

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

V.

DENNIS LEE GROSSMAN
(CRD NO. 870170),

Respondent.

Disciplinary Proceeding
No. 2008011672301

Hearing Officer – MC

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 15, 2011

INTRODUCTION

Disciplinary Proceeding No. 2008011672301 was filed on June 6, 2011, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Dennis Lee Grossman submitted an Offer of Settlement (Offer) to Complainant dated August 11, 2011. 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, Respondent 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 Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent first became registered with FINRA as a General Securities Representative (GSR) in or about October 1978 through a FINRA member firm. He became registered as a General Securities Principal (GSP) in or about September 1981 through another FINRA member firm. Respondent was registered as a GSR and GSP through former member firm Grossman & Co., LLC (G&C) from in or about November 1981 through December 31, 2009 when G&C filed its Uniform Request for Broker-Dealer Withdrawal (BDW). At the time of G&C's BDW, Respondent was also registered as the firm's Equity Trader, Financial and Operations Principal (FINOP), Municipal Securities Principal and Registered Options Principal. Respondent was the sole owner of G&C during this period. From on or about February 11, 2010 through April 27, 2010, Respondent was registered as a GSR with a different FINRA member firm. Since then, Respondent has not been associated with any member firm, but he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws. The Complaint was filed on June 6, 2011.

FINDINGS AND CONCLUSIONS

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

1. Dennis Lee Grossman ("Grossman"), as the anti-money laundering ("AML") compliance officer ("AMLCO") and President, failed to implement and enforce adequate supervisory systems and procedures at former member firm Grossman &

Co., LLC ("G&C") in the following areas: (a) anti-money laundering, including staff training in that area; (b) prevention of the sale of unregistered securities; and, (c) supervisory control systems under Rule 3012. In addition, Grossman caused G&C to conduct a securities business with a net capital deficiency because the firm held customer funds and thereby lost its exemption under the Securities Exchange Act of 1934 ("Exchange Act") Rule 15c3-3.

**FAILURE TO DETECT, INVESTIGATE OR REPORT SUSPICIOUS ACTIVITY
(VIOLATIONS OF NASD CONDUCT RULES 3011(A) AND 2110 AND FINRA RULE 2010)**

2. NASD Conduct Rule 3011(a) requires FINRA members to establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of suspicious activity and transactions.
3. The Department of Treasury issued the implementing regulation, 31 CFR § 103.19 (a)(1), on July 2, 2002, for suspicious transaction reporting for broker-dealers. It provides that, with respect to any transaction occurring after December 30, 2002, "[e]very broker or dealer in securities within the United States . . . shall file with FinCEN . . . a report of any suspicious transaction relevant to a possible violation of law or regulation." FinCEN is the Financial Crimes Enforcement Network of the United States Department of the Treasury (Treasury). Notice to Members (NTM) 02-47 sets out the reporting responsibilities for broker-dealers under the new rule.
4. As part of their monitoring responsibilities, broker-dealers are directed to NTM 02-21 which emphasizes each firm's duty to detect "red flags" and, if a firm detects any "red flags," to "perform additional due diligence before proceeding with the transaction." NTM 02-21 also sets forth examples of "red flags."

5. G&C's AML procedures, dated November 15, 2006 and February 18, 2008 ("2006/2008 AMLCP"), contained the same limited procedures for G&C's monitoring of suspicious activity. The procedures consisted of three pages within G&C's WSPs, of which two pages were a list of "red flags" contained in NTM 02-21. The responsibility for monitoring accounts was assigned to each registered representative who was tasked with reporting suspicious activity to the AMLCO Grossman.
6. The AML procedures were not tailored to the firm's main business lines, including customer-directed online trading, options activities and discretionary account activity. Further the procedures did not include any guidelines related to the reporting of suspicious activity, including (i) when a suspicious activity report (SAR) should be filed; (ii) what backup documentation needs to be maintained in connection with a decision to file or not file a SAR; (iii) the timeframe for filing SARs; and, (iv) safeguarding SAR information.
7. G&C's procedures also were deficient with respect to its customer identification system by failing to, among other things, identify certain required customer identification information, incorporate any risk-based criteria for verification of customer identities and the additional steps to be taken for non-United States based new accounts.
8. Grossman updated G&C's AML procedures, once in December 2008 and then shortly thereafter, in February 2009 ("2009 AMLCP"). Both versions contained the same procedures and consisted of approximately twenty-three pages.

9. The 2009 AMLCP was also not tailored to the firm's main business lines and failed to address the risks associated with those business activities. The procedures failed to outline the review for suspicious activities that would be conducted at the firm or how they would be documented. The procedures left blank the section of the procedures that purported to describe the firm's system for monitoring for suspicious transactions:

Our AML Compliance Officer will conduct an appropriate investigation before a SAR is filed. Our monitoring of specific transactions includes: *[describe.]*

10. Grossman failed to demonstrate that, as the AMLCO and president of G&C, he implemented and followed sufficient AML procedures to adequately detect and investigate potentially suspicious activity.
11. Grossman did not consider the AML procedures and rules to be applicable to the type of accounts held at G&C and therefore did not adequately utilize, or monitor or review for, the following "red flags" which were listed in the firm's procedures. These "red flags," which apply directly to the transactions at issue are drawn from NTM 02-21:

- Whether the customer (or a person publicly associated with the customer) has a questionable background or is the subject of news reports indicating possible criminal, civil or regulatory violations;
- Whether the customer, for no apparent reason or in conjunction with other 'red flags,' engages in transactions involving certain types of securities, such as penny stocks,...which...have been used in connection with fraudulent schemes and money laundering activity. (Such transactions may warrant further due diligence to ensure the legitimacy of the customer's activity.)
- Whether the customer engages in excessive journal entries between unrelated accounts without any apparent business purpose;

- Whether the customer maintains multiple accounts, or maintains accounts in the names of family members or corporate entities, for no apparent business purpose or other purpose;
- Whether the customer's account has unexplained or sudden extensive wire activity, especially in accounts that had little or no previous activity;
- Whether the customer's account had wire transfers that have no apparent business purpose to or from a country identified as a money laundering risk or bank secrecy haven.

12. In his daily review of trades executed at G&C and all outgoing cash journals and wires, Grossman did not identify any activity of unusual size, volume or pattern as an AML concern. Further, the firm's registered representatives, who were also assigned responsibility for monitoring their own accounts, failed to report any suspicious activity to Grossman. In fact, until being alerted to "red flags" of suspicious conduct by the United States Securities and Exchange Commission (SEC) and/or FINRA, Grossman did not file any SARs.

13. Grossman failed to implement adequate procedures reasonably designed to detect and cause the reporting of suspicious transactions and, even with those minimal procedures that he had in place at the firm, he still failed to adequately implement or enforce G&C's own AML program.

14. Five accounts were opened at G&C within a short period of each other that engaged in similar activity in many of the same penny stocks. Individuals associated with the accounts had prior disciplinary histories including securities fraud and/or money laundering.

EM Accounts

15. Two accounts were opened by EM at G&C. The first, Entity A, was opened on February 11, 2008. The second, Entity B, was opened on April 30, 2008.

16. There was no apparent legitimate business reason for EM to utilize two accounts at G&C and Grossman did not inquire into the reason.

17. Several "red flags" existed in connection with these accounts that should have triggered Grossman's obligations to undertake scrutiny of the accounts, as set out in G&C's procedures, including possibly even filing a SAR:

- In 1995, EM had been convicted and sentenced for cocaine trafficking and, in 2000, for four counts of criminal money laundering in federal district court. In connection with that conviction, EM was imprisoned for twelve months and assigned supervised release for an additional three years. Grossman was unaware of this disciplinary history until it was brought to his attention by FINRA staff;
- The Entity A account was opened on February 11, 2008. The Entity B account was opened on April 30, 2008. Both accounts shared the same residential and mailing addresses. Grossman was unaware of and did not inquire into why multiple accounts were opened by EM;
- Immediately after the Entity A account was opened, it transferred in over 14 million shares of penny stocks, Permanent Technologies, Inc. (PERT) and Bio-Clean International, Inc. (BCLN);
- Between February 14, 2008 and June 10, 2008, approximately 422,000 shares of PERT and 5.25 million shares of BCLN were liquidated. The proceeds of these liquidations, approximately \$280,000, were wired out of the Entity A account. Other than these transactions, there was virtually no other activity in the Entity A account;
- On February 29, 2008, the Entity A account transferred 5.9 million shares of PERT via journal to an unrelated G&C account for Entity C. On February 15, 2008, the Entity A account journaled out 100,000 shares of BCLN to another unrelated G&C account for YT. Other than that transaction, the YT account had no other activity;
- Customer identification information was deficient. The new account information did not contain any information regarding an occupation, date of birth or government identification for EM;
- The Entity B account engaged in large volume transactions of primarily two penny stocks, Soma Petroleum Ltd. (SOMPF) and Mind Pix Corp. (MPIX). Between June 2008 and August 2008, the account received approximately 1 million shares of MPIX and 4 million of SOMPF. In July 2008, the account sold 80,000 shares of MPIX and immediately wired out the proceeds of \$7,495.

JM Accounts

18. Two accounts were opened by JM at G&C. The account for Entity C was opened on or around February 15, 2008. The account for Entity D was opened on April 7, 2008. JM was listed as the beneficial owner of the Entity C account and as the president and secretary for the Entity D account. Both accounts shared the same address.
19. There was no apparent legitimate business reason for JM to utilize two accounts at G&C, and Grossman was unaware of any reason.
20. Several "red flags" existed in connection with the accounts that should have triggered Grossman's obligations to undertake scrutiny of the accounts, as set out in G&C's procedures, including possibly even filing a SAR:
- JM served a three-year jail sentence for aggravated assault with a deadly weapon. In June 2008, JM was charged, in federal district court in Nevada, with one count of conspiracy to commit bank fraud, mail fraud and wire fraud, three counts of bank fraud, aiding and abetting and one count of money laundering and aiding and abetting;
 - The Entity C account did not include the name of the beneficial owner, his occupation or date of birth;
 - The Entity D account listed the company's business as "consulting"; there was no information listed for the name of the beneficial owner, his occupation, date of birth or any government identification;
 - Both account shared the same address. Grossman did not inquire into why multiple accounts were opened by JM;
 - After the Entity C account was opened, it received in journals totaling approximately 13.9 million shares of PERT and BCLN;
 - On February 29, 2008, the Entity C account received a journal of 5.9 million shares of PERT from the unrelated, third-party Entity A account at G&C;
 - On March 5, 2008, the Entity C account attempted, unsuccessfully, to transfer 4 million shares of PERT to another unrelated G&C account for Entity O;
 - On April 11, 2008, the Entity D account received almost 7.5 million shares of BCLN. In May 2008, the Entity D account sold over 1.04 million shares of BCLN. Between May and July 2008, the Entity D account wired out proceeds from this liquidation of approximately \$71,451;
 - On May 16, 2008, the Entity C account journaled 500,000 shares of PERT to another unrelated G&C account for Entity P;
 - Between February 15, 2008 and June 27, 2008, the Entity C account liquidated about 4 million shares of which 3.8 million shares alone of BCLN were liquidated between May 5, 2008 and June 10, 2008;

- The liquidations of PERT and BCLN in the Entity C account were followed by outgoing wires totaling over \$200,000 of which approximately \$136,840 was wired out in May 2008 alone;
- Between June 2008 and September 2008, the Entity C account received an additional 135,032 shares of BCLN;
- Between June 2008 and March 2009, 1.29 million shares were journaled out of the account and \$45,663 was wired out;
- Other than a purchase of 80,000 shares in a stock, the Entity C account had very little, if any other, activity than in PERT and BCLN.

Entity E Account

21. The account for Entity E was opened on or around February 15, 2008. TZ was listed as the president of Entity E. TZ and Entity E shared the same address as did FZ who had been a registered representative until a series of securities-related violations resulted in him being barred from the securities industry.

22. Several "red flags" existed in connection with this account that should have triggered Grossman's obligations to undertake scrutiny of the accounts, as set out in G&C's procedures, including possibly even filing a SAR:

- On February 15, 2008, the account transferred in over 10 million shares of PERT;
- Between February 15, 2008 and June 10, 2008, the account liquidated over 123,000 shares of PERT followed by outgoing wires and check disbursements of \$52,823;
- On February 17, 2009, the account journaled out 9.49 million shares of PERT;
- PERT was originally incorporated in the name of Triden Telecom, Inc. (TRIT). On October 4, 2007, TRIT effected a 1 for 200 reverse stock split and changed its symbol to TRTM. On December 10, 2007 TRTM completed a reverse merger between PERT and TRIT and changed its name to PERT. According to PERT's SEC disclosure statement, dated September 30, 2007, FZ arranged the merger between PERT and TRIT;
- On December 3, 2008, the account received in 18.5 million shares of another penny stock, Everock (EVRN);
- Between June 2008 and February 2009, the account wired out approximately \$83,337;
- Other than PERT and EVRN, the account did not trade in any other stock.

YT Account

23. An account in the name of YT was opened on or around May 12, 2008. The account was referred to G&C by EM. Several "red flags" existed in connection with this account that should have triggered Grossman's obligations to undertake scrutiny of the accounts.
24. The account information lacked the account holder's date of birth or any government identification.
25. On May 15, 2008, the initial transaction in the account was an incoming third-party journal of 100,000 shares of BCLN from the Entity A account. There was no other activity in the account between May 2008 and March 2009.

Entity F Account

26. The account for Entity F was opened on or around December 21, 2007. The account was based out of Panama City, Panama and incorporated on the Caribbean island of Nevis.
27. The beneficial owner on the account, MV, was born in the Netherlands and, for purposes of account opening, provided Grossman with a copy of his Canadian passport. The account information for this account does not contain any information related to MV's occupation or Entity F's tax identification number.
28. The new account form lists Entity F's business as "consulting".
29. Entity F utilized a bank account in Barbados for its banking in connection with its G&C account.
30. Several "red flags" existed in connection with this account that should have triggered Grossman's obligations to undertake scrutiny of the account, as set out in G&C's procedures, including possibly even filing a SAR:

- The complicated ownership structure for the account, including the multiple jurisdictions associated with the account, its owner and its banking account;
- Between December 24, 2007 and January 18, 2008, the account transferred in over 5.8 million shares of five different penny stocks, Rancher Energy Corp. (RNCH), Urex Energy Corp. (URXE), Radial Energy, Inc. (RENG), Solar Entertech Corp. (SOEN) and South See Energy Corp. (SSGY);
- Between January 2, 2008 and June 30, 2008, the account liquidated over 4.3 million of those shares, with the proceeds wired to banks located in the Caribbean;
- Upon opening, the account received a wire transfer of \$786,000. Within three weeks, the account wired out \$630,000. Between December 27, 2007 and June 17, 2008, the account wired out \$2.2 million to two bank accounts, located in Barbados and the Cayman Islands;
- Between June 2008 and August 2008, the account received in 2 million shares of URXE and sold over 3 million shares between May 2008 and August 2008;
- In October 2008, the account received approximately 2.48 million shares of penny stock nCoat, Inc. (NCOA) all of which it sold by the end of November 2008;
- Between February 12, 2009 and March 12, 2009, the account received over 1.3 million shares of Ameriwest Energy Corp. (AWEC).

DZ Accounts

31. Three accounts were opened at G&C by DZ. All three accounts were opened on January 3, 2008 and all three provided the same address on the account documentation.
32. There was no apparent reason for DZ to utilize three accounts at G&C, and Grossman did not inquire into the reason.
33. One account was opened in the name of DZ who listed his occupation on the new account form as "drummer" and his employer as Entity G, also the name on the second account in this group. On the new account form for the Entity G account, DZ represents himself as the sole owner of the company whose business is "consulting."
34. Several "red flags" existed in connection with this account that should have triggered Grossman's obligations to undertake scrutiny of the accounts, as set out in G&C's procedures, including possibly even filing a SAR:

- All three accounts shared the same address, were opened on the same date and by the same person. Grossman did not inquire into why DZ opened multiple accounts at G&C;
- From June 2008 through August 2008, the only activity in the three accounts was in two penny stocks, Cobalis Corp. (CLSC) and Validian Corp. (VLDI);
- The DZ account received 250,000 shares of CLSC on June 4, 2008 and then purchased an additional 11,000 shares on June 10, 2008. Over the next month, the account sold 251,000 shares of CLSC and wired out approximately \$11,180, of which \$2,200 was wired to the Entity G account;
- Between June 5, 2008 and July 11, 2008, the Entity G account purchased 41,400 shares of CLSC and then sold all of it within days. During that period, the account also purchased and sold 30,000 shares of VLDI. Those were the only transactions in the account;
- On August 20, 2008, the Entity H account received 200,000 shares of VLDIDZ which, by early September 2008, had converted to approximately 335,000 shares of VLDI;
- In September 2008, the Entity H account sold 266,000 shares of VLDI. The remaining 69,000 shares of VLDI in the account were sold in October 2008;
- On September 18, 2008, the Entity H account wired \$506 to the Entity G account.

DC Accounts

35. An account in the name of DC was opened on December 22, 2005. DC listed his occupation as a "marketing consultant" and was based in Germany. A second account was opened with this same address for MC. Several "red flags" existed in connection with this account that should have triggered Grossman's obligations to undertake scrutiny of the accounts.
36. Between January 2007 and June 2008, the DC account traded over 100 million shares of penny stocks and other low-priced securities.
37. Between January 2007 and June 2008, the DC account effected approximately 72 outgoing wires totaling \$714,000. Sixty-six of the wires were in small increments of \$10,000 or less. The wires went to four different bank accounts located in California, New York, Florida and the Turks and Caicos. Fourteen of the wires, totaling \$333,000, went to the Turks and Caicos account.

38. From August 2008 through May 2009, the MC account executed a number of transactions in penny stocks, selling more than 1.74 million shares totaling approximately \$87,485.

Entity I Account

39. An account in the name of Entity I was opened at G&C on or around February 3, 2006. The new account form indicates that Entity I was an offshore hedge fund located in the Cayman Islands.

40. Several "red flags" existed in connection with this account that should have triggered Grossman's obligations to undertake scrutiny of the accounts, as set out in G&C's procedures, including possibly even filing a SAR:

- There was a lack of corporate documents such as articles of incorporation, charter, by-laws or other such documents provided by Entity I;
- Emails from G&C's clearing firm, Penson, identifying documents it wanted from Entity I due to concerns the clearing firm had with Entity I's location, structure and transactions;
- The account was initially funded with \$1 million. The account activity consisted of the liquidations of low-priced securities and subsequent wire transfers out of the account. Over the course of three dates, December 27, 2006, April 24, 2007 and June 29, 2007, the account wired out a total of \$898,000. The wires all went to a bank account located in Zurich, Switzerland.

Entity J/AB Account

41. The Entity J account was opened on or about July 1, 2008. The signatory and president on the account was VW. The account documentation did not include copies of any government identification or a date of birth for the account holder.

42. An account in the name of AB was opened at G&C on or about May 5, 2008. On the new account form, AB lists his employer as OMDA Oil and Gas Inc. and his title as President.

43. Several "red flags" existed in connection with these accounts that should have triggered Grossman's obligations to undertake scrutiny of the accounts.
44. Between July 2008 and April 2009, the Entity J account received approximately 30 million shares of Global Diamond Exchange Inc. (GBDX) and 101 million shares of OMDA Oil & Gas Inc. (OOAG). Both GBDX and OOAG are penny stocks.
45. The Entity J account liquidated the shares of GBDX and OOAG, realizing approximately \$103,916 which was wired out of the account.
46. Both accounts were serviced by VL. On or about November 17, 2008, VL received notice from the SEC that he was under investigation for potential violations of Section 5 of the Securities Act. On or about December 10, 2008, Grossman placed VL on heightened supervision. VL continued to service the accounts of AB and Entity J, among other customer accounts.
47. Email correspondence between VW and GC indicated a relationship between VW and AB, suggesting that AB was a control person of VW.

SD Accounts

48. On December 20, 2007, SD opened an account in his name, listing his occupation as "self-employed consultant." A second account, in the name of Entity K, was opened at G&C in May 2008. In documents accompanying the new account form for Entity K, SD is listed as the entity's sole Managing Member, President, Secretary and Treasurer.
49. Several "red flags" existed in connection with this account that should have triggered Grossman's obligations to undertake scrutiny of the accounts:
 - The SD account did not include copies of any government identification and the Entity K account did not list a beneficial owner and date of birth.

- From May 2008 through August 2008, the SD account delivered in and sold approximately 233,500 shares of penny stock UFood Franchise Company (UFFC). During that same period, the account wired out \$382,738.
- During May 2008 through August 2008, the Entity K account delivered in over 1.87 million shares of penny stocks PGOG, SKNY and PLTQE. The account sold 2.37 million shares and wired out over \$1.5 million.

SS Accounts

50. Four accounts were opened that share an affiliation with SS. Two accounts were opened directly by SS on January 9, 2006. One was opened in the name of SS and a second was opened in the name of Entity L. The other two accounts were opened in the name of Entity M and Entity N, respectively, on January 16, 2009 and March 5, 2009.
51. The Entity M and Entity N accounts were opened by DP. DP signed the Entity M account documents as its president and as the account holder. The new account forms do not list the type of business engaged in by either company.
52. Several "red flags" existed in connection with these accounts that should have triggered Grossman's obligations to undertake scrutiny of the accounts, as set out in G&C's procedures, including possibly even filing a SAR:
 - In the SS account, approximately 2.5 million shares of penny stock Spongetech Delivery Systems (SPNG) were received on February 2, 2009 from the Entity L account. On the next day, February 3, 2009, the SS account purchased and sold another 350,000 shares of SPNG;
 - From May 2008 through March 2009, the Entity L account received over 59 million shares and sold approximately 63.8 million shares of low-priced securities. During that period, the account wired out over \$657,195;
 - The Entity M account received over 3.87 million shares of Brilliant Technologies (BLLN);
 - In March 2009, the Entity N account received 300,000 shares of penny stock Extreme Mobile Coatings Corp. (EMOB);
 - SS was also a director of Entity M.

53. Due to Grossman's failure to effectively identify and investigate suspicious activity, in many cases, he failed to identify transactions potentially meriting reporting through the filing of SARs.

By reason of the foregoing, Grossman violated NASD Conduct Rules 3011(a) and 2110 and FINRA Rule 2010.

**FAILURE TO IMPLEMENT ADEQUATE AML TRAINING PROGRAM
(VIOLATIONS OF NASD CONDUCT RULES 3011 AND 2110)**

54. NASD Conduct Rule 3011(e) requires that a firm's AML program provide ongoing AML training for appropriate personnel.

55. In the 2006/2008 AMLCP, which were in effect in December 2007, the responsibility for monitoring accounts at G&C for suspicious activity was assigned to each registered representative who was responsible for monitoring his own accounts for suspicious activity and then required to report any suspicious activity to the AML compliance officer.

56. In G&C's annual compliance meeting documents, dated December 3, 2007, the extent of G&C's AML training for 2007 was described as "[r]eview of AML procedures, OFAC, don't take cash." There was no other description, documentation or explanation regarding the AML training conducted for 2007.

57. The AML training conducted in 2007 was not provided to all of the registered representatives at G&C. Three representatives, VL, GR and MS, did not participate in the training. VL was the registered representative for the majority of accounts exhibiting suspicious activity at G&C.

By reason of the foregoing, Grossman violated NASD Conduct Rules 3011(e) and 2110.

**FAILURE TO ESTABLISH AND MAINTAIN SUPERVISORY SYSTEM
TO DETERMINE REGISTRATION OF SECURITIES UNDER SECTION 5
(VIOLATION OF NASD CONDUCT RULE 3010 AND 2110)**

58. Section 5 of the Securities Act of 1933 ("Securities Act") prohibits the sale of securities in interstate commerce without an effective registration statement, unless an exemption applies.
59. Section 5 of the Securities Act requires that before selling unregistered securities, a broker-dealer has a duty to conduct a searching or reasonable inquiry ("searching inquiry") to determine that the securities are exempt from registration. The exemption is unavailable when a broker-dealer fails to make that searching inquiry.
60. The "searching inquiry" concept obligates a broker-dealer to perform certain due diligence before executing any sales transaction for a customer account that has received a large block of thinly traded securities of a company, in order to verify that the customer is neither an affiliate of the issuer nor an underwriter. It is not sufficient for the broker-dealer to accept the statements of sellers and their counsels' opinion letters without reasonably exploring the possibility of contrary facts.
61. G&C effectuated sales of three unregistered securities for its customers resulting in the sale of more than 72 million shares of stock and proceeds of more than \$768,500. Grossman failed to establish and maintain a supervisory system at G&C to address the firm's responsibilities for determining whether customer securities were properly registered or exempt from registration under Section 5 of the Securities Act and, as a result, Grossman failed to take steps, including conducting a searching inquiry, to ascertain whether these securities were freely tradeable or subject to an exemption from registration and not in contravention of Section 5 of the Securities Act.

62. During the period July 9, 2008 through September 30, 2008, the Entity J account received approximately 59 million shares of OOAG. The entire amount of 59 million shares was sold between July 14, 2008 and October 28, 2008 generating net proceeds of \$56,812.
63. G&C customer AB was the Chairman of OOAG. Customer AB shared an affiliation with the account of Entity J.
64. A reasonable inquiry by Grossman would have revealed AB's affiliation with OOAG and the Entity J account. Grossman failed to determine that AB was in a control relationship with the issuer and, therefore, deemed to be an affiliate of the company. The failure to detect these relationships is attributable to Grossman's failure to conduct a reasonable inquiry.
65. On April 9, 2008, the Entity A account received 7.5 million shares of BCLE. On April 10, 2008, the Entity C account received 6.5 million shares of BCLE. On April 11, 2008, the Entity D account received 7.5 million share of BCLE. Between April 2008 and July 2008, the three accounts sold over 11.4 million shares of BCLE and generated net proceeds in excess of \$348,000.
66. On February 14, 2008, the Entity A account received over 7 million shares of PERT. On February 15, 2008, the Entity C account received 1.48 million shares of PERT. On February 15, 2008, the Entity E account received over 10 million shares of PERT.
67. FZ was a control person of PERT's predecessor, Triden. The president of Entity E, TZ, shares the same address as FZ.
68. A reasonable inquiry by Grossman would have revealed FZ's affiliation with PERT and the Entity E account. Grossman failed to determine that FZ was in a possible

control relationship with the issuer and, therefore, might be deemed to be an affiliate of the company. The failure to detect this relationship is attributable to Grossman's failure to conduct a reasonable inquiry. A reasonable inquiry also would have revealed that EM had previously been convicted of criminal money laundering.

69. G&C effected the sale of the three different securities, OOAG, BCLE and PERT, to its customers, resulting in the sale of more than 72 million shares of stock.

70. G&C did not have a system in place, written or unwritten, to determine whether customer securities were properly registered or exempt from registration under Section 5 of the Securities Act.

71. Grossman failed to take steps to do a searching inquiry to ascertain whether the securities were freely tradeable or subject to an exemption from registration. Grossman relied solely upon the clearing firm, assuming that if the stocks were permitted to be sold by the clearing firm, then G&C was compliant with Section 5 of the Securities Act.

By reason of the foregoing, Grossman violated NASD Conduct Rules 3010 and 2110.

**INADEQUATE SUPERVISORY CONTROL SYSTEM AND ANNUAL CERTIFICATIONS
(VIOLATION OF NASD CONDUCT RULES 3012, 3013 AND 2110 AND FINRA RULE 2010)**

72. NASD Conduct Rule 3012(a)(1) requires that each member firm shall designate and identify to FINRA at least one principal who shall "establish, maintain, and enforce a system of supervisory control policies and procedures."

73. NASD Conduct Rule 3012(a)(1)(B) requires that the firm's designated principal or principals "submit to the member's senior management no less than annually, a report detailing each member's system of supervisory controls, the summary of the test

results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results.”

74. From April 2006 through May 2008, Grossman failed to designate a principal to test and verify the reasonableness of the firm’s supervisory system and failed to establish, maintain and enforce written supervisory control policies and procedures at G&C, pursuant to NASD Conduct Rule 3012.
75. During this same period, Grossman also failed to designate and specifically identify to FINRA at least one principal to test and verify that the firm’s supervisory system was reasonable to establish, maintain and enforce a system of supervisory control policies and procedures, as set forth in NASD Conduct Rule 3012.
76. On February 1, 2009, G&C created a report, pursuant to NASD Conduct Rule 3012. The report was deficient in several areas, including in its details of the firm’s system of supervisory controls, procedures for conducting tests and gaps analysis, identities of responsible persons or departments for required tests and gaps analysis.
77. On December 15, 2007 and February 1, 2009, Grossman made annual CEO certifications pursuant to NASD Conduct Rule 3013 and FINRA Rule 3130, certifying that G&C had in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures to comply with applicable securities rules and regulations. The certifications were deficient in that they failed to include certain information, as required by IM-3013, including whether the firm has in place processes to establish, maintain and review policies and procedures designed to achieve compliance with applicable laws and regulations and

whether the firm has in place processes to modify such policies and procedures as business, regulatory and legislative events dictate.

78. During the period from April 2006 through February 2009, Grossman was responsible for the establishment, maintenance and enforcement of a system of supervisory control policies and procedures. During that period, Grossman was required to do the necessary designations and certifications under NASD Conduct Rules 3012 and 3013 and FINRA Rule 3130.

By reason of the foregoing, Grossman violated NASD Conduct Rules 3012, 3013 and 2110 and FINRA Rules 3130 and 2010.

**FAILURE TO MAINTAIN ADEQUATE PROCEDURES
(VIOLATION OF NASD CONDUCT RULES 3010 AND 2110 AND FINRA RULE 2010)**

79. NASD Conduct Rule 3010(b) requires each member firm to “establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of [FINRA].”

80. For the period from November 2006 through December 5, 2008, the WSPs consisted of seventeen pages and failed to address several key areas, including:

- Who within the firm was responsible for compliance functions and who was responsible for direct line supervision;
- Who made decisions regarding heightened supervision of representatives;
- If there was a delegation of supervision and supervisory authority;
- How the firm ensured supervisors remain properly qualified and registered for their assigned duties;

- How the firm ensured supervisors remain properly aware of their assigned duties and personnel;
- How supervisory responsibility, especially across geographic regions, was tracked and monitored;
- How the compliance officers and direct line supervisors conducted and documented their reviews; and,
- If the firm conducted spot-checks or audits to identify deficiencies in its supervisory system and determine who was responsible for conducting the spot-checks or audits.

81. Subsequent sets of WSPs, dated December 6, 2008 and February 15, 2009 were

expanded but continued to contain deficiencies including, among other things,:

- The supervisory system failed to include a designation of principals, offices of supervisory jurisdiction (OSJs) and the assignment of registered persons;
- The financial and operational procedures failed to include WSPs addressing books and records, buy-in procedures and short sale close-out procedures; and,
- The customer accounts section of the WSPs failed to include procedures regarding approval of day-trading accounts, fee-based account openings and the periodic review of fee-based account suitability.

82. There were also deficiencies in G&C's supervisory procedures regarding

underwriting activities, variable contracts, municipal securities and communications with the public.

83. Rule 3010(a) requires member firms to establish and maintain a system to supervise

the activities of each of its registered persons that is "reasonably designated to achieve compliance with applicable securities laws and regulations, and with applicable [FINRA] Rules." To this end, in December 2008, Grossman established heightened procedures for the supervision of registered representative VL.

84. VL had been placed on heightened supervision as a result of SEC allegations related

to penny stock transactions involving violations of Section 5 of the Securities Act.

85. Between December 2008 and April 2009, Grossman failed to ensure that G&C's

heightened supervisory procedures placed on registered representative VL were

reasonably designed and implemented to address the conduct cited within the SEC's allegations.

86. The heightened supervision imposed by Grossman consisted of: (i) all of VL's customer communications being approved by a designated principal prior to use and (ii) all of VL's trades being confirmed by a designated principal prior to entry.
87. The heightened supervision failed to address the misconduct noted by the SEC against VL. Instead of implementing heightened procedures to specifically address the potential misconduct cited by the SEC, the additional supervisory steps to be taken for VL were no different than ordinary supervisory requirements.
88. The principal designated to conduct the heightened supervision over VL was RF. There was an inherent conflict of interest in assigning RF, who shared a representative code and a joint business with VL, as the principal to monitor VL's actions at the firm. RF had a financial interest in not reprimanding or otherwise hindering VL's actions. Grossman was aware of this conflict yet nonetheless assigned RF to conduct the heightened supervision over VL.
89. The heightened supervisory procedures implemented by Grossman also did not contain any explanation of how the supervision was to be evidenced and G&C failed to provide any evidence that heightened supervision was being conducted on VL.
- By reason of the foregoing, Grossman violated NASD Conduct Rules 3010 and 2110 and FINRA Rule 2010.

NET CAPITAL AND CUSTOMER PROTECTION RULE VIOLATIONS
(VIOLATION OF NASD CONDUCT RULE 2110 AND FINRA RULE 2010)

90. From on or about August 2007, through on or about April 2009, G&C issued rebates to customers including RN and Entity Q.
91. Grossman instructed the clearing firm, Penson, on the rebate payments to be made to G&C's customers.
92. Pursuant to Exchange Act Rule 15c3-1(a)(2)(vi), and prior to the payment of the rebates to customers, G&C was required to maintain minimum net capital of \$5,000. A February 2002 Interpretation of Exchange Act Rule 15c3-1 provides that "[a]ny introducing broker-dealer that rebates a portion of its commission back to its customer, either as a cash payment or to a creditor of the customer, is required by Exchange Act Rule 15c3-1(a)(2)(i) to maintain minimum net capital requirement of at least \$250,000."
93. Grossman entered into these rebate arrangements with customers, including RN and Entity Q. Grossman instructed Penson, G&C's clearing firm, as to which customers to rebate and the monthly amounts to rebate.
94. On February 14, 2008 and April 8, 2009, G&C's net capital, as computed by FINRA staff, was below the required \$250,000 minimum, as prescribed by Exchange Act Rule 15c3-1.
95. On those dates, G&C lost its Exchange Act Rule 15c3-3(k)(2)(ii) exemption and was required to have a special reserve account for customers' protection as prescribed by Exchange Act Rule 15c3-3.
96. G&C, in contravention of Exchange Act Rule 15c3-1, engaged in a securities business when the firm's net capital was below the required minimum, as prescribed by Exchange Act Rule 15c3-1.

97. G&C, acting through Grossman, in contravention of Exchange Act Rule 15c3-3, engaged in a securities business without establishing a reserve bank account or qualifying for an exemption, on February 14, 2008 and April 8, 2009. As described above, the failure to qualify for the exemption resulted from the firm's issuance of commission rebate payments to its customers.

98. Between August 2007 and April 2009, G&C issued rebates to customers thereby losing its exemption under the Exchange Act Rule 15c3-3(k)(2)(ii). Under that exemption, a broker-dealer who promptly transmits all customer funds and securities to the clearing firm is exempt from the provisions of Rule 15c3-3. Accordingly, by holding customer funds later issued as rebates, G&C did not meet the terms of the exemption and became subject to the full provisions of Exchange Act Rule 15c3-3. Grossman was required to perform monthly reserve computations and to make deposits into a special reserve bank account for the exclusive benefit of customers. Grossman failed to make any such computations or deposits. The issuance of the rebates also required G&C to maintain \$250,000 in minimum net capital. On two dates, February 14, 2008 and April 8, 2009, when the firm conducted a securities business, G&C failed to maintain its required minimum net capital.

By reason of the foregoing, Grossman caused G&C to violate Exchange Act Rules 15c3-1 and 15c3-3 and Grossman violated NASD Conduct Rule 2110 and FINRA Rule 2010.

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 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 Respondent be suspended for four months from association with any member of FINRA in a principal capacity and assessed a fine of \$75,000, which shall be due and payable either immediately upon re-association with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

The sanctions imposed 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



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