviser."

10. In response to a Division subpoena, Fidelity explained that it:

permits account owners, of their own volition, to grant trading authorization to a third party in their self-directed brokerage accounts. At the time the trading authority is added by the customers, [Fidelity] does not analyze the relationship between the account owner and the third party nor does [Fidelity] restrict the customer as to whom they can grant trading authority (with the exceptions of minors).

Fidelity's Trading Authorization Policies and Procedures

11. According to Fidelity's 2005 written policies and procedures:

Trading authorization allows Fidelity to accept certain transaction orders from a third party on the customer's behalf or to provide account information for use in those transactions. The registered owner or fiduciary of an account can grant trading authority to a person who is not listed in the account registration.

12. The same policies and procedures also provide the following regarding limited trading authority:

- **Brokerage accounts:** Allows a third party to place only buys, sells, respond to voluntary tender offers (BVOL), make SIMPLE allocation changes, or exchanges into new or existing positions on behalf of the customer.
- **Mutual fund accounts:** Allows a third party to place **only** exchanges into new or existing funds on behalf of the customer.

(emphasis in original).

13. Fidelity's policies dating back to at least 2005 indicate that Fidelity was aware that financial advisers were utilizing limited trading authorizations to conduct business in Fidelity customer accounts.

14. Specifically, Fidelity's 2005 written policies and procedures state, in pertinent part:

Responding to requests from financial advisors

When a financial advisor calls to establish trading authorization on a brokerage or mutual fund account, you must send the Trading Authorization form directly to the account owner. All registered owners must sign the form and then have the financial advisor sign. Fidelity prefers that all authorized agents sign in the appropriate section, but we accept the signature of the firm's principal or president, signing in capacity.

! Important: The principal who signs the form must list the names of all agents authorized to act on the account.

(emphasis in original).

15. Despite maintaining that policy, Fidelity did not begin monitoring whether investment advisers with trading authority were registered with a federal or state regulatory agency as a matter of regular course until July 2014.

16. In response to a Division subpoena, Fidelity explained that it:

determined that the risk associated with a third party who has trading authority over multiple accounts and who appears to be acting in an investment advisory capacity can be mitigated when the third party is registered with the SEC or at least one state and thus subject to their securities laws, regulations and oversight.

17. The trading authorizations allow Fidelity to "obtain credit information, verify information [the authorized agent] provided, and perform a background check on [the authorized agent], and to reject or remove [the authorized agent] as authorized agent from this or any other account, at anytime and for any reason we see fit."

18. Despite knowing of investment advisers' use of trading authorizations on Fidelity retail accounts and the authorized agent's express permission allowing Fidelity to conduct background

checks, Fidelity facilitated unregistered investment activity in Fidelity customer accounts and on its trading platform.

19. Furthermore, Fidelity processed payment of investment advisory fees from Fidelity customer accounts to unregistered investment advisers.

20. In response to a Division subpoena, Fidelity explained that payments to unregistered investment advisers with trading authorization on multiple accounts would create a red flag in their systems once the number of affiliated accounts or trading authorizations reached fifteen.

Fidelity stated, in pertinent part:

...since November 2011, [Fidelity's Risk Management Team] has maintained a surveillance module which creates alerts for review when certain conditions are present. Specifically, the surveillance system generates an initial Trading Authority alert when a third party has trading authority over a certain number of accounts, and thereafter when red flags are triggered for the same item. The red flags are designed to alert the Firm when new conditions arise from an existing trade authority relationship, posing additional risk and warranting an updated review. The current red flags are as follows:

RED FLAGS

...

- **Red Flag 7:** the number of transactions (cash withdrawals) for the trader in a given account exceeded the threshold (currently 1)

...

21. Despite Fidelity's surveillance module initiated in 2011, several Fidelity customer accounts had withdrawals payable to their unregistered investment adviser who had trading authority over their accounts. The earliest any of those unregistered investment advisers had their trading authority revoked, however was not until 2015.

Fidelity Permitted Unregistered Investment Adviser Activity for at Least Ten Years

22. Unregistered IA 1, a Massachusetts resident operating a sole proprietorship, has never been registered with the Commonwealth of Massachusetts as either an investment adviser or investment adviser representative.

23. Over the course of approximately ten years, notes reflecting Fidelity’s communications with Unregistered IA 1 demonstrate that Fidelity knew Unregistered IA 1 was managing money for a fee and instructed Unregistered IA 1 to register as an investment adviser on several occasions.

24. Despite knowing that Unregistered IA 1 was unregistered, Fidelity allowed Unregistered IA 1 to provide investment advisory services in Fidelity customer accounts for over ten years.

25. Unregistered IA 1 maintained some of his personal brokerage accounts at Fidelity and was an active trader. Fidelity’s trade blotter for Unregistered IA 1’s accounts shows the following number of trades made from 2005 until July 24, 2015:

Unregistered IA 1, Acct 1		Unregistered IA 1, Acct 2		Unregistered IA 1, Acct 3		Unregistered IA 1, Acct 4		Unregistered IA 1, Acct 5	
Year	Number of Trades	Year	Number of Trades	Year	Number of Trades	Year	Number of Trades	Year	Number of Trades
		2005	456	2005	341				
		2006	1,051	2006	11	2006	28		
		2007	949			2007	19		
		2008	988						
		2009	573						
		2010	1,257						
2011	173	2011	981						
2012	172	2012	1,092					2012	171
		2013	983					2013	494
		2014	1,078					2014	592
		2015	860					2015	120
Total	345		10,268		352		47		1377
Grand Total All Accounts All Years		12,389							

26. Fidelity’s notes reflecting an August 9, 2004 conversation with Unregistered IA 1 explain that Unregistered IA 1 was considering managing a friend’s account and discussed his options with a Fidelity employee.

27. One year later, Fidelity's notes from an August 24, 2005 conversation with Unregistered IA 1 state:

[Unregistered IA 1] acts as an advisor for several other [Fidelity] clients. he inquired if his clients could pay him directly out of their retirement accts and not be coded as a dist[ribution]. confirmed with clients services this can be done. his clients have to send us a [letter of instruction] stating the [transfer] of their cash to his [Fidelity] acct is for an ADVISOR FEE every time they want this to occur. he understands that the burden of proof is on the him [*sic*] and his clients if the IRS investigates. he agreed it would be beneficial to discuss with the IRS and a tax attorney initially. he is going to inform clients to mail requests to burl branch private access.

(emphasis in original).

28. Fidelity's notes from a January 2006 conversation show that Fidelity helped Unregistered IA 1 submit multiple trading authorization forms.

29. In February 2006, Fidelity further noted that "[Unregistered IA 1] is going to have a number of accounts transferred to fidelity that he will manage – he asked if we could extend the gold commission schedule – offered to check and followup [*sic*]."

30. A February 9, 2006 note memorialized a Fidelity employee's suggestion that Unregistered IA 1 register as an investment adviser::

spoke to [Unregistered IA 1] – told him that if he's not an [registered investment adviser] officially and just the trading authority on accounts, we cannot admit them into the [private access] model – svc would suffer. if the particular acct turns out to be atp, then that acct will get the 8 dollar trades. **encouraged him to get the series 66 and hang up his shingle officially as an ria to group the accounts he manages as more of an advisor relationship.** will ask [Fidelity employee] to speak with him as to how that would work.

(emphasis added).

31. Fidelity's notes state that on February 13, 2006, a Fidelity employee told Unregistered IA 1 that Fidelity would "credit his account for 25 free trades as a way of saying thank you for all

the referrals he has sent to [F]idelity. He has opened a lot of accounts with us and brought in a lot of trading account[s].”

32. In addition to free trades, Fidelity’s notes from March 2006 conversations with Unregistered IA 1 show that Fidelity also gave Unregistered IA 1 free airline miles for referring clients to Fidelity.

33. Fidelity, however, expressed concerns that giving gifts to Unregistered IA 1 could raise regulatory concerns. A March 21, 2006 note regarding a Fidelity employee’s communication with Unregistered IA 1 stated in part:

[Unregistered IA 1] is “unhappy” dealing with me and said that he’s gotten plenty of help from the rrest [*sic*] of the team – told him that he a) any exceptions we’ve made re free trades and united miles has been due tot he [*sic*] fact atht [*sic*] we appreciate his business, but we have to be careful about these types fo [*sic*] exceptions b/c I or anyone of the team can overstep compliance or sec regulations – united mileage situation is a perfect example

34. In the same March 21, 2006 conversation , Fidelity again noted that Unregistered IA 1 was using his Fidelity private access accounts as an investment adviser and suggested that he register accordingly:

...**he’s trying to use [private access] as an ria** – calls the team to service the non pa accounts so he’s getting pa service. **I suggested he get his 66 adn [*sic*] e and o insurance – even had [Fidelity employee] call him to discuss advisor platform.** he’s been given 40 free trades already and team has had to manually keep track of their usage since they go thru several accounts that he has [trading authority] on.

(emphasis added).

35. Two days later, a Fidelity representative spoke with Unregistered IA 1, knowing that Unregistered IA 1 was acting as an investment adviser and noted:

Call with [Unregistered IA 1] to talk about how he wants to do business. **he is a CFA. MBA in finance and former investment banker. he is self employed [*sic*] and manages money for a few clients.** he wants them to have PA access. He will trade online and we will help service the clients when needed. He asked about promotions and I directed to the current promo allowed and showed him how to

register online for the free \$100. He doesn't follow asset allocation for his or clients. he is a value investor that buys stocks.

(emphasis added).

36. Notes from a conversation the next day explain that Unregistered IA 1's conduct of advisory business on Fidelity's retail platform caused his personal trades to be executed ahead of his clients' trades. Specifically, the March 24, 2006 note states:

client called upset that [Lucent] orders were not being filled. The orders were limit orders and were filling slower that [*sic*] he thought they should. Also the orders in his account were being filled before the orders in some of the other accounts he has [trading authority] on and they were placed first. I offered to call the desk but he wanted to be transferred [*sic*] to Active Trader. Transferred as requested.

37. Unregistered IA 1 encountered additional issues in managing his advisory accounts in May 2006, as reflected by Fidelity's notes:

ATP – Client has trade authorization over a few accounts with us. He was going in today to place the same buy order in all 5 accounts and was disappointed to learn that he needs to type out each order. He would like to see us offer a way to place the same order in multiple accounts with just filling out 1 trade ticket. thanks

38. Fidelity notes from a January 26, 2009 with Unregistered IA 1 indicated that he was still acting as an investment adviser: “[c]alled to introduce myself. [Unregistered IA 1] is a money manager. He would like the clients he brings to Fidelity to be coded Private Client Group. No needs at this time.”

39. Similarly, on September 24, 2010, a Fidelity employee noted: “[c]alled out – [Unregistered IA 1] is an independent money manager – He uses Fido [Fidelity] platform for his clients –he has no needs at this time – i invited him to a 10/5 event and he declined.”

40. In 2012, two separate Fidelity notes indicate that Unregistered IA 1 continued to act as an investment adviser.

41. In March 2012, a Fidelity employee noted: “REFERRAL ASKED-. Added 5 trades to a custodial [*sic*] account [Unregistered IA 1] manages. The account had 5 free trades the customer never used. Asked customer if he was planning on managing new accounts and he said yes. He will call me when he is planning to do that.”

42. In September 2012 another Fidelity employee noted: “REFERRAL ASKED. Customer manages several accounts. will be bringing new customers and will give me a call. Granted 100 free trades for 6 months split between [Unregistered IA 1’s] sep (70) and two account[s] he manages where funds were just deposited.”

43. In addition to free trades, January 2013 Fidelity notes from show that Unregistered IA 1 and a guest accepted Fidelity’s invitation to attend a Boston Bruins National Hockey League game.

44. An August 29, 2013 note shows that Unregistered IA 1 was still acting as an investment adviser and seeking free trades for referrals:

[Unregistered IA 1] called in because he had just referred a client to fidelity and wanted to know what offers we had for that. I advised him that we don’t generally offer free trades for referred clients but as a ONE TIME courtesy we could offer him 25 free trades. I advised him not to expect free trades or anything when he refers clients. We do appreciate the business but don’t offer anything for the referrals. He understood.

45. Fidelity notes of communications with Unregistered IA 1 explained that when a trade commission rate was adjusted down (i.e. because Unregistered IA 1 could not trade online due to an error and placed the trade over the phone with a Fidelity employee), the adjustment was not to be considered a gift.

46. Fidelity notes explicitly stating “non-gift” and “not a gift” began to appear in notes pertaining to conversations with Unregistered IA 1 around November 2013.

47. In February 2014, knowing that Unregistered IA 1 was still conducting unregistered investment advisory business on its retail platform, Fidelity again suggested that Unregistered IA 1 move his advisory client accounts to Fidelity's institutional platform for registered investment advisers. Fidelity's notes state:

[Unregistered IA 1] had questions about setting up alerts for his accounts. He is managing many accounts, and wanted ot [sic] find ways to manage them more easily. I spoke to ECS. I let him know that the website was built for an individual, and that **he should consider registering with Wealth Central**, thought there will be more cost associated with that. He wanted to have someone call out to him. I will call IWS tomorrow to see if they can call him.

(emphasis added).

48. Fidelity also later granted Unregistered IA 1 additional free trades for customer referrals despite its August 29, 2013 note indicating otherwise. Fidelity's April 24, 2014 notes explains: "[Unregistered IA 1] requested free trades for bringing in the new account. I added 10 free trades good for 6 months. Unregistered IA 1 is aware that the free trade promotion does not start until tomorrow and that any trades placed today will be at the standard commission."

49. Three days later, on April 27, 2014, Fidelity noted that:

[Unregistered IA 1] called in asking about promotions we have available. He is managing client accounts and is waiting for trading authority to be added on a new client [account] in our system. He is interested in promotion for 140K new money to an IRA, discussed free trades and cash offer. client said the funds have already been transferred to the acct but he did not have a chance to add the promotion b/c he does not have authority on the account yet. discussed basic terms of promotions and let him know that generally the promotion need[s] to be signed up for ahead of time but the client could submit a request to see if they can get approval for an exception[.]

50. Unregistered IA 1 continued to add additional advisory clients, as reflected by Fidelity's November 17, 2014 note regarding Unregistered IA 1: "client is setting up account with himself as limited trader. Actual account owner will be calling back tomorrow to my extension to credit

the account for the 60 free trade[s] offer. client self directed, uses limited trading authority on accounts for people he states are his clients.”

51. On March 20, 2015, a Fidelity note explained that Unregistered IA 1 added another client: “client just opened new account for \$14000 asked about free trades. does not qualify for promotion but granted 10 free trades to account for setting it up.”

52. Finally, after continually knowing of and assisting Unregistered IA 1’s unregistered investment adviser activity for over ten years, Fidelity decided to revoke Unregistered IA 1’s trading authorizations on Fidelity customer accounts.

53. Fidelity’s review and subsequent revocation of Unregistered IA 1’s trading authority was Fidelity was triggered by a January 12, 2015 trade authorization alert.

54. In the January 12, 2015 trade authorization alert, Fidelity noted its reasoning for revoking Unregistered IA 1’s trading authority stating, “[t]rading authority has been terminated as he was acting in an advisory capacity, and is not registered.”

55. Fidelity, however, then allowed Unregistered IA 1 to continue to trade in Fidelity customer accounts for a few additional months after deciding to terminate Unregistered IA’s trading authorizations.

56. Fidelity informed Unregistered IA 1 of his trading authority termination in a letter dated April 22, 2015 which stated:

I am writing in reference to the Trading Authority that you have on accounts with [Fidelity].

We have made a business decision to remove your privileges as an authorized person on accounts held with Fidelity or any of its affiliates. This change is being done in accordance with the terms of our Customer Agreement and Trading Authority Agreement. We will be removing your access from all accounts on which you have trading authority on May 22, 2015. The owners will also be notified of the removal in writing on that date.

57. After Unregistered IA 1 contacted Fidelity on April 27, 2015, Fidelity agreed to work with Unregistered IA 1 as he attempted to register:

Spoke with [Unregistered IA 1]. After consulting with Risk Management, I let the client know the following:

We are willing to work with the client as he goes through the process of becoming an RIA that is appropriately registered with FINRA. For now, we are keeping the 5/22/15 deadline to remove [Unregistered IA 1] as trade auth on all accounts. I have offered to follow-up with [Unregistered IA 1] between 5/15/15 and 5/20/15 to check on his progress of becoming an RIA. If the client is satisfactorily progressing toward becoming an RIA, Risk management may be willing to postpone removal of the trading authorization.

58. On May 1, 2015, Unregistered IA 1's sole proprietorship filed a Form ADV seeking investment adviser registration with the Division, and Unregistered IA 1 filed a Form U-4 seeking registration as an investment adviser representative of Unregistered IA 1's sole proprietorship in Massachusetts.

59. Fidelity, however, did not revoke Unregistered IA 1's trading authority on May 22, 2015, as it stated it would in its April 22, 2015 letter to Unregistered IA. Instead, Fidelity did not revoke Unregistered IA 1's trading authority not doing so until approximately June 22, 2015.

60. Fidelity never informed the Division that Unregistered IA 1 had conducted unregistered investment advisory activity using Fidelity's platform for approximately ten years.

61. Over those ten years, Fidelity allowed approximately twenty-two Fidelity customers to add Unregistered IA 1 as an authorized agent on their Fidelity accounts, and allowed Unregistered IA 1 to transact thousands of trades in the Fidelity customers' accounts.

62. In addition, over that same timeframe, Fidelity processed approximately \$732,271.83 in payments to Unregistered IA 1 from seven Fidelity customers to compensate Unregistered IA 1 for his unregistered investment advisory services.

63. In its July 9, 2015 subpoena response, Fidelity explained that it began to look at the “risk associated with a third party who has trading authority of multiple accounts and who appears to be acting in an investment advisory capacity” in July 2014.

64. Fidelity further explained in its subpoena response that: “for the past 12 months [July 2014-July 2015], as a matter of regular course, Risk has been gathering information, made publically available via FINRA broker-check and the SEC website as to whether the third party is registered.”

65. When asked by the Division in a June 26, 2015 subpoena to discuss Fidelity’s registration analysis, both generally and with regard to Unregistered IA 1, Fidelity stated:

As described in Interrogatory No. 1, [Fidelity’s] Risk [Management Division] reviews business escalations and Trade Authority risk alerts related to third parties who have trading authority on customers’ self-directed brokerage accounts. When reviewing the escalation or alert, if it appears the third party is acting in an investment advisory capacity, Risk will search FINRA broker-check and/or the SEC website to ascertain if the third party is registered for the reasons noted in Interrogatory No. 1. Further stated, the firm does not perform an analysis to determine whether or not the third party is required to be registered pursuant to the intricate laws, regulations, and exemptions which vary state by state. To perform such an analysis is not within the purview of the Firm nor are we aware of any requirement to do so.

With regard to the review of [Unregistered IA 1], Risk searched FINRA broker-check and the Sec website and did not find that Unregistered IA 1 was registered. Please note, the Firm did not perform a registration analysis to determine whether or not Mr. Unregistered IA 1 is required to be registered with the SEC or any state.

66. Fidelity’s risk alert procedures state:

We will terminate (remove the [Trading Authority] from accounts) if in our review we determine:

- a) The Trading Authority appears to be conducting advisory business (holding themselves out publically or giving us, or clients the impression of such a business) but is not registered with the SEC or at least one state.

(Emphasis in original).

Unregistered IA 1's Clients

Client 1

67. In January 2005, Client 1 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 1 as a "friend/adviser."

68. In August 2005, Client 1 executed another trading authorization form adding Unregistered IA 1 as an authorized agent on three additional accounts.¹ The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 1 as a "financial adviser," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

69. Fidelity's trade blotter identifies the following number of trades made Fidelity customer accounts in which Client 1 gave Unregistered IA 1 trading authority in 2005:

Client 1, Acct. 1		Client 1, Acct. 2		Client 1, Acct. 3	
Year	Number of Trades	Year	Number of Trades	Year	Number of Trades
2005	none	2005	none	2005	127
2006	259	2006	29	2006	67
2007	287	2007	29	2007	151
2008	279	2008	33	2008	115
2009	285	2009	26	2009	163
2010	503	2010	52	2010	109
2011	700	2011	32	2011	83
2012	671	2012	154	2012	3
2013	1,344	2013	2	2013	8
2014	1,106	2014	32	2014	14
2015	656				
Total	6,090		389		840
Grand Total All Accounts All Years		7,319			

70. In 2012 and 2013, Client 1 executed two additional trading authorization forms that also identified Unregistered IA 1's relationship with Client 1 as a "financial adviser," and listed

¹ Fidelity did not provide the Division with documents or trade information for one of the three accounts on Client 1's August 2005 trading authorization form.

Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor" in the trading authorization form's authorized agent section.

71. Fidelity's trade blotter reflects that 175 trades were made over 2013 and 2014 for one of Client 1's two additional accounts advised by Unregistered IA 1.

72. Over the course of ten years, Client 1 paid Unregistered IA 1 approximately \$170,032 in advisory fees from her Fidelity accounts.

Client 2

73. In January 2005, Client 2 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on his Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 2 as a "financial advisor" and listed Unregistered IA 1's employment as a "self-employed" and occupation as a "financial advisor."

74. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 2 gave Unregistered IA 1 trading authority in 2005:

Client 2, Acct. 1		Client 2, Acct. 2	
Year	Number of Trades	Year	Number of Trades
2005	34	2005	4
2006	262		
2007	244	2007	1
2008	278		
2009	193		
2010	399	2010	23
2011	278	2011	217
2012	459	2012	318
2013	739	2013	308
2014	669	2014	239
2015	288	2015	43
Total	3,843		1,153
Grand Total All Accounts All Years		4,996	

75. In 2013, Client 2 executed an additional trading authorization form that also identified Unregistered IA 1's relationship to Client 2 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed," and occupation as a "financial advisor."

76. Fidelity's trade blotter reflects that 73 trades were made between 2013 and 2015 in one of Client 2's additional accounts advised by Unregistered IA 1.

77. Over the course of 2014 and 2015, Client 2 paid Unregistered IA 1 approximately \$130,566 in advisory fees from one of his Fidelity customer accounts.

Client 3

78. In March 2006, Client 3 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on three Fidelity customer accounts. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and did not identify Unregistered IA 1's relationship with Client 3, but did list Unregistered IA 1's employment as "self-employed" and his occupation as "investing."

79. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 3 gave Unregistered IA 1 trading authority in 2006:

Client 3, Acct. 1		Client 3, Acct. 2	
Year	Number of Trades	Year	Number of Trades
2006	2		
2007	9		
2008	11	2008	1
2009	11	2009	5
Total	33		6
Grand Total All Accounts All Years		39	

80. In 2007, Client 3 paid Unregistered IA 1 \$256.39 in advisory fees from her Fidelity account.

Client 4

81. In March 2006, Client 4 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 4 as a "financial advisor", but did not identify Unregistered IA 1's employment or occupation.

82. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 4 gave Unregistered IA 1 trading authority in 2006:

Client 4, Acct. 1	
Year	Number of Trades
2006	314
2007	129
2008	114
2009	91
2010	226
2011	161
2012	297
2013	329
2014	443
2015	276
Total	2,380

83. Between 2006 through 2007 and 2010 through 2015, Client 4 paid Unregistered IA 1 approximately \$131,241.58 in advisory fees from her Fidelity customer account.

Client 5

84. In March 2006, Client 5 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 5 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

85. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 5 gave Unregistered IA 1 trading authority in 2006:

Client 5, Acct. 1	
Year	Number of Trades
2006	138
2007	134
2008	126
2009	87
2010	138
2011	128
2012	194
2013	397
2014	377
2015	328
Total	2,047

Client 6

86. In June 2006, Client 6 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on three Fidelity customer accounts. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 6 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

87. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 6 gave Unregistered IA 1 trading authority in 2006:

Client 6, Acct. 1		Client 6, Acct. 2		Client 6, Acct. 3	
Year	Number of Trades	Year	Number of Trades	Year	Number of Trades
2006	2	2006	73	2006	10
		2007	141	2007	3
		2008	118		
		2009	108		
		2010	222	2010	2
		2011	158	2011	15
		2012	267		
		2013	323	2013	16
		2014	326		
		2015	266		
Total	2		2,002		46
Grand Total All Accounts All Years		2,050			

88. Over the course of 2014 and 2015, Client 6 paid Unregistered IA 1 approximately \$35,756.60 in advisory fees from her Fidelity customer account.

Client 7

89. In August 2006, Client 7 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 7 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor/manager."

90. In November 2014, Client 7 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on another one of her Fidelity customer accounts.

91. The November 2014 trading authorization form's authorized agent section, which was also signed by Unregistered IA 1, also identified Unregistered IA 1's relationship with Client 7 as a "financial advisor" and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

92. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 7 gave Unregistered IA 1 trading authority in 2006 and

2014:

Client 7, Acct. 1		Client 7, Acct. 2	
Year	Number of Trades	Year	Number of Trades
2006	170		
2007	169		
2008	90		
2009	91		
2010	178		
2011	169		
2012	175		
2013	294		
2014	321	2014	87
2015	113	2015	103
Total	1,770		190
Grand Total All Accounts All Years		1,960	

Client 8

93. In July 2010, Client 8 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 8 as an "investment adviser," and listed Unregistered IA 1's employment as "self-employed" and his occupation blank.

94. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 8 gave Unregistered IA 1 trading authority in in 2010:

Client 8, Acct. 1	
Year	Number of Trades
2010	65
2011	85
2012	74
2013	148
2014	94
2015	46
Total	512

Client 9

95. In December 2010, Client 9 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on his Fidelity customer account. The authorized agent section, signed by Unregistered IA 1, identified Unregistered IA 1's relationship with Client 9 as an "investment adviser," and listed Unregistered IA 1's employment as "self-employed," but did not identify Unregistered IA 1's occupation.

96. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 9 gave Unregistered IA 1 trading authority in 2010:

Client 9, Acct. 1	
Year	Number of Trades
2010	130
2011	79
2012	88
2013	249
2014	380
2015	322
Total	1,248

Client 10

97. In August 2011, Client 10 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 10 as a "financial adviser," and listed Unregistered IA 1's employment as "self-employed" and his occupation as a "financial consultant."

98. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 10 gave Unregistered IA 1 trading authority in 2011:

Client 10, Acct. 1

Year	Number of Trades
2011	32
2012	13
2013	22
2014	12
2015	11
Total	90

Client 11

99. In August 2013, Client 11 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on his Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 11 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

100. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 11 gave Unregistered IA 1 trading authority in 2013:

Client 11, Acct. 1

Year	Number of Trades
2013	23
2014	42
2015	41
Total	106

Client 12

101. In August 2013, Client 12 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 12 as a "financial adviser," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

102. In March 2014, Client 12 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on another one of her Fidelity customer accounts. That trading authorization forms' authorized agent section, which was also signed by Unregistered IA 1, identified Unregistered IA 1's relationship with Client 12 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

103. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 12 gave Unregistered IA 1 trading authority in 2013 and 2014:

Client 12, Acct. 1		Client 12, Acct. 2	
Year	Number of Trades	Year	Number of Trades
		2013	108
2014	48	2014	51
2015	27	2015	10
Total	75		169
Grand Total All Accounts All Years		244	

Client 13

104. In January 2006, Client 13 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on his Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 13 as a "financial adviser," and listed Unregistered IA 1's employment as "self" and occupation as a "financial advisor."

105. In December 2013, Client 13 executed another trading authorization form adding Unregistered IA 1 as an authorized agent on an additional Fidelity customer account. That trading authorization form's authorized agent section, which was also signed by Unregistered IA 1, identified Unregistered IA 1's relationship with Client 13 as a "financial adviser," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

106. Fidelity's trade blotter identifies the following number of trades made in Fidelity customer accounts in which Client 13 gave Unregistered IA 1 trading authority in 2013:

Client 13, Acct. 1		Client 13, Acct. 2	
Year	Number of Trades	Year	Number of Trades
2006	345		
2007	320		
2008	204		
2009	141		
2010	345		
2011	233		
2012	439		
2013	615	2013	74
2014	643	2014	134
2015	347	2015	254
Total	3,632		462
Grand Total All Accounts All Years		4,094	

107. Between 2006 through 2007 and 2010 through 2015 Client 13 paid Unregistered IA 1 approximately \$256,109.27 in advisory fees from his Fidelity customer account.

Client 14

108. In January 2014, Client 14 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on his Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 14 as a "financial adviser," but did not identify Unregistered IA 1's employment and occupation.

109. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 14 gave Unregistered IA 1 trading authority in 2014:

Client 14, Acct. 1	
Year	Number of Trades
2013	18
2014	202
2015	125
Total	345

Client 15

110. In January 2014, Client 15 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on his Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and listed Unregistered IA 1's relationship with Client 15 as a "financial adviser," and identified Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

111. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 15 gave Unregistered IA 1 trading authority in 2014:

Client 15, Acct. 1

Year	Number of Trades
2014	248
2015	54
Total	302

112. Over the course of 2014 and 2015, Client 15 paid Unregistered IA 1 approximately \$8,309.16 in advisory fees from his Fidelity customer account.

Client 16

113. In April 2014, Client 16 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 16 as a "financial adviser," and listed Unregistered IA 1's employment as "self-employed" but did not identify Unregistered IA 1's occupation.

114. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 16 gave Unregistered IA 1 trading authority in 2014:

Client 16, Acct. 1

Year	Number of Trades
2014	64
2015	19
Total	83

Client 17

115. In April 2014, Client 17 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 17 as an "advisor," but identified Client 17's employment and occupation rather than Unregistered IA 1's employment and occupation.

116. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 17 gave Unregistered IA 1 trading authority in 2014:

Client 17, Acct. 1

Year	Number of Trades
2014	25
2015	25
Total	50

Client 18

117. In April 2014, Client 18 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 18 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

118. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 18 gave Unregistered IA 1 trading authority in 2014:

Client 18, Acct. 1

Year	Number of Trades
2014	196
2015	90
Total	286

Client 19

119. In November 2014, Client 19 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 19 as a "friend," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

120. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 19 gave Unregistered IA 1 trading authority in 2014:

Client 19, Acct. 1

Year	Number of Trades
2014	79
2015	101
Total	180

Client 20

121. In December 2014, Client 20 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 20 as a "financial advisor," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "financial advisor."

122. Fidelity's trade blotter identifies the following number of trades made in the Fidelity customer account in which Client 20 gave Unregistered IA 1 trading authority in 2014:

Client 20, Acct. 1

Year	Number of Trades
2014	38
2015	165
Total	203

Client 21

123. In March 2015, Client 21 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on her Fidelity customer account. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 21 as a "financial advisor," and listed Unregistered IA 1's employment as "employed" and occupation as a "financial consultant."

124. Fidelity's trade blotter identifies fifty-seven trades made in the Fidelity customer account in which Client 21 gave Unregistered IA 1 trading authority in 2015.

Client 22

125. In March 2015, Client 22 executed a trading authorization form adding Unregistered IA 1 as an authorized agent on two Fidelity customer accounts. The trading authorization form's authorized agent section was signed by Unregistered IA 1 and identified Unregistered IA 1's relationship with Client 22 as a "CFA," and listed Unregistered IA 1's employment as "self-employed" and occupation as a "CFA."

126. Fidelity's trade blotter identifies 119 trades made in the Fidelity customer account in which Client 22 gave Unregistered IA 1 trading authority in 2015.

Fidelity Revokes Trading Authorizations of Additional Unregistered Investment Advisers

127. In response to the Division's July 16, 2015 request that Fidelity identify individuals whose trading authorizations had been terminated between July 16, 2010 and July 16, 2015 due to a lack of registration, Fidelity identified five additional Massachusetts residents (i.e. not

including Unregistered IA 1) whose trading authorities were revoked during between January 20, 2015 and June 8, 2015.

128. Furthermore, in response to the Division's August 26, 2015 request, Fidelity identified an additional seven Massachusetts residents who had been informed by Fidelity that his or her trading authorization would be revoked. The seven individuals' trading authorities were revoked between July 27, 2015 and September 17, 2015.

129. Cumulatively, the revocations of these twelve individuals' trading authorizations due to a lack of registration were only effected in 2015, with the majority of those revocations occurring after the Division's June 26, 2015 subpoena requesting information on such non-registered individuals. Specifically, Fidelity provided the following information on those twelve Massachusetts residents:²

² The Division has removed names and contact information provided by Fidelity from the spreadsheet.

Name (redacted)	City	State	# of Retail Accountants Trading Authority on	# of Retail Accounts TA Revoked (or pending)	Date of Communication	Reason for Revoking	Reason for Not Revoked
Unregistered IA 2	Lincoln	MA	3	1	1/20/2015	terminated due to lack of registration.	Authorization on spouse's accounts were not revoked.
Unregistered IA 3	Truro	MA	43	43	3/30/2015	terminated due to lack of registration.	n/a
Unregistered IA 4	Carlisle	MA	59	57	6/2/2015	terminated due to lack of registration.	Authorization on spouse's accounts were not revoked.
Unregistered IA 5	Somerville	MA	99	92	6/2/2015	terminated due to lack of registration.	Authorization on spouse's accounts were not revoked.
Unregistered IA 6	Winchester	MA	30	27	6/8/2015	terminated due to lack of registration.	Authorization on spouse's accounts were not revoked.
Unregistered IA 7	Millis	MA	16	16	7/27/2015	terminated due to lack of registration.	n/a
Unregistered IA 8	Stockbridge	MA	24	22	7/28/2015	terminated due to lack of registration.	Authorization on spouse's accounts were not revoked.
Unregistered IA 9	Pittsfield	MA	16	16	9/14/2015	terminated due to lack of registration.	n/a
Unregistered IA 10	Chestnut Hill	MA	27	23	9/17/2015	terminated due to lack of registration.	Authorization on spouse's accounts were not revoked.
Unregistered IA 11	Reading	MA	17	16	9/17/2015	terminated for not being registered	Authorization on spouse's accounts were not revoked.
Unregistered IA 12	Wellesley Hills	MA	18	18	9/17/2015	terminated due to lack of registration.	n/a
Unregistered IA 13	n/a	MA	4	4	not sent a notification letter as we do not have an address on file for him and he does not have any personal accounts. He will be removed from accounts and customers will be notified.	terminated due to lack of registration.	n/a

Unregistered IA 2

130. Unregistered IA 2 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

131. Fidelity's notes of interactions with Unregistered IA 2 s that he had investment advisory clients in March 2013.

132. Notes of Fidelity's registration analysis of Unregistered IA 2 state that Unregistered IA was "getting paid from [Fidelity customer] for investment mgmt and is not registered. Located checks that show him getting paid."

133. Fidelity's notes from January 20, 2015 indicate that Unregistered IA 2's trading authorization would be revoked:

In accordance with the terms of the Trading Authority Agreement, Fidelity Brokerage Services LLC, Fidelity has elected to remove the privileges of [Unregistered IA 2] as authorized agents on all accounts held with Fidelity. A letter was sent to all clients that [Unregistered IA 2] has authority explaining this decision and that immediately; [Unregistered IA 2] will be removed as Trading Authority on all of their Fidelity accounts. Risk Management DOES not speak directly with customers. DO NOT transfer or give the customer our phone number.

(emphasis in original).

Unregistered IA 3

134. Unregistered IA 3 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period. However, prior to the Division learning of Unregistered 3's unregistered activity, unregistered IA 3 did register with the Division as a solicitor for a state-registered investment adviser.

135. In April 2010, Unregistered IA 3 informed Fidelity that between his accounts and family accounts, they had around \$3,000,000 in assets with Fidelity.

136. In July 2012, Fidelity assisted Unregistered IA 3 with electronic delivery of statements for the accounts in which he had trading authorization.

137. In December 2012, Fidelity notes reflect that Unregistered IA 3 confirmed that he could trade in a client's account but that he needed full trading authority in order to facilitate a distribution.

138. Notes of Fidelity's registration analysis of Unregistered IA 3 state that Unregistered IA 3 was "[s]elf employed [*sic*] as investor. Listed at advisor acct ... LinkedIn lists line of work as Financial Services - connected to other financial advisors[.]"

139. Fidelity's notes from March 31, 2015 indicate that Unregistered IA 3's trading authorization would be revoked:

In accordance with the terms of the Trading Authority Agreement, Fidelity Brokerage Services LLC, Fidelity has elected to remove the privileges

[Unregistered IA 3] as authorized agent on all accounts held with Fidelity. A letter was sent to him regarding this decision. A letter will also be sent on April 17, 2015 to all clients in which [Unregistered IA 3] was named an authorized party. ; [Unregistered IA 3] will be removed on April 17, 2015 as Trading Authority on all of their Fidelity accounts. Risk Management DOES not speak directly with customers. DO NOT transfer or give the customer our phone number

(emphasis in original).

Unregistered IA 4

140. Unregistered IA 4 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

141. Fidelity's notes of interactions with Unregistered IA 4 indicate that she had trading authority on Fidelity customer accounts since April 2013, if not earlier.

142. Notes of Fidelity's registration analysis of Unregistered IA 4 state:

[Trading authority] forms list client as Advisor for [Unregistered IA 4's company], however, unable for find registration. No bankruptcy, liens, judgments, or criminal record. Former Fidelity employee. ...2/21/14 notes, "spoke with [Fidelity customer] - she is ok for now...she has a financial advisor that she has utilized for 15 years whom she feels comfortable with...the advisor used to work at Fidelity" ...5/20/11 notes, "they have a financial advisor that they work with and I explained [sic] that we work along side advisors to help implement any plans."... 9/20/12 notes, "he has an outside advisor that has been bugging him to consolidate. informed we have local advisors that can help at no cost. he appreciated the offer"

143. Fidelity's notes from June 3, 2015 indicate that Unregistered IA 4's trading authorization would be revoked:

In accordance with the terms of the Trading Authority Agreement, Fidelity Brokerage Services LLC, Fidelity has elected to remove the privileges of [Unregistered IA 4] as authorized agent on all accounts held with Fidelity. A letter was sent to her regarding this decision. A letter will also be sent on June 23, 2015 to all clients in which [Unregistered IA 4] was named an authorized party. ; [Unregistered IA 4] will be removed on June 23, 2015 as Trading Authority on all of their Fidelity accounts. Risk Management DOES not speak directly with customers. DO NOT transfer or give the customer our phone number.

(emphasis in original).

Unregistered IA 5

144. Unregistered IA 5 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

145. Fidelity's April 21, 2007 notes of conversations with Unregistered IA 5 show that he was an investment adviser: "customer works as an advisor and manages appx 9 million dollars held at [F]idelity...."

146. Over five years later, on October 19, 2012, Fidelity noted that Unregistered IA 5 was still advising accounts: "[Unregistered IA 5] called to inquire about managed acct services. He helps family and friends with several accounts totaling over[]\$8 mil."

147. Later that same day, a Fidelity branch employee spoke with Unregistered IA 5, noting in part: "introduction call to client. He wants to come in to meet in a few weeks to discuss his options for having Fidelity assist him in the management of his accounts. He oversees a lot of family and friend accounts"

148. On May 18, 2014, Fidelity's notes again acknowledge their recognition of Unregistered IA 5 as an advisor, stating:

q's abt setting up a promotion for a new account that is bringing over for a new client. I informed the client he only has inquiry access and he will have to call with the new account owner. I informed him he has to call with the client owner. He is an advisor and I asked him have he ever talk with our advisor group group to look at the platform and he is talking with someone [sic] at the local branch.

149. Notes of Fidelity's registration analysis of Unregistered IA 5 state:

[Unregistered IA 5] is listed as retired in BNAM, notes show he was an operations manager. I find no licensing in FINRA, now or ever. Accurint has no adverse information. 1st account reviewed is for [Fidelity customer/account number]. her trade auth forms list him as "advisor" I find quarterly checks paid to [Unregistered IA 5], no memo notes. IRF dates 4/28/15 \$7364, 2/18/15 \$5618, 10/24/14 \$5814, 7/25/14 \$5502, 5/6/14 \$5361, 1/22/14 \$5318...[Fidelity system] notes 4/21/15 "spoke to [Fidelity customer] and let her know about [Fidelity employee's] departure. She said the [sic] has an outside advisor that she works with and doesn't

need anyone at fid." 2/3/15 "I asked the client about her investments. Client has an outside adviser that she is happy with. I advised her of her AE."

150. Fidelity's notes from June 3, 2015 indicate that Unregistered IA 5's trading authority would be revoked:

In accordance with the terms of the Trading Authority Agreement, Fidelity Brokerage Services LLC, Fidelity has elected to remove the privileges of [Unregistered IA 5] as authorized agent on all accounts held with Fidelity. A letter was sent to him regarding this decision. A letter will also be sent on June 23, 2015 to all clients in which [Unregistered IA 5] was named an authorized party. ; [Unregistered IA 5] will be removed on June 23, 2015 as Trading Authority on all of their Fidelity accounts. Risk Management DOES not speak directly with customers. DO NOT transfer or give the customer our phone number.

(emphasis in original).

Unregistered IA 6

151. Unregistered IA 6 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

152. Fidelity's May 13, 2010 notes indicated that Unregistered IA 6 could only have limited trading authority on an account and not a power of attorney because Unregistered IA 6 was not a registered investment adviser, stating:

[Unregistered IA 6] called to stated he has the permanent appointment of his wife as executor for her fathers acct. he will bring it by the branch today. he wants to be appointed POA on acct. per new accts we can not accept POA and **can only have limited trading auth if he is an RIA.**

(emphasis added).

153. Fidelity's notes reflect that in 2013 it assisted Unregistered IA 6 with both adding and removing limited trading authorizations in Fidelity customer accounts.

154. On December 4, 2013, Fidelity noted that it would research how Unregistered IA 6 could get more access to client accounts:

Would like to have more access to oversight. Currently clients share their passwords with him but would like oversight on technical issues like stopping checks. researching what level of access granting needed for that.[]Going on a week long bus trip north to see 15 clients[.]

155. Fidelity's notes of its registration analysis of Unregistered IA 6 state:

[Unregistered IA 6] is trade auth on 27 accounts. He is not licensed in FINRA. . His BNAM AFF info says he is retired on one of his accounts and the other says his occupation is financial management and he is self[]employed. Trade auth forms indicate the relationship is "professional" and he lists his profession on those forms as financial planner or financial consultant. every account has a note from an Ex AE and a branch manager... "Permission to decode based on previous approval. This client was one of about 15 or so that has mgmt done by [Unregistered IA 6]. He uses the branch for service only. When the AE left, the clients that were spread out all over the country got sent to the right location branch. We got them back here. But then [Unregistered IA 6] and I spoke (see his [Fidelity system]) and agreed that we would remove AE and he would just use all of us for service. **“ I spoke to branch manager [Fidelity employee] at Vero Beach. He confirmed my thoughts [sic]...he believes that [Unregistered IA 6] is getting paid and is advising, that why they severed the AE relationship. he uses us only for service now.** Client [Last name] ([account number]) shows checks paid to [Unregistered IA 6]. check 1076 on 2/17/15 for \$79.50. check 1068 on 11/24/14 for \$4568.65, (both of those have nothing in the memo field) check 1044 on 3/8/11 for \$2425 has "tax preparation in the memo field) Client [last name] ([account number]) has check 1311 on 5/14/14 for \$2000, memo says "professional services 2013-2014" same account has a letter written to [Unregistered IA 6] from [Fidelity customer] talking about some dividend paying stocks they might want to consider. client sent this to us??? (4/29/14) Client [last name] in account has a check 1051 on 1/20/12 for \$3300 memo says "services" nothing advers[e] in Accurint[.]

156. Fidelity notes from June 10, 2015 reflect that Fidelity had terminated Unregistered IA 6's trading authority: "Client was removed as FTA/LTA on several accounts as per Risk. Passed along that info... no other info at this time. Told him he would however be reinstated on his wife's BDA."

157. Furthermore, Fidelity's June 23, 2015 notes state:

Spoke with [Unregistered IA 6] about his removal from trading authorization from roughly 20 accounts, explained some of the context: advisors and licensure and our customer agreement.

He was not upset with that but was upset about how it was communicated

...

He remained pleased with me and our branch. He is unsure what he will do with his accounts. And the other clients that have reached out to him are a bit confused too

158. Several days later, Fidelity's notes pertaining to Unregistered IA 6's revocation of trading authorizations state:

I was calling her after I spoke with her former FTA agent, [Unregistered IA 6], he is a well known client. He was removed from the account because he lacks FINRA licensure. It was part of a project across the nation, not just targeting [Unregistered IA 6].

Fidelity phone agents have been making it sound to his former clients that it was about him. According to the RISK director who led the project, this is simply not true. Instead it was Fidelity not wanting exposure under our Cust[omer] Agreement and Trading Authorization form for non-licensed advisors.

As further evidence, [Unregistered IA 6] remains trustee on several accounts. So it was the Trading Authorization situation not a [Unregistered IA 6] situation. He has been calm and patient so far but he said if his reputation continues to be insulted, he would have no choice but to ake [*sic*] action.

Unregistered IA 7

159. Unregistered IA 7 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

160. Fidelity's July 31, 2015 notes reflect that Unregistered IA 7's trading authority would be revoked:

In accordance with the terms of the Trading Authority Agreement, Fidelity Brokerage Services LLC, Fidelity has elected to remove the privileges of [Unregistered IA 7] as authorized agent on all accounts held with Fidelity. A letter was sent to him regarding this decision. A letter will also be sent on August 31, 2015 to all clients in which [Unregistered IA 7] was named an authorized party. ; [Unregistered IA 7] will be removed on August 31, 2015 as Trading Authority on all of their Fidelity accounts. Risk Management DOES not speak directly with customers. DO NOT transfer or give the customer our phone number.

(emphasis in original).

Unregistered IA 8

161. Unregistered IA 8 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

162. Fidelity's July 31, 2015 notes reflect that Unregistered IA 8's trading authority would be revoked:

In accordance with the terms of the Trading Authority Agreement, Fidelity Brokerage Services LLC, Fidelity has elected to remove the privileges of [Unregistered IA 8] as authorized agent on all accounts held with Fidelity. A letter was sent to him regarding this decision. A letter will also be sent on September 1, 2015 to all clients in which [Unregistered IA 8] was named an authorized party. ; [Unregistered IA 8] will be removed on September 1, 2015 as Trading Authority on all of their Fidelity accounts. Risk Management DOES not speak directly with customers. DO NOT transfer or give the customer our phone number.

(emphasis in original).

Unregistered IA 9

163. Unregistered IA 9 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

164. Fidelity's January 3, 2012 notes demonstrate that Fidelity instructed Unregistered IA 9 as to how to organize her client accounts on Fidelity's electronic platform stating: "client manages multiple accounts with us and would like a way for her to organize her account list on fidelity.com position's page."

165. Two years later, Fidelity notes on February 19, 2014 that Unregistered IA 9 is an investment adviser:

I am a retired investment advisor who services a few clients. I have had them open accounts at Fidelity so that I can handle their assets along with my own. I find, though, that when I access their accounts through my personal log-in, I cannot see their statements or any history older than 30 days. Why is this?-- NOTE(1):- provided link to duplicate statement form

166. On May 29, 2014, Fidelity's note reflect that it advised against Unregistered IA 9 using her clients' Fidelity log-in and passwords to access their accounts:

[Unregistered IA 9] called in to troubleshoot safari login. Client on call mentioned she is an advisor and uses all her client['s] logins. I explained to her this should not be done and offered [*sic*] options for more transparency for her login. Client not interested

167. Fidelity's September 14, 2015 notes indicate that Unregistered IA 9's trading authority would be revoked:

In accordance with the terms of the Trading Authority Agreement, Fidelity Brokerage Services LLC, Fidelity has elected to remove the privileges of [Unregistered IA 9] as authorized agent on all accounts held with Fidelity. A letter was sent to her regarding this decision. A letter will also be sent on October 14, 2015 to all clients in which [Unregistered IA 9] was named an authorized party. ; [Unregistered IA 9] will be removed on October 14, 2015 as Trading Authority on all of their Fidelity accounts. Risk Management DOES not speak directly with customers. DO NOT transfer or give the customer our phone number.

(emphasis in original).

Unregistered IA 10

168. Unregistered IA 10 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

169. As of April 23, 2008, Fidelity's notes show that Fidelity was aware that Unregistered IA 10 was conducting investment advisory business:

talked with client per request of [Fidelity employee], client in 412 book. [Unregistered IA 10] is responsible for a number of accts/relationships at Fidelity [*sic*] and **actively manages and trades those accts**. [Unregistered IA 9] mentioned he speaks with [Fidelity employee] frequently.

170. Fidelity's August 11, 2015 notes indicate that Unregistered IA 10 managed at least \$21,000,000 of assets in Fidelity customer accounts: "[Unregistered IA 10] called rep verified. He was reporting some problems with the website. He's authorized on multiple family accounts,

he's created custom groups for those accounts. Normally the All Accounts value adds up to \$21 million.[]This morning it kept adding up to \$39 million..."

171. Fidelity's September 18, 2015 notes further clarify that Unregistered IA 10 managed accounts for not only family, but for friends as well: "Client manages assets for friends and family, provided my number if any planning or consolidation needs arise. Client is concerned about the volatility currently."

172. In response to a Division subpoena, Fidelity indicates that on September 17, 2015, it informed Unregistered IA 10 that his trading authority would be revoked.

Unregistered IA 11

173. Unregistered IA 11 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

174. Fidelity's notes regarding Unregistered IA 11 show that he had trading authority on Fidelity customer accounts dating back to at least February 2007.

175. In response to a Division subpoena, Fidelity indicated that on September 17, 2015, it informed Unregistered IA 11 that his trading authority would be revoked.

Unregistered IA 12

176. Unregistered IA 12 was never registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

177. Fidelity's notes regarding Unregistered IA 12 show that her advisory activity over Fidelity customer accounts dates back to at least October 2006. Specifically, an October 23, 2006 Fidelity note states:

this client is a CFA who trades a 72-100 times a yr across many accts at Fidelity--**she has referred millions to me--and will continue**--she has a very small acct at Fidelity--she wants the ability to use ATP on the accts that she has trade authority on--is this possible? If so, can you help her establish so she can use the platform

while trading on accts where she is authorized? thanks--FYI please keep me in the loop--she plans to refer her mom and dad close to \$5mm from another broker sometime in the next yr as well as another \$1mm new household.

(emphasis added).

178. Over nine years later, Fidelity's April 15, 2015 notes demonstrate that Unregistered IA 12 was still acting as an adviser, stating in part: "[s]he is a money manager and has been self directed in the past. not working with as many clients any more."

179. Fidelity's notes reflect that on September 17, 2015 a Fidelity employee reached out to Unregistered IA 12 to discuss Fidelity's advisor platform., stating: "left message for [Unregistered IA 12] about chnages [sic] to how advisors can work[]with clients[]on platform."

180. In response to a Division subpoena, Fidelity indicated on September 17, 2015 Unregistered IA 12 was informed that her trading authority would be revoked.

Unregistered IA 13

181. Upon information and belief, no Massachusetts resident going by [Unregistered IA 13] as having ever registered with the Division as an investment adviser or investment adviser representative during the Relevant Time Period.

182. In response to a Division subpoena, Fidelity indicated that it could not inform Unregistered IA 13 that his trading authority would be revoked.

VIII. VIOLATIONS OF LAW

A. Violation of MASS. GEN. LAWS ch. 110A, § 204

183. Section 204 of the Act provides:

(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:

(B) has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor chapter or any rule or order under this chapter or a predecessor chapter;

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

MASS. GEN. LAWS ch. 110A, § 204.

12.204: Denial, Revocation, Suspension, Cancellation and Withdrawal of Registration

(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...:

950 Mass. Code Regs. 12.204 (emphasis added).

184. The RICE Section realleges and incorporates the allegations of paragraphs 1 through 182 above.

185. The conduct of Respondent, as described above, constitutes a violation of MASS. GEN. LAWS ch. 110A, § 204.

IX. 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.

X. 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].”

XI. RELIEF REQUESTED

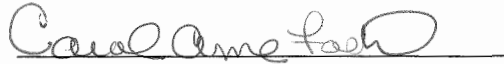
The RICE Section of the Division requests that an order be entered:

- A. Finding as fact all allegations set forth in paragraphs 1 through 182, inclusive of the Complaint;
- B. Finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors;
- C. Censuring Respondent;
- D. Requiring Respondent to permanently cease and desist from further dishonest and unethical conduct that allowed unregistered investment advisers to utilize the Fidelity trading platform to conduct unregistered investment advisory activity in the Commonwealth and to be compensated from Fidelity customer accounts for providing unregistered investment advisory services;
- E. Requiring Respondent to engage an independent compliance consultant to review written policies and procedures regarding trading authorizations and ensuring that such policies 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. Imposing an administrative fine on Respondent for each violation of the Act; and
- H. Taking any such further actions which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

**MASSACHUSETTS SECURITIES DIVISION
RICE SECTION**

By its attorney(s),



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Dated: October 26, 2015