

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF MARKET REGULATION,

COMPLAINANT,

v.

GFI SECURITIES LLC (CRD No. 19982),

MICHAEL SCOTT BABCOCK (CRD No. 2450869),

STEPHEN FALLETTA (CRD No. 2880335),

DONALD PATRICK FEWER (CRD No. 1415123),

STEPHEN LOUIS SCOTTO (CRD No. 2547858),

and

LAINEE DALE STEINBERG (CRD No. 2376426),

RESPONDENTS.

**DISCIPLINARY PROCEEDING
No. 20060051583**

HEARING OFFICER

COMPLAINT

The Department of Market Regulation alleges:

SUMMARY

1. This case involves collusive interactions in 2005 and 2006 (the "relevant period") among FINRA-registered brokers whereby the brokers sought to frustrate their customers' efforts to obtain competitive brokerage rates on credit default swap (CDS)

transactions. A CDS is a derivative contract between two counterparties by which the buyer obtains "risk protection" associated with a specified "credit event," such as bankruptcy, default, or credit downgrade, relating to an underlying instrument (e.g., a debt security). Typically the buyer pays the seller a periodic fee in exchange for the seller's agreement to make a specified payment to the buyer if the credit event occurs while the CDS is in force.

2. During the period in issue, Respondent GFI Securities LLC (GFI) was one of a relatively small number of firms that brokered inter-dealer CDS transactions. In earlier years, the opacity and illiquidity of the market enabled the firms handling such transactions to charge commission rates for their services that were attractive to the Respondents and other inter-dealer brokers. As the trading volume in CDSs rose, however, the market became more liquid with an increasing number of market participants. The customers — typically major investment and commercial banks — accordingly sought lower commission rates on their CDS transactions. Typically, customers would propose rate reductions to brokers like Respondents; the brokers could agree, or negotiate with their customers for a more favorable rate.

3. In response to certain commission reduction proposals, and unbeknownst to the customers, the individual Respondents in this proceeding and their counterparts at competing firms colluded with one another in an effort to keep the customers from obtaining CDS brokerage services at more favorable rates. By knowingly engaging in anticompetitive conduct through which they benefitted themselves at their customers' expense, Respondents violated NASD Rule 2110 and IM-2110-5, along with Section 10(b) of the Securities Exchange Act and Securities Exchange Act Rule 10b-5 promulgated thereunder. Respondents' conduct additionally violated NASD Rule 2110 by their violations of Sections 17(a)(2) and (3) of the Securities Act.

4. In violation of NASD Rules 3010 and 2110, GFI lacked reasonable supervisory procedures to prevent misconduct of the kind alleged here, and Respondents Babcock and Fewer, GFI principals, failed adequately to supervise the activities of the firm's CDS brokers so as to prevent such misconduct.

RESPONDENTS

5. Respondent **GFI** has been an NASD/FINRA-registered broker-dealer since 1987. It is an indirect subsidiary of GFI Group, Inc., a Delaware corporation headquartered in New York City whose stock is listed for trading on NASDAQ. Among other businesses, GFI acts as a broker in transactions between other securities dealers in over-the-counter products, including CDSs.

6. At all relevant times, each of the following individual Respondents was associated with GFI as a general securities representative and served in the capacity described:

(a) **Stephen Falletta**, 41, was a senior CDS broker. Falletta has worked in the financial services industry for approximately fifteen years.

(b) **Lainee Dale Steinberg**, 43, was a CDS broker. She has worked in the financial services industry for approximately twenty-two years.

(c) **Michael Scott Babcock**, 43, was a senior CDS broker. He was also a registered principal of GFI and supervisor of its CDS desks, in which capacity he supervised Respondents Falletta and Steinberg, and Broker G1. Babcock has worked in the financial services industry for approximately twenty-one years.

(d) **Donald Patrick Fewer**, 46, was GFI's President or Senior Managing Director and a registered principal of the firm. He has worked in the financial services industry for more than twenty-four years. In April 2008, Fewer and Respondents Babcock,

Steinberg, and Falletta left GFI and migrated as a group to another FINRA broker-dealer member where they each remain registered.

7. **Stephen Louis Scotto**, 36, was at all relevant times a CDS broker at Tullett Liberty Inc. and a general securities representative of member firm Tullett Prebon Financial Services LLC (formerly known as Tullett Liberty Securities Inc. during the relevant time period and then Tullett Liberty Securities LLC). He became co-head of Tullett Liberty's CDS desk in mid-2006. Scotto subsequently left Tullett to successively join two different FINRA member firms, including most recently the same firm where Respondents Babcock, Falletta, Fewer, and Steinberg also now work. Scotto has worked in the financial services industry for about sixteen years and he remains registered.

OTHER INTER-DEALER BROKERS AND ASSOCIATED INDIVIDUALS REFERRED TO IN THE COMPLAINT

8. **IDB A** was at all relevant times a FINRA member firm. **Broker A1** was at all relevant times a broker and manager of IDB A's CDS desk.

9. **IDB B** was at all relevant times a FINRA member firm. At all relevant times, **Broker B1** and **Broker B2** were CDS brokers at IDB B.

10. **IDB C** was at all relevant times a FINRA member firm. **Broker C1** was at all relevant times a broker and co-manager of IDB C's CDS desk. **Broker C2** was at all relevant times a broker and co-manager of IDB C's CDS desk.

11. **IDB D** was at all relevant times a FINRA member firm. **Broker D1** was at all relevant times an associated person of IDB D and served as a CDS broker for IDB D.

12. **IDB E** was at all relevant times a non-FINRA registered broker. **Broker E1** was at all relevant times a CDS broker of IDB E and an associated person of an affiliated FINRA-registered member.

13. IDB F was at all relevant times a non-FINRA-registered private entity whose CDS activities were conducted by FINRA-registered associated persons of a FINRA member.

Broker F1 was at all relevant times a broker and co-manager of IDB F's CDS desk.

14. Broker G1 was at all relevant times a CDS broker at Respondent GFI.

15. Some of the firms and individuals identified in paragraphs 8-14 above (or their successors) have entered into letters of acceptance, waiver, and consent (AWC) with FINRA to settle claims related to the events alleged in this proceeding.

FIRST CLAIM
ANTI-INTIMIDATION/COORDINATION (NASD RULE 2110 AND IM-2110-5)
(All Respondents)

16. Paragraphs 1-15 are incorporated by reference.

Collusive Resistance by GFI and IDB A to Fee Schedule Proposed by Client A

17. In July 2005, Client A sought to reduce its brokerage costs by proposing that the brokers it used to effect certain CDS transactions forgo charging Client A commissions when it was the "non-aggressor" on the CDS transactions (*i.e.*, the counterparty whose bid has been hit or whose offer has been lifted by the other counterparty).

18. Through a series of communications, Respondent GFI broker Laine Steinberg and Broker A1 at IDB A coordinated their respective firms' responses to the proposal. On July 26, 2005, they shared with each other their reactions to the proposal and discussed an alternative fee schedule that might be proposed to Client A. (Attached hereto as Exhibit 1 are true and correct transcriptions, in chronological order, of certain communications among the brokers and between the brokers and Client A regarding Client A's proposed fee reductions.)

19. On Friday, August 5, Broker A1 wrote to Respondent Steinberg, "[I]f we go aggressor only on brazil - u know what is next. we can't do that."¹ Within the hour, Steinberg forwarded to Broker A1 the response Respondent GFI's Falletta had sent Client A regarding the proposal:

I cannot agree to aggressor only. You are asking to cut the bro[kerage] by more than half then. Please do not take my answer as any sign of disrespect. . .

Broker A1 replied, "[W]ill do the same." Later, Steinberg passed along thanks to Broker A1 from Falletta: "steve's looking over at my bbg [Bloomberg] and thanks you for this/conversing/etc. . ." Broker A1 concluded the communication by telling Steinberg she would inform Steinberg of her response to Client A, adding, "i am in agreement with u."

20. The following Monday, Respondent Steinberg sought an update from Broker A1 about the latter's negotiations with Client A. Broker A1 replied,

i told [the Client A representative] that i couldn't do aggressor only . . . my negotiations are not complete with her - as she wants something so b/n u and me - maybe brazil 5Y aggressor only. but only the 5Y and nothing else.

21. Consistent with Broker A1's suggested limited concession, Client A ultimately got IDB A to agree to aggressor-only terms only as to CDSs based on debt issued by Brazil or Argentina. GFI agreed to give Client A aggressor-only terms only on CDS index (CDX) transactions and CDSs associated with Mexico, rather than the blanket concession Client A had requested for the non-aggressor side of CDS transactions.

¹ For ease of reading, some of the matter quoted in this Complaint has been modified from the original ALLCAPS format. A number of additional quotations contained a multi-character, computer-generated code representing an apostrophe in Bloomberg messages; in place of that code this Complaint uses apostrophes, again for ease of reading. The documents attached at Exhibits 1-5 contain the original quotations, without modifications other than the use of pseudonyms for the non-respondent IDBs, the clients, and other third parties.

Coordinated Responses to Fee Schedule Proposed by Client B

22. In November 2005, Client B also sought aggressor-only terms on CDS transactions from GFI and other CDS brokers. As they had done in responding to Client A's proposal, Respondents Steinberg and Falletta coordinated GFI's response to Client B with Broker A1's response on behalf of IDB A. Attached hereto as Exhibit 2 are true and correct transcriptions, in chronological order, of certain communications among the brokers and between the brokers and Client B regarding Client B's proposed fee reductions.

23. Over a period of days, and unbeknownst to Client B, each firm kept the other apprised of their respective communications with Client B. Each assured the other they would not broadly accept aggressor-only terms and discussed specific alternative terms they would propose. For example, Broker A1 suggested a counter-response to Client B's proposal involving one-half basis point charges for both aggressor and non-aggressor transactions. Respondent Falletta responded "that's the best i will do as well. i would give him aggressor only in cdx though." The next day, Broker A1 confirmed to Respondent Steinberg that IDB A had not agreed to aggressor-only pricing and stated "i don't think that i will." Steinberg replied "We wont."

24. As GFI's and IDB A's separate negotiations with Client B progressed, the coordination between GFI and IDB A became ever more overt. On December 2, 2005, Respondent Steinberg told Broker A1 that Respondent Falletta was about to agree to Client B's "Bro[kerage] schedule but not the agressor/non part at all . . ." Broker A1 asked GFI to "hold on" and then suggested a counter-proposal: "what if we say like 3/8 on brazil and arg 5Y? but 1/2 on everything else or something? or u don't want to try? 3/8 so low."

25. That same day, Respondent Falletta informed Respondent Fewer, president of GFI, of the coordination with Broker A1. In response to Fewer's asking whether Falletta trusted Broker A1, Falletta told Fewer that Broker A1 had never lied; that she had laid everything "on the table and made [him] comfortable to do the same"; and that they had a "good, open . . . dialogue," with each understanding that they were "in it together" and that neither would benefit if either "screw[ed]" the other.

26. In addition to coordinating with IDB A, Respondent Falletta also discussed GFI's response to Client B with another competitor, Broker E1 of IDB E. On December 7, 2005, Broker E1 sent a Bloomberg message to Falletta that the Client B representative "says u gave him the 3/8 crap." Falletta responded that the Client B representative was a "tool" and that he had said he would "try to give him it as long as he would stop the aggressor only crap."

27. Ultimately Client B did not get the blanket aggressor-only terms it had sought from GFI or IDB A.

Coordinated Efforts to Resist Client C's Fee Proposal

28. In January 2006 Client C proposed a new fee schedule to a number of the firms with which it did CDS business to reduce the brokerage fees it paid on such transactions. The proposal precipitated a flurry of communications among brokers at the affected firms in which they informed each other of their intentions regarding how they would respond to the proposed fee reductions. Those communications included exchanges between Respondent GFI's Babcock and Broker A1 of IDB A, between Respondent GFI's Broker G1 and brokers at IDB C and IDB D, and between Respondent Scotto and Broker C1 of IDB C. Among other communications, in one call Broker A1 summarized the "market consensus," based on her conversation with Babcock, that Client C's proposal was "ridiculous" and "a fifth of what everyone else pays."

Within days of the Client C proposal, Respondent Scotto and other brokers, including Broker C1, Broker C2, Broker F1, Broker A1 and Broker B1, planned a meeting to coordinate a response. Attached hereto as Exhibit 3 are true and correct transcriptions, in chronological order, of certain communications among the brokers and between the brokers and Client C regarding Client C's proposed fee reductions.

29. As reflected in these communications and others (including those contained in Exhibit 3), Respondents Babcock and Scotto, along with GFI's Broker G1, were aware of how firms other than their own were responding to Client C's proposal, as well as of the impropriety of their acting in concert to frustrate it. Soon after Client C sent out its proposal, for example, Babcock checked with Broker A1 to find out if IDB A had received it and then arranged to discuss the situation with Broker A1 on her personal, unrecorded cell phone. When Babcock spoke the next day with Client C's Client Trader C1, the latter remarked,

I'm . . . gonna caution if we do find out . . . that people are talking . . . we'll treat it very seriously . . . We do not, and no one on this desk discusses commissions with other dealers.

Babcock responded, "OK. That's fair enough, I mean we hope not. . . ." Client Trader C1 added that he knew discussions had occurred and that "it's against the law . . . and we do take it pretty seriously, but we also expect on the other side that it's taken seriously as well."

30. Client Trader C1 made similar comments to Respondent Scotto when he called to give Scotto a "heads-up" that Client C would be seeking to reduce its per-transaction fees on CDS transactions:

[I] told people on the desk, we're not going to discuss uhm what we're doing with anyone else on the street, it would be an anti-trust violation. We're not going to try and lead any charge, but this is just what's going to work for us.

Scotto replied, "OK." Client Trader C1 continued that he did not know what others paid and that "we're not certainly going to talk about what other people pay," to which Scotto responded, "Like I said, we're not trying to, I'm not trying to argue it." When, during the same period, Broker C1 admitted to Scotto that he had lied to Client Trader C1 when he told Client Trader C1 he had not interacted with other brokers on the Client C1 proposal, Scotto remarked "[o]bviously not going to mention that one, right?"

31. Respondent Scotto nonetheless proceeded to talk to his counterparts at other firms about the fee proposal and to express a desire to act in concert with them to defeat it. When Broker C1 of IDB C told Scotto that IDB C would not accept the proposed fee schedule, Scotto replied that he was in favor of getting other brokers involved in resisting it. Broker C1 and Scotto again talked about calling a meeting among brokers from various firms to discuss Client C's proposal. They also agreed that Client C's traders should get no more "looks" – i.e., bid or ask information on CDSs – once Client C started paying fees that were a fraction of what others paid.

32. GFI's Broker G1's communications with counterparts at IDB C and IDB D reflect GFI's willingness to collaborate with competitors to defeat Client C's proposal. When Broker C2 of IDB C told Broker G1 that IDB C was going to "fight it," Broker G1 responded, "[W]e have to . . . its [REDACTED] outrageous," underscoring the point by adding, "Im serious. We have to really fight this one." When Broker C2 texted Broker G1 that Client C's "traders are going to be [REDACTED]" and "wont get any looks or calls on anything" if Client C implemented the proposed fee reductions, Broker G1 responded, "[S]ame here . . . trying to set up a meeting with them tmrrw . . . we said the same thing . . . they will get the last call on everything."

33. On January 9, 2006, Client C circulated a modified proposal that provided for higher commissions than did its original proposal. Respondent Scotto thereafter texted Broker C1 that the modified proposal was "certainly better" but that there were still "a couple of spots where it is ridiculous." Scotto and Broker C1 then exchanged messages about coordinating their counterproposals to Client C and doing so in such a way as to avoid detection:

Scotto: SO WHAT DO U THINK WE SHOULD DO? IN ORDER TO NOT SEEM LIKE WE R COLLUDING, I AM HAPPY TO MAKE A DIFFERENT REQUEST THAN U, BUT

C1: i am thinking about asking for more on the 16-50 [basis point] part . . . maybe you can ask for a diff level . . . i agree . . we shouldn't mention the same levels..

Scotto: OK I WILL TAKE A SHOT ON THE 150-250 PART

C1: cool...good idea.

34. In the ensuing days, Respondent Scotto and Broker C1 kept each other apprised of their intentions and their respective communications with Client C. During the same time period, Broker C2, co-manager of IDB C's CDS desk, exchanged messages with Broker G1 at GFI and CDS brokers at IDB B and IDB E regarding their respective efforts to resist Client C's proposed fee reductions.

35. On January 17, 2006, Client C advised its CDS brokers that it would postpone implementation of its fee proposal to February 1. A week later, Respondent Scotto texted Broker C1, "I am all for a unified front so should we all meet up? Have u spoken to anyone else?" Broker C1 replied, "I have a feeling people are going to accept it . . . that is what it sounded like GFI is doing. . . . Lets ask around."

36. Ultimately, GFI and the other firms involved in the communications referred to above accepted Client C's modified proposal. The day after the new fees went into effect,

Respondent Scotto suggested to Broker C1 that "the only thing we can do is try to box them out of some trades, tell them it's because of the bro[kerage] and hope they feel the pain."

Coordinated Resistance to Client D's Proposed Fee Schedule

37. In the fall of 2006, Client D circulated a proposed reduction of the fees it paid on CDS transactions to its CDS brokers. Once again, Respondent Babcock at GFI, Respondent Scotto, GFI's Broker G1, and their counterparts at other firms communicated among themselves their respective thoughts regarding the proposal and strategies for defeating it. Attached hereto as Exhibit 4 are true and correct transcriptions, in chronological order, of certain communications among the brokers and between the brokers and Client D regarding Client D's proposed fee reductions.

38. On October 17, Broker C1 of IDB C proposed to Respondent Scotto that the brokers should "all give them a counter proposal . . . something like [the Client E] schedule . . . [Client D] will have to listen." Broker C1 followed up with Scotto the next day, informing him that GFI and IDB A were making counterproposals to Client D. "If we all say no," Broker C1 suggested, Client D would "have to change it." Scotto replied, "I agree. . . We have to take a true stand sometime, seems like this is the right time." Later that day, Broker C1 advised Broker F1 that IDB C had rejected Client D's proposal and informed Broker F1 of specific pricing components of IDB C's counterproposal to Client D.

39. In late October, Respondent Scotto informed Broker C1 that Scotto's firm was still executing CDS transactions for Client D at the "old" rates. Broker C1 reciprocated by telling Scotto the specific rates Client D was paying IDB C on such transactions, which were higher than the rates Client D had proposed.

40. As IDB C negotiated with Client D, Broker C1 kept Respondent Scotto apprised of the terms on which IDB C was executing transactions for Client D. On November 21, 2006, for example, Broker C1 and Scotto had the following communication:

Scotto: Hey, did u ever talk to [Client D's trader] y[ester]day?

C1: Yeah sent him an email and said we are good to go. . .

Scotto: OK, so we r using the new schedule today? 0-100 $1/8$ [i.e., $1/8$ of a basis point for transactions on which the spread was 0 to 100], 101-250 $1/4$ [i.e., $1/4$ of a basis point for transactions on which the spread was 101 to 250], 251+ $1/2$ [i.e., $1/2$ of a basis point for transactions on which the spread was 251 or higher]?

C1: Exactly . . .

Scotto: Cool

C1: Game on!

41. Client D ultimately agreed to accept price reductions which were smaller than it had originally proposed.

42. Respondents and other brokers for inter-dealer transactions engaged in many additional improper communications in 2005 and 2006. These include communications in March 2006 between Broker C1 and Respondent Scotto discussing possible responses to a Client E rate proposal, in which the two coordinated to submit similar, but slightly different schedules in order to avoid the appearance of collusion. Attached hereto as Exhibit 5 are true and correct transcriptions of certain communications among the brokers regarding other fee reductions proposed by the brokers' clients.

43. NASD Rule 2110 and IM-2110-5 prohibit any member or person associated with a member from, among other things, coordinating pricing with, or attempting to influence pricing by, another member or person associated with such member, or otherwise attempting

improperly to discourage the competitive activities of another market participant. Through the communications discussed above, Respondents sought to frustrate their customers' efforts to obtain brokerage services at rates reflecting a bona fide competitive market. By doing so, they violated IM-2110-5 and NASD Rule 2110.

SECOND CLAIM
UNETHICAL CONDUCT (NASD RULE 2110)
(All Respondents)

44. Paragraphs 1-43 are incorporated by reference.

45. By reason of the foregoing, Respondents acted unethically and failed to observe high standards of commercial honor and just and equitable principles of trade in violation of NASD Rule 2110.

THIRD CLAIM
FRAUD (SECTION 10(b) OF THE EXCHANGE ACT, SEC RULE 10b-5, NASD RULE 2110)
(All Respondents)

46. Paragraphs 1-45 are incorporated by reference.

47. Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder (the "antifraud provisions") collectively proscribe fraudulent conduct in connection with "the purchase or sale" of securities or securities-based swap agreements.

48. Respondents violated the antifraud provisions by engaging in a device, scheme or artifice to defraud, and by making material misstatements and by failing to make material disclosures to their customers. Specifically, Respondents engaged in collusive interactions with competing firms for the purpose of thwarting the customers' efforts to obtain brokerage services at bona fide competitive rates, and failed to disclose that they were doing so; they also made material misstatements suggesting that they were not engaging in such interactions. Respondents knew, or were reckless in not knowing, that information regarding those

interactions would have been important to their customers in connection with those customers' choice of brokers to execute CDS transactions for them, and also in negotiating brokerage prices for those transactions.

49. During the course of conduct described above, Respondents, in connection with the purchase or sale of securities or securities-based swap agreements, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national security exchange, knowingly or recklessly: employed devices, schemes, or artifices to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person, and/or effected transactions in, or induced the purchase or sale of, any security or securities-based swap agreement by means of any manipulative, deceptive, or other fraudulent device or contrivance. By reason of the foregoing, Respondents willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, along with NASD Rule 2110.

FOURTH CLAIM
NASD RULE 2110 (VIOLATION OF SECURITIES ACT SECTIONS 17(a)(2) AND (3))
(PLEADED IN THE ALTERNATIVE TO THE THIRD CLAIM)
(All Respondents)

50. Paragraphs 1-45 are incorporated by reference.

51. Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 prohibit, by the use of interstate commerce, "in the offer or sale of any securities or any security-based swap agreement," (1) material misstatements or omissions to obtain money or property (Section 17(a)(2)); or (2) engaging in "any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser" (Section 17(a)(3)).

52. During the course of conduct described above, Respondents, in connection with the offer or sale of any securities or any security-based swap agreement, by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails: (a) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, all to obtain money or property; and/or engaged in transaction(s), practice, or course of business which operated as a fraud or deceit upon the purchaser.

53. By reason of the foregoing violations of Sections 17(a)(2) and (3) of the Securities Act, Respondents violated NASD Rule 2110.

FIFTH CLAIM
SUPERVISORY FAILURE (NASD RULES 3010 AND 2110)
(Respondents GFI, Babcock and Fewer)

54. Paragraphs 1-53 are incorporated by reference.

55. Respondents Babcock and Fewer knew, or ignored red flags indicating, that GFI registered representatives (such as Broker G1 and Respondents Steinberg and Falletta) under their supervision were engaging in improper communications with GFI's competitors regarding CDS brokerage rates, but nonetheless failed to take adequate steps to prevent them from doing so. In addition, Babcock personally participated in such improper communications.

56. By reason of the foregoing, GFI, Babcock and Fewer violated NASD Rules 3010(a) and 2110.

SIXTH CLAIM
INADEQUATE WRITTEN SUPERVISORY PROCEDURES (NASD RULES 3010 AND 2110)
(Respondent GFI)

57. Paragraphs 1-56 are incorporated by reference.

58. GFI's written supervisory procedures were not reasonably designed to ensure compliance with IM-2110-5 and other securities law requirements concerning anti-competitive conduct. GFI's written supervisory procedures during the relevant period included a section concerning anti-competitive or collusive conduct, but that section lacked any specificity about how, how often, or by whom supervisory reviews were to be conducted to ensure that such conduct was not occurring. Nor did the written supervisory procedures provide for ongoing and systematic reviews of brokers' electronic and telephonic communications for that purpose.

59. GFI failed to review employees' Bloomberg messages until at least mid-2006 and failed to document such reviews until at least August 2006; and failed to document that it conducted any supervisory reviews of other instant-messaging forms of communications during the relevant period.

60. By reason of the foregoing, GFI violated NASD Rules 3010(b) and 2110.

PRAYER

WHEREFORE, the Department of Market Regulation respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;
- B. make specific findings that Respondents willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder;
- C. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondents be fined; be required to disgorge fully any and all ill-gotten gains; and/or be required to make full and complete restitution, together with interest;

- D. order that Respondents bear such costs of this proceeding as are deemed fair and appropriate under the circumstances, in accordance with FINRA Rule 8330; and
- E. order all further relief, legal or equitable, that is warranted under the circumstances.

Dated: September 27, 2010

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