

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

IN THE MATTER OF: _____
SECURITIES AMERICA - NON TRADED REITS _____

CONSENT ORDER
E-2013-0048

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

I. INTRODUCTION

This Consent Order (“Order”) is entered into by the Massachusetts Securities Division (“Division”) and Securities America Inc. (hereinafter “Respondent”) in connection with an investigation initiated by the Division on January 3, 2013 concerning non-traded REITs sold by Respondent. On May 17, 2013, Respondent submitted an Offer of Settlement (“Offer”) to the Division for the purpose of disposing the allegations set forth in the Offer. Respondent, admitting to the Statements of Fact as set forth in Section V and neither admitting nor denying the Violations of Law set out in Section VI herein, and consents solely for the purpose of these proceedings to the entry of this Order by the Division, consistent with the language and terms of the Offer, settling the claims brought hereby with prejudice.

II. JURISDICTION AND AUTHORITY

1. The Massachusetts Securities Division is a division of the Office of the Secretary of the Commonwealth with jurisdiction over matters relating to securities, as provided for by the Act. The Act authorizes the Division to regulate: 1) the offers, sales, and purchases of securities; 2) those individuals and entities offering and/or selling securities; and 3) those individuals and entities transacting business as investment advisers within the Commonwealth.

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

III. RELEVANT TIME PERIOD

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

IV. RESPONDENT

5. Securities America Inc. (“SAI”) is an entity currently registered as a broker-dealer firm in Massachusetts. SAI maintains Central Registration Depository (“CRD”) number 10205. SAI’s principal place of business is located at 12325 Port Grace Boulevard, La Vista, Nebraska, 68128.

V. STATEMENTS OF FACT

A. Introduction

6. Pursuant to the Enforcement Section’s investigation, the Enforcement Section reviewed 198 Massachusetts resident transactions executed over an five-year period with a total of \$6,487,500.75 invested by Massachusetts residents.
7. The Enforcement Section focused on four (4) non-traded REIT products approved for sale by SAI including, Inland Retail Real Estate Trust, Inc. (“Inland Retail”), Inland

Western Retail Real Estate Trust, Inc. (“Inland Western”), Inland American Real Estate Trust, Inc. (“Inland American”), and Inland Diversified Real Estate Trust, Inc. (“Inland Diversified”) (collectively the “Inland Products”).

8. In total SAI registered representatives and investment advisor representatives (collectively “SAI Representatives”) sold Reviewed Products in violation of prospectus requirements in 13 transactions totaling \$778,400.00 of improper sales.

B. SAI’s Compliance Requirements for the Sale of Non-Traded REITs

a. SAI Compliance Manual and SAI Written Supervisory Procedures

9. SAI maintained Compliance Manuals and/or Field Compliance Manuals (collectively the “Compliance Manuals”) throughout the Relevant Time Period.
10. The Compliance Manuals provide specific requirements regarding the sale of alternative investment products to investors—including non-traded REITs.
11. As early as December 27, 2005, SAI incorporated non-traded REIT guidance in SAI Compliance Manuals.
12. Starting in May 2007 SAI provided additional guidance regarding the sale of non-traded REIT products in SAI’s Compliance Manual. In part, SAI’s Compliance Manual provided, “Registered Representatives must have a reasonable basis for believing that alternative investment recommendations are suitable for the client. . . . To accomplish this, Registered Representatives must review . . . Annual income (from all sources)[,] Estimated Net worth (exclusive of home and farm)[,] Liquid Net worth (excluding cash and securities)
13. More specifically, SAI’s Compliance Manual provided: “Client’s [sic] who invest in a DPP must meet the product specific income and net worth requirements. . . .

Registered Representatives must verify whether the state in which the client resides is subject to higher income/net worth requirements (state specific income/net worth requirements can be found in the specific DPP's offering memorandum/prospectus).

14. SAI's Compliance Manual likewise mandated a client concentration limit of 20% investment in non-traded REITs.
15. SAI's Supervisory Procedures for the Relevant Time Period also contain suitability requirements regarding non-traded REITs—including references to specific state requirements and 20% of net worth maximum concentration limits.

b. SAI's Alternative Investment Form

16. According to SAI's Compliance Manuals, "[t]he required forms are . . . SAI new account application[,] Product sponsor subscription agreement[,] Alternative Investment Purchase Acknowledge Form[,] National Financial Services Alternative Investment Addendum and Custody Agreement.
17. Among other information, SAI's Alternative Investment Forms required listing net worth.
18. In addition, SAI's new account application required listing liquid net worth.

C. The Enforcement Section's Investigation into Inland Products

a. Inland Retail

19. The Inland Group, Inc. ("Inland") created Inland Retail, a non-traded REIT in February 1999.
20. SAI produced a statement on January 17, 2013, in response to a subpoena indicating that SAI approved Inland Retail on August 30, 2001.

21. Inland Retail prospectuses contained heightened Massachusetts specific suitability standards.
22. All Inland Retail prospectuses stated that Massachusetts residents must have a minimum net worth of at least \$225,000; or both a minimum annual gross income of at least \$60,000 and a minimum net worth of at least \$60,000.
23. The Enforcement Section subpoenaed documents and interrogatory responses detailing all sales of the investment product Inland Retail to all Massachusetts residents from January 1, 2005 to January 3, 2013.
24. SAI identified 33 Massachusetts resident transactions involving Inland Retail from January 1, 2005 to January 3, 2013.
25. In total, Massachusetts investors invested \$652,460.00 in Inland Retail.

b. Inland Western

26. The Inland Group, Inc. ("Inland") created Inland Western, a non-traded REIT on March 5, 2003.
27. SAI produced a statement on January 17, 2013, in response to a subpoena indicating that SAI approved Inland Western on November 11, 2003.
28. SAI contracted with Inland for sale of Inland Western shares through a Soliciting Dealers Agreement ("Inland Agreement One") entered into on December 31, 2003.
29. Inland Agreement One included the following restriction:

Suitability standards are higher in certain states as set forth in the Subscription Agreement and the Prospectus.
30. SAI again contracted with Inland for sale of Inland Western shares through a Soliciting Dealers Agreement ("Inland Agreement Two") entered into on February 22, 2005.

31. Inland Western prospectuses contained heightened Massachusetts specific suitability standards.
32. All Inland Western prospectuses stated that Massachusetts residents must have a minimum net worth of at least \$225,000; or both a minimum annual gross income of at least \$60,000 and a minimum net worth of at least \$60,000.
33. The Enforcement Section subpoenaed documents and interrogatory responses detailing all sales of the investment product Inland Western to all Massachusetts residents from January 1, 2005 to January 3, 2013.
34. SAI identified 66 Massachusetts resident transactions involving Inland Western from January 1, 2005 to January 3, 2013.
35. In total, Massachusetts investors invested \$1,636,620.75 in Inland Western.

c. Inland American

36. The Inland Group, Inc. ("Inland") created Inland American, a non-traded REIT on October 4, 2004.
37. SAI produced a statement on January 17, 2013 in response to a subpoena indicating that SAI approved Inland American on October 31, 2005.
38. SAI contracted with Inland for sale of Inland American shares through a Soliciting Dealers Agreement (Inland Agreement Three") entered into on October 28, 2005.
39. SAI again contracted with Inland for sale of Inland American shares through a Soliciting Dealers Agreement ("Inland Agreement Four") entered into on August 21, 2007.
40. Inland Agreement four included the following restriction:

[I]f the investor is a resident of . . . Massachusetts. . . the investor's investment in the **Shares may not exceed ten percent (10%) of the**

investor's liquid net worth, which may be defined as the remaining balance of cash and other assets easily converted to cash, after subtracting the investor's total liabilities from its total assets.

(Emphasis added).

41. Inland American prospectuses contained heightened Massachusetts specific suitability standards.
42. All Inland American prospectuses stated that Massachusetts residents must have a minimum net worth of at least \$250,000; or both a minimum annual gross income of at least \$70,000 and a minimum net worth of at least \$70,000.
43. Starting with the August 31, 2005 prospectus and including the December 8, 2006 prospectus, Inland American prospectuses further provided, “[i]n addition to meeting the applicable minimum suitability standards . . . **your investment may not exceed (10.0%) of your liquid net worth.**” (Emphasis added).
44. The August 1, 2007 and January 7, 2009 Inland American prospectuses also provided, that with respect to Massachusetts residents, “**your investment may not exceed 10% of your liquid net worth . . .**” (Emphasis added).
45. The Enforcement Section subpoenaed documents and interrogatory responses detailing all sales of the investment product Inland American to all Massachusetts residents from January 1, 2005 to January 3, 2013.
46. SAI identified 39 Massachusetts resident transactions involving Inland American from January 1, 2006 to May 14, 2012.
47. In total, Massachusetts investors invested \$1,369,920.00 in Inland American.

d. Inland Diversified

48. The Inland Group, Inc. (“Inland”) created Inland Diversified, a non-traded REIT in June 2008.
49. SAI produced a statement on January 17, 2013, in response to a subpoena indicating that SAI approved Inland Diversified on October 14, 2009.
50. SAI contracted with Inland for sale of Inland Diversified shares through a Soliciting Dealers Agreement (“Inland Agreement Five”) entered into on November 2, 2009.
51. Inland Agreement Five included the following restriction: “Massachusetts . . . investor’s investment in the **Shares may not exceed ten percent (10%) of investor’s liquid net worth. . . .**” (Emphasis added).
52. Inland Diversified prospectuses contained heightened Massachusetts specific suitability standards.
53. All Inland Diversified prospectuses stated that investors must have a minimum net worth of at least \$250,000; or both a minimum annual gross income of at least \$70,000 and a minimum net worth of at least \$70,000.
54. Starting with the August 24, 2009 prospectus and all Inland Diversified prospectuses further provided, “[i]n addition to meeting the applicable minimum suitability standards . . . **your investment may not exceed (10%) of your liquid net worth.**” (Emphasis added).
55. The Enforcement Section subpoenaed documents and interrogatory responses detailing all sales of the investment product Inland Diversified to all Massachusetts residents from January 1, 2005 to January 3, 2013.
56. SAI identified 60 Massachusetts resident transactions involving Inland Diversified from January 1, 2005 to January 3, 2013.

57. In total, Massachusetts investors invested \$2,728,500.00 in Inland Diversified.

D. SAI's Approval of Massachusetts Resident Transactions

58. Pursuant to the Enforcement Section's investigation, SAI identified 198 Massachusetts resident transactions in four non-traded REIT products with a total of \$6,387,500.75 invested.

a. SAI Representatives Sold Non-traded REITs in Excess of Heightened Massachusetts Prospectus Requirements

59. SAI Representatives sold non-traded REITs in excess of Massachusetts maximum concentration limits imposed by non-traded REIT prospectuses in 13 Massachusetts resident transactions.

60. SAI Representatives sold non-traded REITs in excess of Massachusetts heightened concentration limits in seven (7) Inland American Massachusetts resident transactions totaling \$373,400.00.

61. SAI Representatives sold non-traded REITs in excess of Massachusetts heightened concentration limits in six (6) Inland Diversified Massachusetts resident transactions totaling \$405,000.00.

62. In summation, SAI Representatives sold non-traded REITs in excess of Massachusetts heightened concentration limits in 13 transactions totaling \$778,400.00.

VI. VIOLATIONS OF SECURITIES LAWS

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

63. Section 204(a)(2)(G) of the Act provides in pertinent part:

(a) The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest

and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any 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[.]

64. 950 CODE MASS. REGS. §12.204 (1)(a)(28) provides in pertinent part:

(1) Dishonest and unethical practices in the securities business.

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

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

65. The applicable FINRA rules provide in pertinent part:

2010. Standards of Commercial Honor and Principles of Trade

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

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

b. Count II - Violations of § 204(a)(2)(G) by SAI

67. Section 204(a)(2)(G) of the Act provides in pertinent part:

(a) The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest

and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any 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[.]

68. 950 CODE MASS. REGS. §12.205(9)(a)(c) states in pertinent part:

(9) Fraudulent Practices/Dishonest or Unethical Practices.

(a) As used in 950 CMR 12.205(9), “adviser” refers to any person, including persons registered or excluded from registration under M.G.L. c. 110A, who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase and sale, whether through the issuance of analyses or reports or otherwise. It is a rebuttable presumption that such term includes all investment advisers and investment adviser representatives, as well as other persons who charge fees based on assets under management or portfolio performance for rendering investment advice.

.....

(c) The following practices are a non-exclusive list of practices by an adviser which shall be deemed “dishonest or unethical conduct or practices in the securities business” for purposes of M.G.L. c. 110A, § 204(a)(2)(G)[.]

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

c. Count III - Violations of § 204(a)(2)(J) by SAI

70. Section 204(a)(2)(J) of the Act provides in pertinent part:

(a) The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:—

.....

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

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

VII. ORDER

SAI consents to the entry of this Order,

IT IS HEREBY ORDERED:

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

- A. Respondent agrees to permanently cease and desist from conduct in violation of the Act and Regulations in the Commonwealth;
- B. Respondent agrees to be censured by the Division;
- C. Respondent agrees to offer restitution¹ to all SAI customers who were Massachusetts residents at the time they purchased the Inland Products in their SAI account (regardless of whether the shares of the non-traded REIT are presently held in an SAI account or the individual or entity no longer resides in Massachusetts) between January 1, 2005 and the present (as identified on Appendix 1² hereto) in violation of any of the following:

¹ Restitution as used in this Order means the offer by Respondent to purchase from customers, as further defined herein, their presently held non-traded REIT shares at the purchase price as reflected in the corresponding non-traded REIT offering document.

² Appendix 1 shall include all transactions identified within Section VII, Subsection C, subparts (a)-(c), for the following non-traded REITs: Inland American, Inland Retail, Inland Western, and Inland Diversified.

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

access to different mailing address information for Undeliverable Massachusetts Residents; Respondent agrees to mail a second Offer Letter One to Massachusetts residents within thirty (30) days of the Division's providing such different address. Massachusetts residents who choose to accept the offer of restitution shall be required to sign a release in a form not unacceptable to the Division, agreeing to waive any further claims against Respondent or its agents relating to any violation identified in Section VII, subsection C, subpart a through c, giving rise to the offer of restitution, and agreeing to offset any additional claims relating to identified transactions by the amount received by this offer of settlement. In addition, eligible customers who choose to accept the offer of restitution must agree to tender their existing shares in the non-traded REIT giving rise to the offer of restitution to Respondent or its designee, as a precondition to receipt of the payment of restitution by Respondent.³ The offer of restitution shall be in the form of a bank check unless requested otherwise by the Massachusetts resident. Respondent shall be permitted to reduce its offer of restitution to each client listed on Appendix 1 by the number of previously redeemed shares (if any) by the REIT company at issue. In all instances where any Massachusetts resident listed on Appendix 1 previously redeemed shares at a discount or incurred any fees or charges directly related to the previous redemption of shares, Respondent shall compensate the Massachusetts resident for any difference in redemption price and for said fees and charges.

³ As pertaining to any investor who may have a physical certificate(s) of the identified non-traded REITs, Respondent will provide these Massachusetts residents additional time to locate all physical certificate(s) not unacceptable to the Division.

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

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

F. Respondent further agrees to undertake the identification of all SAI customers who were Massachusetts residents at the time they purchased a non-traded REIT in their SAI account (regardless of whether the shares of the non-traded REIT are presently held in an SAI account or the individual or entity no longer resides in Massachusetts) between January 1, 2005 and the present. This identification process will be completed within sixty (60) days of the entry of the Order. Respondent agrees to offer restitution to those further SAI clients identified on Appendix 2⁴ as a result of the above-referenced identification process, if the identified transaction(s) was made in violation of any of the following:

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

⁴ Appendix 2 shall include all transactions identified within Section VII, Subsection F, subparts (a) – (c).

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

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

G. Respondent agrees that the offer of restitution shall be sent to Massachusetts investors identified in Section VII, subsection F, in a letter ("Offer Letter Two") sent to the address of record for such investors, a draft of which shall be provided to the Division within thirty (30) days of the completion of the above referenced identification process, and a finalized version not unacceptable to the Division, which shall be mailed to Massachusetts investors identified in Section VII, subsection F within thirty (30) days of the Division's approval of such letter. Offer Letter Two will remain open for ninety (90) days. Within sixty (60) days of entry of the Order, Respondent shall provide the Division with a list of the names and addresses of all Massachusetts residents listed on Appendix 2. Within thirty (30) days of the mailing of Offer Letter Two, Respondent shall provide the Division with a list of all Massachusetts residents for whom Respondent receives an offer as returned to sender ("Undeliverable Massachusetts Residents"). To the extent the Division has access to different mailing address information for Undeliverable Massachusetts residents, Respondent agrees to mail a second Offer Letter Two to Massachusetts residents within 30 days of the Division's providing such different Massachusetts residents who choose to accept the

offer of restitution shall be required to sign a release in a form not unacceptable to the Division, agreeing to waive any further claims against Respondent or its agents relating to any violation identified in Section VII, subsection F, subpart a through c, giving rise to the offer of restitution, and agreeing to offset any additional claims relating to identified transactions by the amount received by this offer of settlement. In addition, eligible customers who choose to accept the offer of restitution must agree to tender their existing shares in the non-traded REIT giving rise to the offer of restitution to Respondent or its designee, as a precondition to receipt of the payment of restitution by Respondent.⁵ The offer of restitution shall be in the form of a bank check unless requested otherwise by the Massachusetts resident. Respondent shall be permitted to reduce its offer of restitution to each client listed on Appendix 2 by the number of previously redeemed shares (if any) by the REIT company at issue. In all instances where any Massachusetts resident identified in the above referenced identification process previously redeemed shares at a discount or incurred any fees or charges directly related to the previous redemption of shares, Respondent shall compensate the Massachusetts resident for any difference in redemption price and for said fees and charges.

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

i. Identification of all accepted and verified offers;

⁵ As pertaining to any investor who may have physical certificates of the identified non-traded REITs, Respondent will provide these Massachusetts residents additional time to locate all physical certificate(s) not unacceptable to the Division.

- ii. Dates, amounts, and methods of the transfer of funds for all recessionary payments;
 - iii. Identification and detailed descriptions of any objections received by Respondent.
- I. Respondent agrees to pay an administrative fine within thirty (30) calendar days following the date the Order executed pursuant to this Offer is entered into the docket in the amount of \$150,000.00 (USD). Payment shall be: (1) made by United States postal money order, certified check, bank cashier's check, bank money order, or wire; (2) made payable to the Commonwealth of Massachusetts; (3) either hand-delivered, mailed to One Ashburton Place, Room 1701, Boston, Massachusetts 02108; or wired per Division instructions; and (4) submitted under cover letter or other documentation that identifies payment by Respondent and the docket number of the proceeding;
- J. The Chief Executive Officer ("CEO") of Respondent shall certify in writing to the Division within sixty (60) days of the date of entry of this Order the following in a written report to the Division ("Report"):
 - a. That Respondent has conducted a comprehensive review of (1) Respondent's policies and procedures for the sale of all alternative investments, including, but not limited to all non-traded REITs and (2) Respondent's policies and procedures for review and approval for the sale of all alternative investment products, including, but not limited to all non-traded REITs;
 - b. The Respondent shall certify that its policies and procedures include the following:

(1) Mandatory alternative investment training, including, but not limited to non-traded REITs, for all registered representatives and their OSJ supervisors before the registered representatives may sell, and before an OSJ supervisor may approve the sale, of non-traded REITs;

(2) Additional supervisory oversight for the review and approval of all alternative investments, including, but not limited to non-traded REITs, conducted by dedicated supervisory staff whose function includes the review and approval of the sale of alternative investments, including, but not limited to non-traded REITs;

(3) Surveillance oversight of alternative investments, including, but not limited to non-traded REITS, and;

(4) The Respondent's Alternative Investment Purchase Acknowledgement Form includes a plain language acknowledgement relating to state specific suitability requirements that may be contained in the product prospectus. In addition, the Alternative Investment Purchase Acknowledgement Form includes an additional line item reflecting the client's liquid net worth as well as the percentage of liquid net worth the investment constitutes to be calculated in accordance with prospectus methodology where applicable.

c. That as a result of that review, Respondent has made findings and conclusions regarding the firm's practices, policies, and procedures together with recommendations for improvements and changes to such practices, policies and procedures, which shall be detailed in the Report;

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

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

i. Respondent shall retain copies of any and all report(s) as set forth in paragraphs J(a-d) and K above in an easily accessible place for a period of five years from the date of the reports.

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

X. NO DISQUALIFICATION

The Order hereby waives any disqualification under the laws of the Commonwealth and all rules or regulations thereunder, including any disqualifications from relying upon the registration exemptions or safe harbor provisions that Respondent or its affiliates maybe subject to. The Order is not intended to subject Respondent to disqualification under federal

securities laws, rules or regulations thereunder, or the rules and regulations of any self-regulatory agency, nor the laws, rules or regulations of the various states and U.S. Territories, including, without limitation, any disqualification from relying upon the registration exemptions or safe harbor provisions. In addition, the Order is not intended to form the basis for any such disqualifications.

**WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH**

By 

Bryan J. Lantagne

Director

Massachusetts Securities Division

One Ashburton Place, Room 1701

Boston, MA 02108

May 22, 2013