

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant

vs.

MAXXTRADE, INC.

Broker Dealer

(CRD No. 106471)

and

MYRON DAVID SCHNEIDT

Registered Principal

(CRD No. 1560906)

and

SHLOMI S. EPLBOIM

Registered Representative

(CRD No. 2417002)

Respondents

Disciplinary Proceeding

No. 2008011759202

Hearing Officer

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From 2006 through 2008, MaxxTrade, Inc., acting through Myron David Schneidt, its President and CEO, charged excessive mark-ups and mark-downs on 246 corporate bond transactions. During this same time period, MaxxTrade and Schneidt failed to establish and maintain an adequate supervisory system to prevent the excessive charges.

2. Of the 246 transactions, 44 trades were effected by MaxxTrade representative Shlomi S. Eplboim when he knew or should have known that the prices charged to his customers were not fair and reasonable.

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3. From 2006 through 2009, MaxxTrade and Schneidt failed to (i) register an office of the Firm from which it conducted securities business as either a branch office or an Office of Supervisory Jurisdiction; (ii) reasonably supervise three representatives located in this office; (iii) establish proper supervisory control procedures; (iv) conduct and prepare an annual certification of compliance and supervisory procedures; and (v) timely file Forms U5 and amendments to Forms U4.

4. On April 7, 2009, August 17, 2009, September 2, 2009, September 18, 2009, and October 6, 2009, FINRA Staff (Staff) sent letters to MaxxTrade and Schneidt requesting that they respond to questions about potential private securities transactions by Eplboim and Michael A. Poutre II,¹ who were former registered employees of MaxxTrade. MaxxTrade and Schneidt failed to respond to the Staff's requests, in violation of FINRA Rules 2010 and 8210.

RESPONDENTS AND JURISDICTION

5. MaxxTrade became registered with FINRA and the Securities and Exchange Commission (SEC) on July 24, 2001. MaxxTrade's registration with the SEC remains currently in effect, but its registration with FINRA has been suspended for failing to pay arbitration fees. The Firm conducted a general securities business on a fully disclosed basis.

6. Schneidt entered the securities industry as a General Securities Representative of a FINRA registered firm on October 22, 1986. On July 24, 2001, he became registered with MaxxTrade in such capacity and as a General Securities Principal. Schneidt remained registered

¹ Poutre was registered as a General Securities Principal with MaxxTrade. He submitted a Letter of Acceptance, Waiver and Consent which was accepted by FINRA on July 9, 2010. Pursuant to the settlement, he was suspended in all capacities for thirty calendar days for effecting a total of 20 sales of corporate bonds with mark-ups, which he knew, or should have known, were at prices that were not fair and reasonable, in violation of NASD Rule 2110 and 2440. In settling this matter, Poutre neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

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with MaxxTrade in such capacities until September 2, 2010. Since this Complaint is filed within two years of the termination of Schneidt's registration with a member of FINRA, Schneidt is subject to the jurisdiction of FINRA, pursuant to Article V, Section 4 of the FINRA's By-Laws.

7. Eplboim was registered with MaxxTrade as a General Securities Representative from on or about September 28, 2006 to on or about March 17, 2009. Eplboim currently remains registered with another FINRA registered firm in such capacities. Since this Complaint is filed while Eplboim is registered with a FINRA registered firm, he is subject to the jurisdiction of FINRA, pursuant to Article V, Section 4 of FINRA's By-Laws.

**FIRST CAUSE OF ACTION
NASD Rules 2110 and 2440 – MaxxTrade and Schneidt Charged Excessive
Mark-ups or Mark-downs For Its Bond Transactions.**

8. The Department realleges and incorporates by reference paragraphs number 1 through 7 above.

9. From November 2006 through November 2008, Schneidt was the President and Chief Executive Officer of MaxxTrade. He was responsible for reviewing and approving all of the trades effected by MaxxTrade during this period of time.

10. Between November 2006 and November 2008, MaxxTrade, acting through Schneidt, charged customers mark-ups, or mark-downs, which were not fair and reasonable, in consideration of the factors set forth in IM-2440(b). Representatives of MaxxTrade, including Schneidt, solicited 246 corporate bond transactions, as shown on Schedule A, attached hereto and incorporated by reference (the "Identified Corporate Bond Trades"), in which the mark-ups or mark-downs were excessive.

11. Regarding the Identified Corporate Bond Trades, the general practice of

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MaxxTrade, acting through Schneidt and other representatives, was to price bonds sold to customers, or purchased from customers, at 3 points, or \$30 per bond, over the Firm's contemporaneous cost, irrespective of the price paid by the Firm. This, in the case of any bond bought or sold by the Firm at a discount price of 60 or less, the mark-up or mark-down would exceed 5%.

12. The mark-ups or mark-downs for the Identified Corporate Bond Trades ranged from approximately 3.06% to 12.66%.

13. All of the Identified Corporate Bond Trades were effected by MaxxTrade on a riskless principal basis.

14. MaxxTrade's mark-ups and mark-downs for the Identified Corporate Bond Trades were not disclosed to its customers.

15. Because of the excessive mark-ups, MaxxTrade's customers were charged higher prices than they would have obtained had the mark-ups or prices been fair and reasonable. Similarly, because of the excessive mark-downs, MaxxTrade's customers received prices that were lower than they would have obtained had the mark-downs or prices been fair and reasonable.

16. Most of the Identified Corporate Bond transactions were readily available in the market, and thus were not difficult to obtain through MaxxTrade's clearing firm.

17. Nothing in the nature of MaxxTrade's business or in the Identified Corporate Bond Trades justified the size of the mark-ups or mark-downs. In particular, (a) MaxxTrade and its representatives did not provide services warranting extraordinary mark-ups or mark-downs; (b) MaxxTrade's expenses in executing or filling its customers' orders were not extraordinary; (c) the transactions were for total dollar amounts within a range that did not justify extraordinary

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mark-ups or mark-downs; (d) the bonds did not have *features that warranted* extraordinary mark-ups or mark-downs; and (e) an exercise of reasonable best judgment would not have allowed the imposition of the extraordinary mark-ups.

18. The Identified Corporate Bond Transactions reflected a pattern and practice by MaxxTrade, acting through Schneidt, of engaging in charging excessive mark-ups and mark-downs.

19. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 2440 by MaxxTrade and Schneidt.

**SECOND CAUSE OF ACTION
NASD Rules 2110 and 2440 – Eplboim Charged
Excessive Mark-ups or Mark-downs On Bond Transactions.**

20. The Department realleges and incorporates by reference paragraphs number 1 through 19 above.

21. Between November 2006 and November 2008, Eplboim placed orders for the purchase and sale of corporate bonds and placed charges on the orders for markups, or markdowns, which he knew, or should have known, were not fair and reasonable, in consideration of the factors set forth in IM-2440(b). Eplboim solicited 44 of the Identified Corporate Bond Trades as set forth on Schedule B, attached hereto and incorporated by reference. Eplboim set the amount of the mark-up or mark-down on these Identified Corporate Bond Trades by sending an electronic mail message, either directly or through his assistant, to Schneidt with the amount of the charges to the customers for the transactions.

22. The mark-ups and mark-downs for the 44 Identified Corporate Bond Trades that were solicited by Eplboim ranged from approximately 4.35% to 8.11%.

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23. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 2440 by Eplboim.

**THIRD CAUSE OF ACTION
NASD Rules 2110 and 3010 – MaxxTrade and Schneidt Failed to Establish and
Maintain an Adequate Supervisory System To Prevent Excessive Charges.**

24. The Department realleges and incorporates by reference paragraphs number 1 through 23 above.

25. Rule 3010(a) requires FINRA registered firms to establish and maintain a system to supervise the activities of each of its registered representatives. Rule 3010(a)(2) requires at minimum that firms maintain a supervisory system to provide for the designation of appropriately registered principals to carry out the supervisory responsibilities of the firm. Rule 3010(b) requires that member firms establish, maintain and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives that are reasonably designed to achieve compliance with applicable NASD Rules.

26. From at least in or about November 2006 to in or about November 2008, MaxxTrade and Schneidt failed to establish and maintain an adequate supervisory system, including written procedures, designed to ensure that MaxxTrade and its registered representatives complied with NASD Rule 2440 and charged mark-ups or mark-downs on corporate bond transactions that were fair and reasonable.

27. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3010 by MaxxTrade and Schneidt.

FOURTH CAUSE OF ACTION

**Article IV, Section 8 of NASD and FINRA By-Laws and NASD Rule 2110 and
FINRA Rule 2010 - MaxxTrade and Schneidt Failed to Register the Tarzana Office.**

28. The Department realleges and incorporates by reference paragraphs number 1 through 27 above.

29. Article IV, Section 8(a) of NASD By-Laws, which was renamed Article IV, Section 8(a) of FINRA By-Laws on July 30, 2007, requires that each branch office of a firm be registered with and listed on the membership roll of NASD, and then FINRA. Article IV, Section 8(b) of the By-Law further provides that firms shall promptly advise NASD, and then FINRA, of the opening of any branch office of the firm, not later than 30 days after the effective date of the opening.

30. In or about September 2006, MaxxTrade opened an office in Tarzana, California (Tarzana Office). This Tarzana Office where securities business was conducted was opened until about March 17, 2009. Three individuals, Eplboim, Poutre, and ES, who were registered with MaxxTrade worked from that office. Poutre and ES were registered as General Securities Principals of MaxxTrade, and Eplboim was registered as a General Securities Representative of MaxxTrade. Based on the business activity conducted at the Tarzana Office, the Tarzana Office should have been designated as an Office of Supervisory Jurisdiction (OSJ), but was not registered in any manner. Regardless of whether the Tarzana Office should have been an OSJ or a branch office, MaxxTrade and Schneidt failed to file a Form BR to register it in any capacity with NASD, and then FINRA.

31. The aforementioned acts, practices and conduct constitute separate and distinct violations of Article IV, Section 8 of NASD and FINRA By-Laws and NASD Rule 2110 and FINRA Rule 2010 by MaxxTrade and Schneidt.

**FIFTH CAUSE FOR COMPLAINT
NASD Rules 2110 and 3010 and FINRA Rule 2010 MaxxTrade and Schneidt
Failed to Adequately Supervise Activities In the Tarzana Office.**

32. The Department realleges and incorporates by reference paragraphs number 1 through 31 above.

33. Rule 3010(a) requires FINRA registered firms to establish and maintain a system to supervise the activities of each of its registered representatives. Rule 3010(a)(2) requires at a minimum that firms maintain a supervisory system to provide for the designation of appropriately registered principals to carry out the supervisory responsibilities of the firm. Rule 3010(a)(7) requires the participation of each registered representative in an interview or meeting, no less than annually, related to activities of the representative. Rule 3010(c)(1)(A) requires that each firm inspect at least every three years, every branch office that does not supervise one or more non-branch locations, and firms are required to retain a written record of the dates when each review and inspection was conducted.

34. MaxxTrade and Schneidt failed to evidence any principal approval of new accounts, securities transactions, or correspondence that was used in the securities transactions by the individuals located at the Tarzana Office from 2006 through 2008.

35. From in or about 2006 to in or about 2008, Eplboim, Poutre and ES used e-mail accounts that were separate from MaxxTrade accounts, and used these e-mail accounts to communicate with customers of MaxxTrade. Despite the fact that MaxxTrade and Schneidt knew or should have known about these accounts, they failed to review the representatives' communications with customers of MaxxTrade.

36. During 2007, MaxxTrade and Schneidt failed to require that Eplboim, Poutre and ES attend any annual compliance meeting or interview. In addition, MaxxTrade and Schneidt

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failed to hold any training meeting on compliance matters with the three registered representatives who were located at the Tarzana Office.

37. From in or about 2006 to in or about 2009, MaxxTrade and Schneidt failed to conduct any inspection of the Tarzana Office. In fact, Schneidt has never met the three registered representatives who were located at the Tarzana Office in person.

38. When Poutre became registered with MaxxTrade on September 27, 2006, he was: a) the subject of a regulatory investigation and action by FINRA for destroying electronic mail messages; b) named in a customer initiated arbitration; c) named in a customer complaint; and d) the subject of a termination "for cause" by another FINRA firm. In addition, after he was employed with MaxxTrade he was named in an arbitration which was filed on April 23, 2008. The FINRA regulatory action described above was resolved through a settlement, in which Poutre neither admitted nor denied FINRA's allegations. Pursuant to the settlement, Poutre was suspended from association with any FINRA firm for two weeks, which he served in December 2006. Finally, his registration with the Commonwealth of Massachusetts was denied for submitting an application which was materially incomplete.

39. When Eplboim became registered with MaxxTrade on September 28, 2006, he was: a) the subject of a criminal conviction for shoplifting; b) named in two customer initiated arbitrations; c) the subject of three customer complaints; and d) terminated for cause by another FINRA firm. After Eplboim became registered with MaxxTrade he was named in two more arbitrations initiated by Eplboim's former customers.

40. Despite these above described disciplinary histories, termination for cause and customer complaints and arbitrations, which are described in greater detail below, MaxxTrade,

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acting through Schneidt, failed to prepare and implement a plan of heightened supervision for Poutre and Eplboim from in or about 2006 to in or about 2009.

41. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Rules 2110 and 3010 and FINRA Rule 2010 by MaxxTrade and Schneidt.

**SIXTH CAUSE FOR COMPLAINT
NASD Rules 2110, 3012, and 3013 and FINRA Rules 2010 and 3130 - MaxxTrade and
Schneidt Failed to Establish, Maintain, and Enforce a Supervisory Control System, and
Failed to Complete an Annual Certification of Compliance and Supervisory Processes.**

42. The Department realleges and incorporates by reference paragraph numbers 1 through 41 above.

43. Rule 3012 requires that firms designate and specifically identify a principal who shall establish, maintain, and enforce a system of control policies and procedures to: (a) test and verify that their supervisory procedures are reasonably designed to achieve compliance with applicable securities laws, regulations and the Rules; and (b) create additional or amended supervisory procedures where the need is identified by testing and verification. The Rule requires that the designated principal prepare and submit a report at least annually which details the firm's system of supervisory controls, summarizes the results of the tests and any exceptions, and details any additional or amended supervisory procedures created in response to the test results.

44. Rule 3012 specifically provides that the written supervisory control policies and procedures include procedures designed to permit the review and supervision of customer account activity conducted by the firm's branch office managers, sales managers or any other person performing a similar supervisory function, and procedures designed to review and monitor: the transmittal of funds or securities from customers to outside accounts, entities,

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primary residences, and registered representatives; customer changes of addresses; customers changes of investment objectives, which include policies and procedures to document the method of customer confirmation, notification or follow-up for these reviews of customer activities.

45. Rule 3012 further requires that firms establish, maintain and enforce supervisory control policies and procedures that are reasonably designed to provide heightened supervision over activities of producing managers who generate 20% or more of the revenue of the business unit that they supervise.

46. NASD Rule 3013, which was renumbered FINRA Rule 3130 on December 15, 2008, requires that each firm have its chief executive officer certify annually that the firm has processes in place to establish, maintain, review, test and modify written compliance policies and supervisory procedures reasonably designed to achieve compliance with applicable NASD rules, and federal securities laws and regulations. In addition, Rule 3013 requires that the chief executive officer has conducted one or more meetings with the chief compliance officer in the preceding twelve months to discuss such processes.

47. During 2008, MaxxTrade, acting through Schneidt, failed to establish, maintain, and enforce supervisory control policies and procedures to address the following:

- a. designating a principal responsible for supervisory controls;
- b. supervisory control procedures for testing MaxxTrade's written supervisory procedures to ensure that all rules are addressed;
- c. supervisory control procedures that address updates to MaxxTrade's written supervisory procedures;
- d. designating the principal responsible for completing an annual report to senior management on MaxxTrade's supervisory control procedures and results;
- e. supervising customer account activity by its producing managers;
- f. identifying producing managers and assigning qualified supervisors for the producing managers;
- g. using the limited size and resource exception for manager supervision, and factors used in determining the exception;

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- h. using electronic processes to notify FINRA of MaxxTrade's reliance on the "limited size and resources" exception;
- i. supervising the transmittal of customers' funds or securities;
- j. supervising customers' changes of addresses;
- k. supervising customers' changes of investment objectives;
- l. listing a method to document the confirmation, notification or follow-up for customers' changes; and
- m. identifying producing managers for heightened supervision.

48. MaxxTrade, acting through Schneidt, prepared inadequate annual internal audit reports for 2006, 2007, and 2008, in that the reports failed to address obvious supervisory weaknesses present at MaxxTrade related to its supervision of Eplboim and Poutre.

49. MaxxTrade, acting through Schneidt, failed to prepare certifications that the Firm had procedures in place to establish, maintain, review, test, and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable Rules and securities laws, as required pursuant to NASD Rule 3013 for 2007 and 2008, and FINRA Rule 3130 for the period after December 15, 2008.

50. MaxxTrade and Schneidt failed to implement heightened supervision for customer account activity of Poutre, who was a producing manager whose revenue constituted 20% or more of the revenue of the business from the Tarzana Office. An exception to this requirement was not available to MaxxTrade and Schneidt because it failed to submit a notice that it was relying upon the limited size and resources exemption during 2007 and 2008.

51. FINRA Staff requested that MaxxTrade and Schneidt correct the deficiencies noted in paragraph number 47 above at the exit interview in 2008. Staff again reviewed MaxxTrade's books and records in 2009, and learned that MaxxTrade, acting through Schneidt, still had failed to establish, maintain, and enforce supervisory control policies and procedures to address the following:

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- a. failing to identify who and when MaxxTrade will test and verify that its supervisory procedures are sufficient; if testing and verification identify a need for a change, the procedures fail to identify how that change will occur;
- b. failing to explain how MaxxTrade will test the sufficiency of supervisory procedures;
- c. failing to identify who will prepare and submit an annual report to senior management describing MaxxTrade's system of supervisory controls, summary of the test results, any significant identified exceptions and any deletions, additions, or amendments to supervisory procedures in response to test results;
- d. failing to describe the steps to identify and conduct heightened supervision of producing managers whose revenue constituted 20% or more of the revenue of the business from an office; and
- e. failing to provide rationale about how MaxxTrade qualifies for the limited size and resources exception.

52. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Rules 2110, 3012, and 3013 and FINRA Rules 2010 and 3130 by MaxxTrade and Schneidt.

SEVENTH CAUSE OF ACTION

**Article V, Sections 2 and 3 of NASD and FINRA By-Laws, NASD Rule 2110 and
FINRA Rule 2010 - MaxxTrade and Schneidt Failed to Promptly
Amend Its Representatives' Forms U4 and Forms U5.**

53. The Department realleges and incorporates by reference paragraph numbers 1 through 52 above.

54. Article V, Section 2 of NASD By-Laws, which was renamed Article V, Section 2 of FINRA By-Laws on July 30, 2007, requires that each application for registration filed with FINRA be kept current at all times by supplementary amendments. The By-Law further provides that such amendments shall be filed not later than 30 days after learning of the facts or circumstances giving rise to the amendment.

55. Article V, Section 3 of NASD By-Laws, which was renamed Article V, Section 3 of FINRA By-Laws on July 30, 2007, requires that FINRA firms notify FINRA of any amendments to Forms U5 in the event that the firm learns of facts or circumstances causing any

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information set forth in the Forms U5 to become inaccurate or incomplete. The By-Law further provides that such amendments shall be filed not later than 30 days after learning of the facts or circumstances giving rise to the amendment.

56. During all relevant times the Form U4 contained a question asking the individual applicant whether any self-regulatory organization: "found you to have been involved in a violation of its rules;" and "disciplined you by expelling or suspending you from membership, barring or suspending your association with its members, or restricting your activities."

57. During all relevant times the Form U4 contained a question asking whether the individual applicant had been named as a respondent in an investment-related, consumer-initiated arbitration which alleged that he was involved in one or more sales practice violations and which is still pending.

58. During all relevant times the Form U5 contained a question asking whether the individual applicant had been named as a respondent in an investment-related, consumer-initiated arbitration which alleged that he was involved in one or more sales practice violations and which is still pending.

59. On or about November 8, 2006, a Letter of Acceptance, Waiver and Consent was issued, under which Poutre, without admitting or denying the allegations, consented to the entry of findings that he violated NASD Rules and to the imposition of sanctions including a fine of \$5,000 and a suspension in all capacities for ten business days. MaxxTrade and Schneidt knew or should have known of the resolution of this matter by November 15, 2006. MaxxTrade and Schneidt failed to amend Poutre's Form U4 to disclose this disciplinary action until on or about July 5, 2007, which was at least 202 days late.

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60. On or about August 8, 2007, the State of Massachusetts Securities Department issued an administrative complaint against Poutre charging that he filed an application for registration which was materially incomplete, creating grounds for denying Poutre's application for registration as an agent of MaxxTrade, pursuant to Massachusetts law. On or about December 10, 2008, Poutre was found to be in default in this proceeding and was denied the application for registration as an agent of MaxxTrade in Massachusetts. MaxxTrade and Schneidt knew or should have known of the resolution of this proceeding by at least December 19, 2007. MaxxTrade and Schneidt failed to amend Poutre's Form U4 to disclose this disciplinary action until on or about July 21, 2008, which was at least 215 days late.

61. On or about April 28, 2008, an arbitration complaint was filed against Eplboim and Poutre, charging them with misrepresentations, unauthorized trades and breaches of their fiduciary duties related to securities transactions. The arbitration sought damages of at least \$104,500 and legal fees and expenses. On or about August 5, 2008, MaxxTrade and Schneidt were sent letters by FINRA notifying them that pursuant to Article V, Section 2 of FINRA By-Laws, they were required to amend Eplboim's and Poutre's Forms U4 to disclose the arbitration. MaxxTrade and Schneidt failed to file the required amendments to Eplboim's and Poutre's Forms U4, and also failed to report the arbitration on their Forms U5, upon their termination from the Firm.

62. On or about September 8, 2008, Eplboim and MaxxTrade were named as respondents in a statement of claim in arbitration. The claimants charged that Eplboim made fraudulent misrepresentations and unsuitable recommendations, and sought damages of \$690,000. MaxxTrade and Schneidt knew or should have known about the statement of claim by

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on or about September 15, 2008. MaxxTrade and Schneidt failed to amend Eplboim's Form U4 until on or about February 24, 2009, which was 162 days late.

63. On or about January 20, 2009, members of the public filed a statement of claim in arbitration against Schneidt, JG and MaxxTrade. The statement of claim charged that the respondents had misrepresented facts, recommended unsuitable investments, breached their fiduciary duty to the complainants and engaged in common law fraud and deceit and negligence. The statement of claim sought damages of over \$1.2 million. An answer was filed on behalf of Schneidt, JG and MaxxTrade on or about May 4, 2009. MaxxTrade and Schneidt failed to amend Schneidt's and JG's Form U4 to disclose this complaint.

64. The aforementioned acts, practices and conduct constitute separate and distinct violations of Article V, Sections 2 and 3 of NASD and FINRA By-Laws, NASD Rule 2110 and FINRA Rule 2010 by MaxxTrade and Schneidt.

**EIGHTH CAUSE OF ACTION
FINRA Rules 2010 and 8210 - MaxxTrade and Schneidt Failed to Respond to
Requests for Information from FINRA Staff.**

65. The Department realleges and incorporates by reference paragraph numbers 1 through 64 above.

66. In or about March 2009, the Staff received a regulatory tip from Schneidt, that Poutre and Eplboim had engaged in undisclosed outside business activities or possible selling away. As part of its investigation into these claims, the Staff sent several requests for information to MaxxTrade and Schneidt.

67. On or about April 7, 2009, the Staff sent MaxxTrade and Schneidt a request that they provide a written response to questions about whether customers who purchased an

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investment from Poutre and Eplboim were customers of MaxxTrade, and if so, a request that they provide new account and monthly account documentation, as well as the commission statements for Poutre and Eplboim, in connection with the investigation described above in paragraph 66, pursuant to and in accordance with the provisions of FINRA Rule 8210. The request for information was sent by first class mail to MaxxTrade's address listed on CRD (MaxxTrade's CRD Address)² and by electronic mail. The first class mailing was not returned to the Staff and the electronic mail message was not returned as undeliverable.

68. Having received no response to the request, on or about August 17, 2009, the Staff sent MaxxTrade and Schneidt a second request that they provide a written response to questions about whether customers who purchased an investment from Poutre and Eplboim were customers of MaxxTrade, and if so, a request that they provide new account and monthly account documentation, as well as the commission statements for Poutre and Eplboim, in connection with the investigation described above in paragraph 66, pursuant to and in accordance with the provisions of FINRA Rule 8210. The response was requested by August 31, 2009. The request for information was sent by certified mail, return receipt requested, and first class mail to MaxxTrade's CRD Address. The first class mailing was not returned to the Staff and the certified return receipt was returned signed by KC.

69. Having received no response to the requests, on or about September 2, 2009, the Staff sent MaxxTrade and Schneidt a third request that they provide a written response to questions about whether customers who purchased an investment from Poutre and Eplboim were customers of MaxxTrade, and if so, a request that they provide new account and monthly account documentation, as well as the commission statements for Poutre and Eplboim, in

² A separate request was sent to Schneidt and MaxxTrade at MaxxTrade's CRD Address and electronic mail address, and Schneidt sent an electronic mail message responding to that request.

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connection with the investigation described above in paragraph 66, pursuant to and in accordance with the provisions of FINRA Rule 8210. The response was requested by September 16, 2009. The request for information was sent by certified mail, return receipt requested, and first class mail to MaxxTrade's CRD Address. The first class mailing was not returned to the Staff and the certified return receipt was returned signed by KC.

70. Having still received no response to the requests, on or about September 18, 2009, the Staff sent Schneidt an additional request that he provide: a written response to questions about whether customers who purchased an investment from Poutre and Eplboim were customers of MaxxTrade, and if so, a request that they provide new account and monthly account documentation; commission statements for Poutre and Eplboim; and responses to question about a letter which appears to bear his signature, in connection with the investigation described above in paragraph 66, pursuant to and in accordance with the provisions of FINRA Rule 8210. The response was requested by October 2, 2009. The request for information was sent by certified mail, return receipt requested, and first class mail to MaxxTrade's CRD Address, and Schneidt's address listed on CRD (Schneidt's CRD Address). The first class mailings to MaxxTrade's CRD Address and Schneidt's CRD Address were not returned to the Staff. The certified return receipt for the mailing to MaxxTrade's CRD Address was returned signed by KC. The certified return receipt for the mailing to Schneidt's CRD Address was returned apparently signed by Schneidt.

71. Having again still received no response to the requests, on or about October 6, 2009, the Staff sent Schneidt another request that he provide: a written response to questions about whether customers who purchased an investment from Poutre and Eplboim were customers of MaxxTrade, and if so, a request that they provide new account and monthly

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account documentation; commission statements for Poutre and Eplboim; and responses to question about a letter which appears to bear his signature, in connection with the investigation described above in paragraph 66, pursuant to and in accordance with the provisions of FINRA Rule 8210. The response was requested by October 20, 2009. The request for information was sent by certified mail, return receipt requested, and first class mail to MaxxTrade's CRD Address, and Schneidt's CRD Address listed. The first class mailings to MaxxTrade's CRD Address and Schneidt's CRD Address were not returned to the Staff. The certified return receipt for the mailing to MaxxTrade's CRD Address was returned signed by BC. The certified return receipt for the mailing to Schneidt's CRD Address was returned apparently signed by Schneidt.

72. MaxxTrade and Schneidt failed to respond to each and all of the requests for documents and information described in paragraphs 67, 68, 69, 70, and 71 above, and the time for MaxxTrade and Schneidt to respond has passed.

73. The aforementioned acts, practices and conduct constitute separate and distinct violations of FINRA Rules 2010 and 8210 by MaxxTrade and Schneidt.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

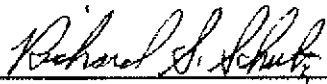
- A. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including monetary sanctions and that the Respondents be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest and;

**Complaint in
Disciplinary Proceeding No. 2008011759202**

- B. order that Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

10/20/10
Date


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Mark A. Koerner, Associate Vice-President and
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Purchases by Customers of MaxxTrade

[illegible]

TRADES BY MAXXTRADE WITH MARKUPS OVER 3% AND COMMISSIONS OVER \$400[illegible]

[illegible]

TRADES BY MAXXTRADE WITH MARKUPS OVER 3% AND COMMISSIONS OVER \$400

[illegible]

