

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

Department of Enforcement,

Complainant,

v.

Eric R. Elliott (CRD No. 1418906),

Respondent.

Disciplinary Proceeding
No. 2007011348301

Hearing Officer - Rochelle S. Hall

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 23, 2010

INTRODUCTION

Disciplinary Proceeding No. 2007011348301 was filed on May 28, 2009, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Eric R. Elliott submitted an Offer of Settlement (Offer) to Complainant dated September 21, 2010. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Elliott has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of

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findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Elliott's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Elliott first became registered with FINRA as a General Securities Representative (GSR) in 1985 and as a General Securities Principal (GSP) in 1994. From May 28, 2002 through July 23, 2007, he was registered with FINRA through Brookstreet Securities Corporation as a GSR and GSP. While associated with Brookstreet, Elliott worked as a broker in Brookstreet's Fort Lauderdale, Florida office. Since July 18, 2007, Elliott has been registered as a GSR and GSP through another member firm. Pursuant to Article V, Section 4 of FINRA's By-Laws, FINRA retains jurisdiction over Elliott in that he is currently registered with a member firm and was so registered at the time the complaint was filed.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

SUMMARY

From October 2004 through March 2006, Elliott, while a registered representative of Brookstreet, induced seven customers to invest in complex, illiquid, and risky CMOs. CMOs are mortgage backed securities, collateralized by pools of private home mortgages. Through negligent misrepresentations and omissions, Elliott led customers to believe that through CMO investments they could safely achieve consistently high annual returns, in some cases up to 10%, year after year, regardless of market conditions, with the government backing the investments. The particular CMOs that Elliott bought for his customers were generally not government

guaranteed, and were subject to price volatility and to uncertain cash flows and maturities, based on changes in interest rates.

Elliott failed to disclose material characteristics of, and risks associated with, different CMOs with substantially different payment structures and interest rate sensitivity.

Elliott failed to investigate adequately and understand the CMO products, and did not have reasonable grounds to believe that the individual CMO purchases were suitable for each customer. The CMOs were not suitable investments for these customers, some of whom were retired and/or unsophisticated, and sought income and capital preservation with little or no risk. For some customers, the risk was further magnified through buying CMOs on margin at Elliott's recommendation.

Compounding the misconduct, Elliott improperly exercised discretionary authority to buy and sell the securities without written authorization from Brookstreet and the customers.

The customers were exposed to significant risks, which they did not understand, and which Elliott did not take the time to understand or ignored. Some customers suffered considerable losses to their retirement savings.

By virtue of this misconduct, Elliott violated NASD Conduct Rules 2310(a), 2510(b) and 2110.

BACKGROUND

At all times, Brookstreet was headquartered in Irvine, California and had approximately 400 offices nationwide.

The CMO Program

Between on or about January 15, 2004 and June 5, 2007, CP, a broker in a Brookstreet branch office in Boca Raton, Florida, ran a firm-wide program to facilitate the purchase and sale

of CMOs for retail customers (the "CMO Program"). CP bought large CMO blocks in the marketplace and proposed to Brookstreet brokers, including Elliott, the allocation of smaller positions in those bonds to specific retail customer accounts.

Beginning around May 2004, Elliott learned of the CMO Program through breakout sessions at Brookstreet annual meetings and through conference calls. During the period May 2004 through May 2005, CP and certain other brokers at Brookstreet presented the CMO Program to Brookstreet's brokers, including Elliott, as follows:

- a. The CMO Program offered Brookstreet brokers an opportunity for their retail customers to invest in government backed bonds, which were AAA rated, and was designed to achieve capital preservation and income;
- b. Brokers should expect customers to achieve consistently high annual returns of 8% to 10% in cash accounts and as high as 15% in margin accounts;
- c. CP would purchase institutional CMO blocks from the marketplace at a discount and propose to Brookstreet brokers the allocation of smaller positions in those bonds for sale to retail customers;
- d. The customer positions would later be repackaged into larger blocks for resale at favorable institutional prices;
- e. Customers could sell positions acquired within 90 days; and
- f. Customer portfolios would contain CMO bonds that hedged against interest rate fluctuations to protect principal and generate the projected annual returns.

Without independently investigating the individual products offered, starting in October 2004, Elliott recommended that customers invest through Brookstreet in what he represented as government agency bonds, generally stating that customers should expect consistently high annual returns, in some cases up to 10%, with little or no risk to principal. Elliott failed to conduct any reasonable inquiry concerning the CMO investments. Had he done so, he would have known that these products, which were high risk and complex, were unsuitable for the customers.

CP's office sent to Elliott recommendation sheets of proposed CMO purchases and sales and Bloomberg CMO Security Descriptions (Bloomberg DES pages), containing certain important information about the proposed CMO purchases, corresponding to bond CUSIP numbers.

Upon receipt of the recommendation sheets, Elliott and/or his assistants, throughout the course of the CMO Program, completed and sent order tickets for the purchase and sale of CMOs in the customer accounts to the Boca Raton office. The transactions were executed in the customer accounts without prior communication with Elliott's customers.

Elliott knew of all trades and had full access to information concerning his customer account portfolios.

The CMOs Purchased

The CMOs purchased for the customers were complex and were highly sensitive to interest rate changes.

Some of the CMOs purchased for Elliott's customers included CMOs that were guaranteed by the United States government through Government National Mortgage Association (GNMA or Ginnie Mae). Certain other CMOs were issued by government sponsored entities, Federal National Mortgage Association (FNMA or Fannie Mae) and Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac). All of these CMOs are commonly referred to as "agency CMOs."

Elliott represented to his customers that the CMOs purchased for their accounts would be agency CMOs. In fact, 81% of the CMOs purchased were agency CMOs. With those purchases, any guarantee as to principal applied only to the par value of the security, and not to any premium

paid. Most of the CMOs were issued by government sponsored entities for which there was no explicit government guarantee and, therefore, were subject to credit risk.

Starting as early as March 2005, and contrary to Elliott's representations to his customers, non-agency CMOs issued by private entities ("private label CMOs") were also purchased for customers. Private label CMOs carried material credit risks and were often less liquid than agency CMOs.

Approximately 19% of the CMOs purchased for the customers were issued by private entities, such as investment banks and financial institutions, were not agency backed CMOs, and carried additional credit risk.

Cash flows from underlying mortgages included (i) interest, (ii) scheduled principal repayment, and (iii) any payment in excess of the scheduled principal repayment. The CMO prospectuses defined the structure of each CMO and the distribution of the cash flows among different classes (known as "tranches").

The customers were primarily placed in CMO Inverse Floaters, Interest-Only and Inverse Interest-Only tranches.

CMO Inverse Floater tranches are structured so that interest payments move in the opposite direction of an interest rate index, such as the London Interbank Offered Rate (LIBOR). They are designed to pay interest and principal from underlying mortgage pool payments. Inverse Floaters often have "multipliers" embedded in their coupon formulas (also known as "levers"), which cause the Inverse Floater to react dramatically to changes in the reference interest rate index, and thereby magnify interest rate risks. Rising interest rates generally cause an Inverse Floater's value and interest payments to drop and may extend receipt of return of principal on the underlying mortgages beyond the anticipated average life of the CMO. Should

the investor wish to sell the Inverse Floater in a rising interest rate environment, rather than waiting for the final principal payment, the trading price could be significantly lower than the original purchase price.

CMO Interest-Only tranches are structured to pay interest only from a mortgage pool stream and increase in value when interest rates rise and the rate of prepayment of mortgages decreases. They sell at a discount to their "notional" principal amount (the principal balance used to calculate the amount of interest due). Interest-Only tranches have no face or par value and, as the notional principal amortizes and prepays, the cash flow and market value of the Interest-Only declines. Accordingly, investors in Interest-Only tranches may receive back less cash than they initially invested. In fact, Interest-Only tranches are at risk of expiring worthless if the related principal balance is paid off prior to the maturity date of the bond.

As early as 1993, FINRA advised that Interest-Only and Inverse Floater tranches, as with other high-risk tranches, are only suitable for "sophisticated investors" with a "high-risk profile." *Members' Obligation to Customers When Selling Collateralized Mortgage Obligations (CMOs)*, NASD Notice to Members 93-73 (1993).

CMO Inverse Interest-Only tranches are also high-risk and are structured so that interest payments move in the opposite direction of an interest rate index, such as LIBOR, and also sell at a discount to their notional principal amount. They have no face or par value and, as the notional principal amortizes and prepays, the cash flow and market value of the Inverse Interest-Only declines. As with Interest-Only tranches, Inverse Interest-Only tranches can expire worthless if the related principal balance is paid off prior to the maturity date of the bond.

Additionally, many of the CMO tranches discussed above, which the customers purchased, were part of support tranches, standing in line behind other bond classes for receipt of

cash flow. Support tranches typically expose the investor to the greatest level of risk associated with prepayment of underlying mortgages.

Most of the CMOs purchased for the customers were small, odd-lot positions that were difficult to sell in the marketplace without a substantial discount in price, unless sold as part of a larger block with other customer positions.

CMOs do not trade on an exchange and dealers do not publish daily quotes or bid, ask and closing price information. In this case, CMO tranches were valued by a pricing service using complex theoretical pricing models. The pricing service based its price estimates on institutional round lots and not odd-lot positions in determining estimated values of the customer positions. The price estimates were reflected on customer account statements. These prices were only estimates of the bond values and often varied substantially from prices obtained through actual market bids or offers.

There was no active retail market for CMOs generally. Consequently, the only reliable way for Brookstreet customers to liquidate small, odd-lot CMO positions without receiving substantially lower prices was for Respondents to instruct the Boca Raton office to place a customer account on "sell only" status, whereby CP would decide when to propose re-constituting and selling blocks of CMOs. Accordingly, customers were left either holding onto their illiquid positions, or trying to sell their small positions at substantial discounts.

Failure to Ensure the Suitability of the CMOs Purchased

As set forth in NASD Notice to Members 93-73, "[i]n light of the complexity and varying risk characteristics of CMOs, . . . associated persons must be conversant in all characteristics of CMOs to assess adequately the suitability of CMOs for their customers. Moreover, they must ensure that their customers understand the characteristics and risks of CMOs."

Elliott did not understand, nor take adequate steps to understand, either how the different CMOs would react to changes in interest rates or, more generally, the risks associated with the bonds in each customer's portfolio. Consequently, Elliott failed to communicate this essential information to his customers.

Elliott did not understand and generally did not review or consider the information contained on the Bloomberg DES pages made available to him. The Bloomberg DES pages set forth various material information concerning a bond, including, by way of example:

- a. The issuer;
- b. Basic characteristics of the CMO tranche;
- c. For Inverse Floaters, the interest rate formula (with multiplier);
- d. Information about expected payments and the life of the bond based on various assumptions concerning mortgage prepayment rates;
- e. Ratings for private label bonds;
- f. Volatility information; and
- g. Minimum dollar denomination for trading.

Elliott did not review any prospectuses, prospectus supplements or any offering circulars relating to the particular CMO tranches purchased. Those documents provide essential information concerning the bonds, including disclosure of various applicable risk factors that an investor should consider before investing.

Brookstreet advised Elliott about, and made available to him, "An Investor's Guide to CMOs" ("Guide to CMOs"), published by the Bond Market Association (now known as the Securities Industry and Financial Markets Association). While the Guide contained material questions that Elliott should have posed to his customers before each CMO purchase, he failed to

do so. While some customers received the Guide through Elliott or Brookstreet, the customers either did not review it or fully understand it.

While it was the obligation of Elliott to consider and carefully assess the suitability of every individual CMO purchase in connection with his customer portfolios, he did not do so.

Elliott also failed to ensure that his customers understood the characteristics and risks of CMOs.

Elliott Negligently Failed to Take Into Account Adverse Material Information

During the course of the CMO Program, Elliott was made aware of, but negligently failed to adequately take into account, various warning signs indicating that (i) the representations he made to his customers were untrue, (ii) he had omitted to disclose material facts which were necessary for his customers to make informed decisions about their investments, (iii) the program was unsuitable for his customers, and (iv) the CMO positions allocated to customer accounts exposed his customers to significant, undisclosed risks. Examples are set forth below.

As a broker recommending CMOs to customers, Elliott knew, or should have known, that the market for CMOs in the mid-1990s had essentially collapsed and could do so again.

Elliott had received SIFMA's Guide to CMOs, which Brookstreet advised him about and made available to him, yet failed to take into account basic risks associated with CMOs that were discussed in the brochure.

Elliott knew, or should have known, by March 2005 that private label CMOs would be purchased and/or had been acquired for his customers.

Elliott knew from the beginning that the individual CMOs acquired for each customer were likely illiquid and, if marketable at all, would be sold at a substantial discount.

By at least mid-September 2005, Brookstreet's compliance department had alerted Elliott to various risks associated with CMOs that must be disclosed to customers, by providing a Brookstreet CMO disclosure form indicating that the CMOs carried far greater risks than CP had initially disclosed to Elliott.

In October 2005, the value of CMO positions in Brookstreet customer accounts dropped approximately 10% to 20%, which was a warning sign to Elliott of the pricing volatility of the CMOs. CP told Elliott that the drop in price was due to a pricing vendor revising its pricing models and these estimates were not reflective of the higher prices at which the bonds would be sold. At that point, Elliott, lacking an understanding of how CMOs were priced, had further reason to question the suitability of the program for his customers.

Starting in October 2005, Elliott noticed different and inconsistent performances and bond allocations among his customer portfolios with the same basic investment objectives, which was contrary to his understanding that CP would ensure that accounts with the same objectives would be similarly structured and properly hedged to achieve the same returns.

From November 2005 through June 2007, Elliott knew, or should have known, of inconsistent performances and bond allocations among his customer accounts, and during that time frame, Elliott had reason to question the suitability of the CMO Program and the investments.

As early as February 2006, Elliott knew, or should have known, that certain Interest-Only tranches in his customer accounts had become worthless and that other Interest-Only positions could experience losses to principal.

At all relevant times, Elliott knew, or should have known, that certain Inverse Floaters could be or were redeemed or called, resulting in money invested being returned sooner than anticipated, potentially requiring reinvestment at lower interest rates.

By May 2006, Elliott knew, or should have known, based on new disclosures appearing on CMO trade confirmations, of the speculative nature of the CMOs purchased, and various risks regarding CMO investments.

By mid-August 2006, Brookstreet's compliance department alerted Elliott that, according to Brookstreet policy, all customers in the CMO Program must be accredited investors with investment objectives of growth and income, with an objective of speculation preferred and required in margin accounts.

Elliott ignored or otherwise failed to respond to these and other warning signs when making statements to his customers about investing in CMOs through mid-2006. Consequently, Elliott (i) made to his customers, and failed to correct, various material misrepresentations and omissions regarding investing in CMOs, and (ii) prior to mid-2006, continued to recommend and cause to be effected unsuitable CMO purchases for his customers. Up until mid-2006, Elliott had increasing knowledge and awareness from the above-referenced warning signs and other negative information that he was misrepresenting and omitting to disclose material facts to customers.

The CMO Program Collapsed

In mid-June 2007, Brookstreet discontinued operations after failing to meet margin calls associated with CMOs held in participating customer accounts.

Many customers investing in the CMO Program suffered significant losses and/or were left holding onto their illiquid positions.

SECOND CAUSE OF ACTION

Elliott's Negligent Misrepresentations and Omissions

Elliott made negligent material misrepresentations and omitted to disclose material information and, in so doing, violated his obligation to observe high standards of commercial honor and just and equitable principles of trade.

From October 2004 through March 2006, Elliott made misrepresentations of material facts, and omitted to disclose material facts, to customers PB, PD and JD, SG and RP, and PM and RM, in connection with each customer's CMO investments.

Elliott's material misrepresentations included, but were not limited to, the following:

- a. Statements to PB that: (i) CMOs were safe, secure, and appropriate investments for conservative investors who wanted to preserve principal; and
(ii) If there were a default in the underlying mortgage, principal and interest payments would continue;
- b. Statements to PD that the bonds to be acquired were collateralized by conventional home mortgages (as opposed to pools of non-conforming mortgages);
- c. Statements to SG and RP that: (i) The CMOs were safe, government backed, with little risk; and (ii) A hedging strategy would counterbalance CMO positions against each other so that the downside was hedged and the upside was enhanced;
- d. Statements to PM that CMOs were conservative, safe, secure investments, with very little risk of default;

- e. Statements to PB, PD, SG and RP, and PM and RM that the expected annual return on the bonds was 8% to 10% in cash accounts, and further representation to PB and SG and RP that expected annual returns were higher in margin accounts; and
- f. Statements to PB, PD, and PM that they would acquire liquid CMO positions, further representations to PD and PM that investors could liquidate individual positions at any time, and statements to PB and PD that their entire CMO portfolio could be liquidated within 30 to 60 days.

Elliott's material omissions included, but were not limited to, the following:

- a. Failing to disclose to PB that CMOs would be purchased;
- b. Failing to disclose to PB, PD and JD, SG and RP, and PM and RM the characteristics of, and risks associated with, the CMO investments;
- c. Failing to disclose to PB, PD and JD, SG and RP, and PM and RM anything about different CMO tranches and how changes in interest rates impact performance and risk of the different tranches;
- d. Failing to disclose to PB, SG and RP, and PM and RM that private label CMOs would be acquired and the characteristics of, and additional risks associated with, those products;
- e. Failing to disclose to PB, and PM and RM any risks to principal invested;
- f. Failing to disclose to PD any risks to principal other than the risk of loss of a portion of his investment if he sold early;

- g. Failing to disclose to PB that margin would be used to finance CMO purchases and the risks associated with the use of margin, including that the use of margin would materially increase the risk associated with specific types of bonds;
- h. Failing to disclose to PB, PD and JD, and PM and RM that smaller CMO positions were illiquid and less marketable than larger positions; and
- i. Showing or permitting another broker to show PB and RP documents purportedly reflecting significant historical returns from CMOs purchased while failing to disclose that past performance is not indicative of future performance.

Additional Material Omissions by Elliott

Elliott did not receive and failed to provide his customers with material information concerning the bonds as contained in prospectuses, prospectus supplements or any offering circulars relating to the particular CMO tranches purchased, which documents disclosed various applicable risk factors that an investor should consider before investing.

Moreover, before October 2005, Elliott failed to advise his customers how CMOs were priced and that values reflected on account statements were estimates only.

By reason of the foregoing misrepresentations and omissions, Elliott violated NASD Conduct Rule 2110.

THIRD CAUSE OF ACTION

Elliott's Unsuitable Recommendations

Elliott recommended risky and illiquid CMO positions to his customers without investigating and understanding the products. Elliott lacked reasonable grounds to believe that the CMO Program and CMO investments were suitable for his customers as he lacked an

understanding of the material characteristics of, and risks associated with, the CMOs offered, which was necessary to make an affirmative suitability determination.

Moreover, Elliott never considered whether individual CMO purchases were suitable for particular customers. Notwithstanding CP's role in proposing allocations to Elliott, Elliott had an independent, non-delegable duty to determine the suitability of each proposed purchase for each of his customers, but failed to fulfill that duty.

Additionally, Elliott did not have reasonable grounds to believe that the use of margin was suitable for customer CMO purchases as he did not fully understand how changes in interest rates would impact the investments, and his customers on margin were unaware of the magnified risks associated with the use of margin.

Even after Elliott doubted and/or had reason to doubt the suitability of the CMO Program, he continued up until mid-2006 to facilitate, approve and/or cause to be effected additional CMO purchases.

Furthermore, Elliott lacked reasonable grounds to believe that the CMO Program and CMO investments were suitable for his customers based upon their disclosed investment experience, investment objectives, financial situation and needs. Elliott not only recommended that his customers participate in the CMO Program, he also recommended each CMO purchase for his customers by approving, facilitating and/or causing to be effected the CMO purchases.

Customer PB

When recommending CMOs to PB, Elliott did not have reasonable grounds to believe that the CMOs were suitable for PB, who was 73 years old when he opened his Brookstreet account, based on PB advising Elliott that he was a conservative investor with investment

objectives of growth and income, and Elliott's understanding that PB was retired and sought income and capital preservation.

Based on Elliott's recommendation, in April 2005, PB initially invested approximately \$83,324.68 in CMOs, and ultimately invested a total of approximately \$100,000.00 in CMOs (both amounts exclude margin and any CMO returns that were reinvested). From April 2005 through February 2006, there were a total of 21 CMO purchases for PB's account, consisting of 15 Inverse Floaters, 4 Interest-Only positions (including one private label position), and 2 Inverse Interest-Only positions (including one private label position).

Margin was used to finance various CMO purchases in PB's account. Elliott did not have reasonable grounds to believe that purchasing CMOs on margin was suitable for PB, as the use of margin was inconsistent with PB's stated investment objectives and materially increased the risks associated with specific types of CMOs purchased.

While PB understood that purchases would be made for his account, he did not know that the purchases would involve CMO products, and he knew nothing of the characteristics and risks of the bonds purchased. He did not want to use margin and was unaware that Elliott's recommendations included the use of margin to finance CMO purchases. PB was also unaware of the increased costs and risks of using margin to finance CMO purchases.

Elliott received approximately \$4,242.76 in commissions from the CMO transactions in PB's account. As of June 30, 2007, PB's losses (realized and unrealized) from investing in CMOs through Elliott were approximately \$8,681.77.

Customers PD and JD

When recommending CMOs to PD and JD, Elliott did not have reasonable grounds to believe that the CMOs were suitable for PD and JD, who were 71 and 64 years old, respectively,

when they opened a charitable trust account at Brookstreet, based on their advising Elliott (i) that their investment experience was limited to purchasing stocks and mutual funds; (ii) of the charitable nature of the account; (iii) that their liquid net worth was approximately \$500,000.00; and (iv) of their desire to have fairly conservative investments that provided income for retirement and preserved their assets. Elliott knew that PD was motivated to have their charity ultimately benefit and did not want any erosion of capital invested.

Based on Elliott's recommendation, in April 2005, PD and JD initially invested approximately \$116,109.50 in CMOs, and ultimately invested a total of approximately \$375,000.00 in CMOs (both amounts exclude any CMO returns that were reinvested), which was 75% of their liquid assets. From April 2005 through January 2006, there were a total of 33 CMO purchases for PD and JD's account, consisting of 18 Inverse Floaters, 13 Interest-Only positions (including 8 private label positions), and 2 Inverse Interest-Only positions (both private label positions).

PD and JD were unaware of the characteristics and risks of the CMOs purchased for their account.

Elliott received approximately \$13,043.31 in commissions from the CMO transactions in PD and JD's account. As of June 30, 2007, PD and JD's losses (realized and unrealized) from investing in CMOs through Elliott were approximately \$99,813.79.

Customers SG and RP

When recommending CMOs to SG and RP, business partners who opened a joint account at Brookstreet, Elliott did not have reasonable grounds to believe that the CMOs were suitable for them, because they advised Elliott that they were semi-retired, relatively conservative investors, and wanted to receive income, protect their money, and not take undue risks.

Based on Elliott's recommendation, in October 2004, SG and RP initially invested about \$100,000.00 in CMOs, and ultimately invested a total of approximately \$185,096.44 in CMOs (both amounts exclude margin and any CMO returns that were reinvested). From October 2004 through March 2006, there were a total of 26 CMO purchases for SG and RP's account, consisting of 12 Inverse Floaters (including one private label position), 8 Interest-Only positions (including 3 private label positions), and 6 Inverse Interest-Only positions (including 3 private label positions).

At Elliott's recommendation, margin was used to finance various CMO purchases in SG and RP's account. Elliott did not have reasonable grounds to believe that purchasing CMOs on margin was suitable for SG and RP, as the use of margin was inconsistent with their stated investment objectives and risk tolerance, and materially increased the risks associated with specific types of CMOs purchased.

SG and RP were unaware of material characteristics and risks of the CMOs purchased for their account and the risks associated with using margin to finance CMO purchases.

Elliott received approximately \$5,555.02 in commissions from the CMO transactions in SG and RP's account. As of June 30, 2007, SG and RP's losses (including realized gain and unrealized losses) from investing in CMOs through Elliott were approximately \$5,388.32.

Customers PM and RM

When recommending CMOs to PM and RM, Elliott did not have reasonable grounds to believe that the CMOs were suitable for PM and RM, who were 68 and 65 years old, respectively, when they opened a joint account at Brookstreet, based on PM advising Elliott that they were retired, had limited investment experience (primarily no-load mutual funds), and sought capital appreciation and supplemental retirement income.

Based on Elliott's recommendation, in August 2005, PM and RM initially invested approximately \$97,709.30 in CMOs, and ultimately invested a total of approximately \$100,000.00 in CMOs (both amounts exclude any CMO returns that were reinvested). From August 2005 through March 2006, there were a total of 8 CMO purchases for PM and RM's account, consisting of 3 Inverse Floaters and 5 Interest-Only positions (including one private label position).

PM and RM were unaware of the characteristics and risks of the CMOs purchased for their account.

Elliott received approximately \$1,296.05 in commissions from the CMO transactions in PM and RM's account. In November 2006, PM and RM realized a total of approximately \$24,462.67 in losses from investing in CMOs through Elliott.

By reason of the foregoing unsuitable recommendations to his customers, Elliott violated NASD Conduct Rules 2310(a) and 2110.

FOURTH CAUSE OF ACTION

Elliott's Improper Exercise of Discretion

Elliott exercised discretionary authority in customer accounts without obtaining prior written authorization from his customers and Brookstreet's prior written acceptance of the accounts as discretionary. During the following periods, Elliott exercised discretion in the accounts of seven customers noted below, by facilitating, approving and/or causing to be effected, the following CMO purchase and sale transactions:

	Customers	Time Period	CMO Transactions
a.	PB	04/26/05 – 11/30/06	39
b.	PD and JD	04/27/05 – 06/14/07	61
c.	SG and RP	10/19/04 – 05/01/07	47
d.	PM and RM	08/15/05 – 11/30/06	16
			Total = 163

By reason of the foregoing exercise of discretion in his customer accounts, Elliott violated NASD Conduct Rules 2510(b) and 2110.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent Elliott from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that:

- A. Respondent Elliott be suspended from associating with any FINRA member in all capacities for a period of six months;
- B. Respondent Elliott pay restitution in the amount of \$30,217.00 (consisting of \$24,463.00 in restitution and \$5,754.00 in interest) to customers PM and RM, as listed on Attachment A; and
- C. Respondent Elliott pay a fine of \$10,000.00.

Respondent Elliott shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Gary A. Chodosh, Senior Regional Counsel, FINRA, One Liberty Plaza, New York, NY 10006, either by letter that identifies Respondent Elliott and case number 2007011348301

and includes a copy of the check, money order or other method of payment, or by e-mail, with pdf copies of the payment documentation, to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 120 days after acceptance of the Offer.

If for any reason Respondent Elliott cannot locate the customers identified in Attachment A after reasonable and documented efforts within 120 days from the date the Offer is accepted, or such additional period agreed to by a FINRA staff member in writing, Respondent Elliott shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customers were last known to have resided. Respondent Elliott shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Respondent Elliott agrees to pay the monetary sanctions upon notice that this Offer has been accepted and that such payments are due and payable. Respondent Elliott has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

The sanctions herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

A handwritten signature in black ink, appearing to read "Gary A. Chodosh".

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