

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

IN THE MATTER OF:)	
)	
PURSHE KAPLAN STERLING)	
INVESTMENTS, INC.,)	Docket No. E-2021-0014
)	
RESPONDENT.)	

ADMINISTRATIVE COMPLAINT

I. PRELIMINARY STATEMENT

The Enforcement Section of the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (the “Enforcement Section” and the “Division,” respectively) files this Administrative Complaint (the “Complaint”) to commence an adjudicatory proceeding against Purshe Kaplan Sterling Investments, Inc. (“Respondent” or “PKS”) for violations of the Massachusetts Uniform Securities Act (the “Act”), Mass. Gen. Laws c. 110A, and the regulations promulgated thereunder at 950 Code Mass. Regs. 10.00-14.413 (the “Regulations”). The Enforcement Section alleges that Respondent failed to comply with the Act and the Regulations governing the supervision and conduct of financial professionals registered as both broker-dealer agents and investment adviser representatives. In particular, Respondent failed to maintain written supervisory procedures and enforce a supervisory system designed reasonably to supervise private securities transactions of dually-registered individuals in violation of the Act and the Regulations.

The Enforcement Section seeks an order: 1) finding as fact the allegations set forth below; 2) finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors; 3) requiring Respondent to permanently cease and desist from further conduct in violation of the Act and Regulations; 4) censuring Respondent; 5) requiring Respondent to provide restitution to Massachusetts investors who suffered losses attributable to the alleged wrongdoing; 6) requiring Respondent to engage an independent compliance consultant to review Respondent's policies and procedures concerning the supervision of individuals registered as both broker-dealer agents and investment adviser representatives; 7) imposing an administrative fine on Respondent in such amount and upon such terms and conditions as the Director or Presiding Officer may determine; and 8) taking any such further action which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

II. SUMMARY

For years, Respondent failed to review transactions effected by individuals dually-registered as both broker-dealer agents of PKS and investment adviser representatives ("DRAs") of the Harvest Group Wealth Management, LLC (the "Harvest Group"). Even in 2020, when Respondent purportedly had relevant supervisory procedures in place and reviewed transactions effected by DRAs, Respondent failed to detect, and therefore review, transactions effected by Massachusetts-based DRAs. In total, Respondent failed to review the suitability of thousands of leveraged exchange-traded fund ("leveraged ETF") transactions executed by DRAs in the accounts of Massachusetts investors. As a result of Respondent's neglect, Massachusetts investors—often holding leveraged ETF positions for periods in excess of one year experienced significant losses.

To address these failures, the Enforcement Section brings this action against PKS for violations of Massachusetts securities laws in connection with: 1) PKS' failure to have reasonable policies and procedures in place necessary to review and supervise the private securities transactions of its dually-registered broker-dealer agents, and 2) PKS' failure to review and flag the leveraged ETF transactions executed by its DRAs. PKS' failures resulted in massive losses for Massachusetts investors and, specifically, clients of investment advisory firm the Harvest Group.

Broker-dealer agents must first receive permission from their broker-dealer before providing investment advisory services. Once a broker-dealer approves a broker-dealer agent to act as a dually-registered investment adviser representative at an independent investment adviser, the broker-dealer has specific supervisory requirements it must fulfill. In particular, a broker-dealer must record private securities transactions of its DRAs on its books and records and supervise activity in the affected accounts as if it were the broker-dealer's own. The Financial Industry Regulatory Authority ("FINRA") defines private securities transactions as any securities transaction outside the regular course or scope of an associated person's employment with a member firm.

Two key components of determining a broker-dealer's record-keeping and supervisory responsibilities of DRAs' private securities transactions are whether the DRA participated in the execution of the transaction and received selling compensation. FINRA has made clear that a DRA exercising discretionary authority to purchase securities for investment advisory clients at a firm away from the DRA's broker-dealer constitutes participation in the execution of a transaction. Furthermore, receiving asset-based fees for providing investment advisory services constitutes receiving selling compensation. Since

at least September 2016, PKS failed to have in place adequate policies and procedures to review and supervise the private securities transactions of its DRAs, including those with the Harvest Group. PKS' failures resulted in the loss of millions of dollars for Massachusetts clients of the Harvest Group and unknown harm to clients of PKS' DRAs registered with other investment advisers.

The losses incurred by Massachusetts investors are a direct result of unsuitable investments in leveraged ETFs by PKS DRAs at the Harvest Group. Leveraged ETFs are highly complex financial instruments typically designed to achieve their stated objectives on a daily basis. The prospectuses for the products state in clear terms to monitor investments in the leveraged ETF as frequently as daily. In 2009, along with the Division launching a probe into sales practices regarding leveraged ETFs, FINRA warned its members that leveraged ETFs are typically unsuitable for average investors who plan to hold them longer than one day. Despite these warnings issued more than a decade ago, the Harvest Group invested more than 340 client accounts in two different leveraged ETFs for periods of time longer than a day, week, month, and even a year. PKS failed to review or flag any of these transactions, resulting in Massachusetts investors losing more than \$2.3 million.

PKS' failures are particularly worrisome considering the mandates imposed by its self-regulatory organization. FINRA adopted Rule 3280 in August 2015, which replaced Rule 3240 and addresses broker-dealer supervisory responsibilities regarding DRAs' private securities transactions. PKS DRAs at the Harvest Group began investing clients in leveraged ETFs for long periods of time as early as September 2017. They continued these investments in 2018 and 2019. At no point in time from 2017 through 2019 did PKS review

these private securities transactions of its DRAs at the Harvest Group. PKS failed to have in place any policies and procedures requiring it to conduct risk-based account reviews regarding its DRAs investment advisory clients in 2017 and 2018. Finally, when PKS amended its policies and procedures in April 2019 to conduct risk-based reviews of DRA transactions at third-party investment advisory firms, PKS failed to conduct any review of transactions DRAs at the Harvest Group executed in 2019. Furthermore, in 2020 PKS only conducted one review of transactions executed by the Harvest Group DRAs. PKS utterly failed in its supervisory responsibilities of its DRAs. Massachusetts investors should not suffer because of PKS' failures. The Enforcement Section institutes this proceeding to protect Massachusetts investors and hold PKS accountable for failures that resulted in substantial losses for Massachusetts investors.

III. JURISDICTION AND AUTHORITY

1. As provided for by the Act, the Division has jurisdiction over matters relating to securities pursuant to chapter 110A of Massachusetts General Laws.
2. The Enforcement Section brings this action pursuant to the authority conferred upon the Division by Sections 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. This proceeding is brought in accordance with Sections 204, 407A, and 414 of the Act and its Regulations. Specifically, the acts and practices constituting violations occurred while Respondent was registered as a broker-dealer in Massachusetts.

4. The Enforcement Section reserves the right to amend this Complaint and bring additional administrative complaints to reflect information developed during the current and ongoing investigation.

IV. RELEVANT TIME PERIOD

5. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of September 19, 2016, to the present (the “Relevant Time Period”).

V. RESPONDENT

6. Purshe Kaplan Sterling Investments, Inc. (“PKS”) is a corporation organized under the laws of New York with its principal place of business located at 80 State Street, Albany, New York. PKS has a Financial Industry Regulatory Authority (“FINRA”) Central Registration Depository (“CRD”) number of 35747 and has been registered as a broker-dealer in Massachusetts since October 24, 1994.

VI. OTHER RELEVANT ENTITY

7. The Harvest Group Wealth Management, LLC (the “Harvest Group”) is a limited liability company organized under the laws of Massachusetts with its principal place of business located at 800 South Street, Suite 200, Waltham, Massachusetts. The Harvest Group has a FINRA CRD number of 283572 and is an investment adviser registered with the Securities and Exchange Commission (“SEC”) and notice filed in Massachusetts since September 30, 2016.

VII. STATEMENT OF FACTS

A. Background

8. PKS is a full-service broker-dealer with over 600 branch offices and more than 1,600 broker-dealer agents. PKS has been registered as a broker-dealer with Massachusetts since October 24, 1994.

9. As of February 14, 2022, PKS has 277 broker-dealer agents registered in Massachusetts.

10. As of February 14, 2022, PKS has 70 individuals registered as both broker dealer agents and investment adviser representatives for unaffiliated investment advisers (“DRA”s) in Massachusetts.

11. Upon information and belief, all of PKS’ DRAs registered in Massachusetts transact securities business on behalf of Massachusetts clients.

B. PKS Approved Requests by DRAs to Act as Dually-Registered Investment Adviser Representatives of the Harvest Group

12. PKS is responsible for reviewing requests by its broker-dealer agents to conduct outside business activities.

13. PKS utilizes an internal checklist (“OBA Checklist”) to review outside business activity (“OBA”) requests.

14. PKS is responsible for reviewing requests by its broker-dealer agents to provide investment advisory services as representatives of unaffiliated investment advisers.

15. In reviewing a dually-registered individual's¹ request to provide investment advisory services, PKS is responsible for determining whether the dually-registered individual's proposed activity involves a private securities transaction.²

16. PKS is responsible for supervising the registered individual's private securities transactions as if the DRA executed the transactions on behalf of PKS.

17. PKS is responsible for recording the registered individual's private securities transactions on PKS' own books and records.

18. PKS' OBA approval process is the same for all DRAs.

19. On August 18, 2016, PKS received an OBA application from one of its broker-dealer agents concerning a request to conduct business as an investment adviser representative of the Harvest Group.

20. On September 19, 2016, PKS approved the broker-dealer agent's request to act as a DRA at the Harvest Group.³

21. In September 2016, PKS additionally approved at least two other Harvest Group DRAs.

22. At the time PKS approved the OBA requests for the Harvest Group DRAs, PKS knew that the Harvest Group was an investment adviser and that these three broker-dealer agents would be affiliated with the Harvest Group as investment adviser representatives.

¹ A dually-registered individual is registered both as a broker-dealer agent and an investment adviser representative.

² "Private Securities Transactions" are defined by FINRA Rule 3280, as codified under the Regulations at 12.203(3)(a) and 12.204(1)(a)(28), and 12.204(1)(b)(2).

³ Massachusetts allowed said broker-dealer agent's registration on October 4, 2016.

C. Leveraged Exchange-Traded Funds

23. Exchange-traded funds (“ETFs”) are investment vehicles that track an index, a commodity, or a basket of assets such as an index fund. ETFs provide investors many of the same benefits as mutual funds but differ in that, unlike most mutual funds, ETFs trade like typical stocks.

24. Leveraged ETFs, which are non-traditional ETFs, are ETFs that utilize borrowed funds in order to seek to return, on a daily or monthly basis, 200% or 300% of the daily or monthly returns of an underlying index or benchmark.

25. For example, a leveraged ETF that aims to deliver 200% of the S&P 500 Index’s daily return will increase in value by 2% for every 1% increase in the S&P 500 on any given day.

26. Conversely, that same leveraged ETF will decrease in value by 2% for every 1% decrease in the S&P 500 on any given day.

27. Due to compounding, a leveraged ETF designed to return 200% of the daily return on the S&P 500 Index will not necessarily return 8% if held for a one month period in which the S&P 500 Index increases by 4%.

28. Since 2009, the Division has warned of the potential risks related to leveraged ETFs and has brought previous actions against broker-dealers for failing to adequately supervise the recommendation and/or purchase of leveraged ETFs.

29. In June 2009, FINRA released Regulatory Notice 09-31 (the “June 2009 FINRA Notice”) advising broker-dealers of suitability issues in the offer and sale of non-traditional ETFs, including leveraged ETFs.

30. The June 2009 FINRA Notice cautioned firms regarding the complexity of leveraged ETFs.

31. The June 2009 FINRA Notice warned firms regarding the design and potential negative effects of leveraged ETFs which reset daily.

32. The June 2009 FINRA Notice further reminded firms of their supervisory responsibilities regarding broker-dealer agents' recommendations to buy or sell leveraged ETFs.

33. PKS was on notice of its regulatory requirements to supervise private securities transactions of its DRAs and of the inherent risks posed by holding leveraged ETFs for periods longer than one day.

34. Nevertheless, PKS failed to supervise the Harvest Group DRAs and their use of discretion to purchase and hold leveraged ETFs for periods longer than one year.

D. Unsuitable Sales of Proshares Ultra QQQ and Proshares Ultra S&P 500 Leveraged ETFs

35. Proshares Ultra QQQ (stock symbol "QLD") is a leveraged ETF that seeks daily investment results, before fees and expenses, which correspond to two times the return of the Nasdaq-100 Index for a single day.

36. The Prospectus and Summary Prospectus for QLD provide the following:

The Fund presents different risks than other types of funds. The Fund uses leverage and is riskier than similarly benchmarked funds that do not use leverage. The Fund may not be suitable for all investors and should be used only by knowledgeable investors who understand the consequences of seeking daily leveraged (2x) investment results, including the impact of compounding on Fund performance. Investors in the Fund should actively manage and monitor their investments, as frequently as daily. An investor in the Fund could potentially lose the full principal value of their investment within a single day. (emphasis in originals)

37. Proshares Ultra S&P 500 (stock symbol “SSO”) is a leveraged ETF that seeks investment results, before fees and expenses, which correspond to two times the return of the S&P 500 Index for a single day.

38. The Prospectus and Summary Prospectus for SSO provide the following:

The Fund presents different risks than other types of funds. The Fund uses leverage and is riskier than similarly benchmarked funds that do not use leverage. The Fund may not be suitable for all investors and should be used only by knowledgeable investors who understand the consequences of seeking daily leveraged (2x) investment results, including the impact of compounding on Fund performance. Investors in the Fund should actively manage and monitor their investments, as frequently as daily. An investor in the Fund could potentially lose the full principal value of their investment within a single day. (emphasis in originals)

39. PKS failed to monitor in a timely and adequate manner the accounts that the Harvest Group DRAs invested in leveraged ETFs for periods of time in excess of days, weeks, months, and even years despite the risks outlined in the prospectuses for QLD and SSO.

E. The Harvest Group DRAs Purchased Leveraged ETFs as Long-Term Investments in Massachusetts Client Accounts

40. Investors One and Two are a married couple residing in Hingham, Massachusetts. Investor One is 54 years old and unable to work due to medical disability. Investor Two is 54 years old.

41. Investors One and Two were clients of the Harvest Group from approximately January 2017 to February 2019. Each held an individual retirement account (“IRA”) as well as a joint account for a total of three accounts.

42. Investor Three, now deceased, was a client of the Harvest Group from approximately October 2016 to February 2019. Investor Three held an IRA as well as a transfer on death (“TOD”) account.

43. The Wealth Management Agreement, executed on April 6, 2017, between Investors One and Two and the Harvest Group indicates that Investors One and Two had a risk tolerance of six on a scale of zero to ten, placing them in the medium volatility range.

44. The Wealth Management Agreement, executed on October 5, 2016, between Investor Three and the Harvest Group indicates that Investor Three had a risk tolerance of five on a scale of zero to ten, placing Investor Three in the medium volatility range.

45. Despite Investors One, Two, and Three having moderate risk tolerance, the Harvest Group DRAs first began purchasing, on a discretionary basis, the leveraged ETFs QLD and SSO in their accounts on September 14, 2017. The DRAs purchased both leveraged ETFs in Investor One’s IRA, Investor Two’s IRA, Investors One and Two’s joint account, Investor Three’s IRA, and Investor Three’s TOD account.

46. Harvest Group DRAs purchased additional shares of QLD in Investor One’s IRA in February and August 2018. The DRAs purchased additional shares of SSO for the same account in October 2017 and August 2018. Following these additional purchases, these two leveraged ETFs comprised more than 37% of Investor One’s IRA.

47. Harvest Group DRAs purchased additional shares of QLD in Investor Two’s IRA in October 2017, February 2018, and August 2018. The DRAs purchased additional shares of SSO for the same account in October 2017 and August 2018. Following these additional purchases, these two leveraged ETFs comprised 42% of Investor Two’s IRA.

48. Harvest Group DRAs purchased additional shares of QLD in Investors One and Two's joint account in February and August 2018. The DRAs purchased additional shares of SSO for the same account in October 2017 and August 2018. Following these additional purchases, these two leveraged ETFs comprised almost 39% of Investors One and Two's joint account.

49. Harvest Group DRAs purchased additional shares of QLD in Investor Three's IRA in February and August 2018. The DRAs purchased additional shares of SSO for the same account in August 2018. Following these additional purchases, these two leveraged ETFs comprised 28% of Investor Three's IRA.

50. Harvest Group DRAs purchased additional shares of QLD for Investor Three's TOD account in February and August 2018. The DRAs purchased additional shares of SSO for the same account in August 2018. Following these additional purchases, these two leveraged ETFs comprised 30% of Investor Three's TOD account.

51. At no time before purchasing QLD and SSO did the Harvest Group DRAs have a discussion with or disclose the risks inherent with leveraged ETFs to Investors One, Two, or Three.

52. Furthermore, after using discretion to purchase the leveraged ETFs, the Harvest Group DRAs failed to monitor the investments daily or even frequently, as the prospectuses for QLD and SSO clearly and plainly advise.

53. The Harvest Group DRAs participated in the execution of all of the leveraged ETF transactions.

54. PKS and the Harvest Group DRAs lacked a reasonable basis to believe that the recommendation to buy and hold QLD and SSO was suitable for Harvest Group clients.

55. The Harvest Group DRAs purchased and held QLD and SSO for unsuitable periods of time (longer than a single day) in hundreds of client accounts. Furthermore, the DRAs did not review the accounts daily, weekly, monthly, or in many cases, quarterly, in direct contradiction of the QLD and SSO prospectus.

56. The Harvest Group DRAs held the QLD and SSO investments in almost all client accounts for more than one year.

57. In spite of the QLD and SSO prospectuses and summary prospectuses advising review of investments in the leveraged ETFs as frequently as daily, the Harvest Group DRAs failed to review these transactions on a monthly or even quarterly basis.

F. PKS Failed to Have in Place Reasonable Supervisory Policies and Procedures Necessary to Review and Supervise Private Securities Transactions of its Broker-Dealer Agents

a. PKS failed to review and flag leveraged ETF transactions in violation of regulatory requirements.

58. PKS failed to have in place written supervisory procedures to review the investment advisory transactions of its DRAs in 2017 and 2018.

59. PKS failed to review and supervise the investment advisory transactions of its DRAs in 2017 and 2018.

60. Not until April 2019 did PKS establish written policies and procedures requiring the review and supervision of the investment advisory transactions of DRAs.

61. Despite PKS establishing written policies and procedures requiring review and supervision of the investment advisory transactions of DRAs on an ongoing basis, PKS failed to review the transactions of the Harvest Group DRAs in 2019 and only conducted one review in 2020.

62. All of the leveraged ETF transactions executed by the Harvest Group DRAs occurred outside the regular course or scope of their employment with PKS.

63. From August 9, 2017, through April 1, 2020, the Harvest Group DRAs executed at least 1,477 transactions in the leveraged ETF QQQ.

64. From August 24, 2017, through April 1, 2020, the Harvest Group DRAs executed at least 1,337 transactions in the leveraged ETF SSO.

65. In total, from August 9, 2017, through April 1, 2020, the Harvest Group DRAs executed at least 2,814 transactions in these two leveraged ETFs.

66. All of the leveraged ETF transactions occurred at a broker-dealer other than PKS.

67. PKS did not review or flag any of these transactions.

68. PKS failed to supervise private securities transactions by not reviewing transactions effected at broker-dealers other than PKS.

69. As a result of failing to review private securities transactions, PKS did not meaningfully understand the suitability of the use of leveraged ETFs by the Harvest Group DRAs in Massachusetts client accounts.

b. PKS maintained inadequate policies and procedures necessary to review private securities transactions.

70. PKS failed to supervise the activities of dually-registered individuals on an ongoing basis as if they were their own despite a regulatory directive.

71. According to PKS written supervisory procedures established in April 2019, PKS acknowledged its responsibility to supervise “registered representatives who are also associated persons of independent registered investment advisory (RIA) firms who are not affiliated with PKS.”

72. In particular, Section 18.1.H, “Review of Investment Advisory Transactions,” states:

PKS shall conduct a review of electronic downloads of transactional information (“Downloads”) provided by the Custodians.

(a) Identified RIA Transactions. **Upon receipt** of Downloads, the Compliance Department **shall review** RIA Transactions **for the possible unsuitable activity** pursuant to (b) below . . .

(iv) Inverse or **leveraged securities**, where practicable . . .

(b) Review Criteria

On an ongoing basis, the Compliance Department shall review a sampling of the RIA Transactions **for the purpose of detecting unsuitable transactions**

(emphasis added)

73. According to PKS’ written supervisory procedures regarding OBA, PKS “must evaluate the proposed activity to determine whether the activity properly is characterized as an OBA or whether it should be treated as an outside securities activity subject to the requirements of FINRA Rule 3280.”

74. PKS’ written supervisory procedures further direct that, in certain circumstances, compliance personnel should refer the activity to the PKS 3280 Committee for further review.

75. In particular, the OBA Checklist includes nine questions to assist compliance personnel in determining whether PKS should refer the activity to the 3280 Committee.

76. The PKS OBA Checklist requires referral to the 3280 Committee in the event that a compliance officer responds affirmatively to any one of seven enumerated questions.

77. During PKS' review of the Harvest Group's broker-dealer agents' applications to conduct OBA, a compliance officer marked an affirmative response to one of the mandatory referral questions.

78. Nevertheless, PKS failed to refer the broker-dealer agents' requests to conduct investment advisory activity at the Harvest Group to the 3280 Committee.

79. Upon information and belief, PKS routinely received transactional data from the broker-dealer custodian for the Harvest Group client accounts.

80. Nevertheless, PKS did not review transactional data associated with the Harvest Group DRAs on an ongoing basis in violation of its policies and procedures.

81. Furthermore, despite its policies and procedures, PKS did not review transactional data associated with the Harvest Group DRAs for unsuitable activity concerning leveraged securities.

82. As a result, PKS failed to evaluate the suitability of the Harvest Group's client holdings in leveraged ETFs.

G. PKS' Failures Resulted in Massive Losses for Harvest Group Clients and Massachusetts Investors

83. The Harvest Group DRAs had full discretion over client accounts.

84. The Harvest Group DRAs received compensation in the form of asset-based fees.

85. The Harvest Group DRAs participated in the execution of trades by entering all orders to purchase the leveraged ETFs QLD and SSO in client accounts.

86. At least 347 Massachusetts client accounts at the Harvest Group invested in and held QLD for longer than a day.

87. One DRA of the Harvest Group participated in all 347 transactions for compensation, triggering the requirement of PKS to record and supervise the transactions.

88. At least 300 of the 347 Massachusetts client accounts that invested in and held QLD for longer than a day experienced losses.
89. PKS failed to review properly or flag the Harvest Group clients' unsuitable holdings in QLD in 2017, 2018, 2019, and 2020.
90. At least 341 Massachusetts accounts at the Harvest Group invested in and held SSO for longer than a day.
91. One DRA of the Harvest Group participated in all 341 transactions for compensation, triggering the requirement that PKS record and supervise the transactions.
92. At least 324 of the 341 Massachusetts accounts that invested in and held leveraged ETF SSO for longer than a day experienced losses.
93. PKS failed to review properly or flag the Harvest Group clients' unsuitable holdings in leveraged ETF SSO in 2017, 2018, 2019, and 2020.
94. The many and continued failures of PKS extend beyond the Harvest Group to DRAs registered in Massachusetts that participated in private securities transactions with other investment advisers.

VIII. VIOLATIONS OF LAW

Count I – Violations of Mass. Gen. Laws c. 110A, § 204(a)(2)(G)

95. Section 204(a)(2)(G) of the Act provides:

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

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

Mass. Gen. Laws. c. 110A, § 204(a)(2)(G).

96. The Enforcement Section re-alleges and incorporates the allegations of fact set forth in Section VII above.

97. The conduct of Respondent, as described above, constitutes violations of Mass. Gen. Laws c. 110A, § 204(a)(2)(G).

Count II – Violations of Mass. Gen. Laws c. 110A, § 204(a)(2)(J)

98. Section 204(a)(2)(J) of the Act provides:

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

Mass. Gen. Laws c. 110A, § 204(a)(2)(J).

99. The Enforcement Section re-alleges and incorporates the allegations of fact set forth in Section VII above.

100. The conduct of Respondent, as described above, constitutes violations of Mass. Gen. Laws c. 110A, § 204(a)(2)(J).

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 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 c. 110A].”

XI. RELIEF REQUESTED

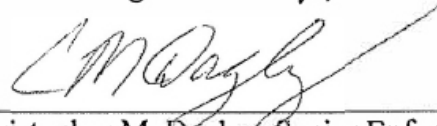
The Enforcement Section of the Division requests that an order be entered:

- A. Finding as fact the allegations set forth in Section VII above;
- B. Finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors;
- C. Requiring Respondent to permanently cease and desist from further conduct in violation of the Act and Regulations;
- D. Censuring Respondent;
- E. Requiring Respondent to provide restitution to Massachusetts investors who suffered losses attributable to the alleged wrongdoing;
- F. Requiring Respondent to engage an independent compliance consultant to review Respondent’s policies and procedures concerning the supervision of individuals registered as both broker-dealer agents and investment adviser representatives;
- G. Imposing an administrative fine on Respondent in such amount and upon such terms and conditions as the Director or Presiding Officer may determine; and

H. Taking any such further action which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

**MASSACHUSETTS SECURITIES DIVISION
ENFORCEMENT SECTION**

By and through its attorneys,



Dated: February 17, 2022

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