

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

Department of Market Regulation,

Complainant,

v.

Great Point Capital LLC
(CRD No. 114203),

Lawrence R. Kajmowicz
(CRD No. 4637591),

Ben James Raatz
(CRD No. 4637287),

and

Michael Scott Olson
(CRD No. 3021448),

Respondents.

Disciplinary Proceeding
No. 20080148227-02

COMPLAINT

The Department of Market Regulation (“Market Regulation”) alleges:

STATEMENT OF FACTS

1. Great Point Capital LLC, a FINRA member (CRD No. 114203), derives revenues from the proprietary trading of its registered equity traders. These traders engage primarily in short-term “day-trading,” with each trader assigned to trade a designated sub-account of the firm’s proprietary account(s).

2. Traders are compensated based on the profits generated for the firm’s proprietary account(s).

3. Two Great Point traders, Lawrence Kajmowicz (“Kajmowicz”), and Ben Raatz (“Raatz”), engaged in trading activity in the Nasdaq Opening Book in the minutes immediately preceding the market open, and the Nasdaq Closing Book in the minutes immediately preceding the market close.

4. Great Point also has a small number of customers that engage in direct market access trading at various locations including the firm’s offices in Chicago, Illinois and customer offices in India.

The Nasdaq Opening and Closing Book

5. Between August 29, 2008 and December 5, 2012 (the “relevant period”), Nasdaq operated two trading books before the market opened at 9:30 a.m.: the Nasdaq “Continuous Book,” which was open to market participants to place orders and execute trades during extended hours trading between 7:00 a.m. and 9:30 a.m., and the Nasdaq “Opening Book,” which accepted orders between 7:00 a.m. and 9:30 a.m. to be executed at the Nasdaq “Opening Cross” at 9:30 a.m.

6. At the Opening Cross, orders in the Opening Book and orders in the Continuous Book are brought together to create a single Opening Cross price, which becomes Nasdaq’s official opening price for each such security. Thus, transactions effected in the Continuous Book during the two minutes preceding the Opening Cross directly affect the Opening Cross price. Typically, the last inside price in the Continuous Book at 9:30:00 a.m. becomes the price at which orders in the Opening Book are executed in the Opening Cross.

7. During the two minutes prior to the Opening Cross, Nasdaq permits market participants to submit imbalance-only, or “IO,” orders in the Opening Book to provide liquidity to offset pre-open buy or sell imbalances in the Opening Book.

8. To facilitate these IO orders, Nasdaq disseminates Opening Book imbalance data at five-second intervals beginning at 9:28:00 a.m. (the “Nasdaq Data Feed”) until the Opening Cross.

9. The same process is repeated during the last ten minutes prior to the closing of the Nasdaq market. At the close, orders in the Nasdaq “Closing Book” and orders in the Continuous Book are brought together to create a single Nasdaq “Closing Cross” price for each security, which becomes Nasdaq’s official closing price at the Closing Cross. Transactions effected in the Continuous Book during the ten minutes immediately prior to the Closing Cross directly affect the Closing Cross price. Typically, the last inside price in the Continuous Book at 4:00:00 pm will set the price at which orders in the Closing Book will execute in the Closing Cross.

10. During these last ten minutes of trading, Nasdaq permits market participants to submit IO orders to the Closing Book to offset order imbalances in the Closing Book.

11. To facilitate these orders, Nasdaq disseminates Closing Book imbalance data at five-second intervals beginning at 3:50:00 p.m. through the Nasdaq Data Feed until the Closing Cross.

Summary of Trading Activity

12. During the relevant period, between 9:28 a.m. and the Opening Cross, two proprietary traders at Great Point Capital LLC, Kajmowicz and Raatz, identified securities in the Opening Book that exhibited large buy-side imbalances relative to the average daily trading volume of the securities, indicating a potential lack of liquidity to fill buy orders.

13. The two traders then entered a series of IO orders to sell the identified securities in the Opening Book, to be executed at the Opening Cross.

14. Following the entry of their IO sell orders in the Opening Book, the two traders generally waited until seconds before the Opening Cross and then began rapidly purchasing the same securities in the Continuous Book, executing a series of progressively higher-priced buy orders until the Opening Cross.

15. The buy orders effected by Kajmowicz and Raatz in the Continuous Book caused the prices of the securities to increase by the time of the Opening Cross. As a result, Great Point, Kajmowicz, and Raatz obtained better pricing on their IO orders to sell in the Opening Book.

16. Great Point and Raatz engaged in similar trading activity during the ten minutes leading up to the Nasdaq Closing Cross at 4:00 p.m.

17. Great Point's President, Michael Scott Olson ("Olson"), was responsible for supervising Kajmowicz, Raatz and other Great Point traders. He failed, however, to take reasonable steps to detect and prevent manipulative trading activity by Great Point traders in the minutes preceding the Opening Cross and Closing Cross.

18. Separately, Olson was responsible for supervising all customer trading activity, but failed to take reasonable steps to detect and prevent a customer from engaging in potentially manipulative "layering" transactions.

19. Separately, Olson was responsible for ensuring that the firm retained electronic communications. Olson, however, failed to ensure that the firm retained all electronic communications.

20. Olson also was responsible for establishing and enforcing the firm's supervisory system and written procedures with respect to electronic communications, but failed to take reasonable steps to address the supervision and review of all electronic communications.

21. In addition, Great Point's written supervisory procedures for short sale transactions, as reflected in the firm's supervisory procedures manual dated March 15, 2008 and December 26, 2008, made no reference to Regulation SHO and referenced short sale rules no longer in effect. Great Point failed to take reasonable steps to ensure that these procedures were up-to-date and adequately described the firm's procedures for the supervision of short sale transactions.

22. By engaging in the foregoing conduct, Great Point, Kajmowicz and Raatz wilfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, NASD Rules 2110 and 2120 (for conduct occurring prior to December 15, 2008), and FINRA Rules 2010 and 2020 (for conduct occurring on or after December 15, 2008), and Great Point and Olson violated NASD Rules 2110 (for conduct occurring prior to December 15, 2008) and 3010, and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008). In addition, Great Point wilfully violated Rule 17a-4(b)(4) of the Securities Exchange Act of 1934, NASD Rule 3110 (for conduct occurring prior to December 5, 2011) and FINRA Rule 4511 (for conduct occurring on or after December 5, 2011), and Olson violated NASD Rule 3110 (for conduct occurring prior to December 5, 2011), and FINRA Rule 4511 (for conduct occurring on or after December 5, 2011).

Respondents and Jurisdiction

23. Great Point is currently, and was at all times relevant to this Complaint, a FINRA member. Great Point became registered with FINRA on December 17, 2001. FINRA has jurisdiction over Great Point pursuant to Article IV of FINRA's By-Laws.

24. Kajmowicz is currently, and was at all times relevant to this Complaint, registered with FINRA as a general securities representative and equity trader at Great Point. He first

became registered with Great Point on March 4, 2003. FINRA has jurisdiction over Kajmowicz pursuant to Article V of FINRA's By-Laws.

25. Raatz is currently, and was at all times relevant to this Complaint, registered with FINRA as a general securities representative and equity trader at Great Point. He first became registered with Great Point on July 26, 2004. FINRA has jurisdiction over Raatz pursuant to Article V of FINRA's By-Laws.

26. Olson is currently, and was at all times relevant to this Complaint, registered with FINRA as a general securities principal and equity trader at Great Point. He first became registered with Great Point on December 17, 2001.

27. Olson has served as President of Great Point since December 2004. Olson also served as the firm's Chief Compliance Officer from December 2004 through approximately May 2008.

28. From December 2004 to the present, with the exception of the nine-month period between June 16, 2008 through March 15, 2009, during which time Olson was suspended from associating with any FINRA member in a principal capacity, Olson was responsible for supervising the trading activity of the firm's proprietary traders and the firm's customers. FINRA has jurisdiction over Olson pursuant to Article V of FINRA's By-Laws.

Kajmowicz's Trading Activity Prior to the Opening Cross

29. On numerous occasions during the relevant period, in the two-minute period before the market opened, Kajmowicz engaged in trading activity in both the Opening Book and Continuous Book. He did so by identifying securities in which buy-side imbalances in the Opening Book were large relative to the average daily trading volume of the securities.

30. His method of trading is illustrated by way of example below, in connection with his purchase and sale transactions in shares of United Community Bank, Inc. (“UCBI”).

31. On September 29, 2008, the Nasdaq Data Feed disseminated its first opening imbalance message for UCBI at 9:28:02 a.m., revealing a large buy-side imbalance of 114,110 shares. At the time of the dissemination of this message, UCBI was trading at \$15.10 in the Continuous Book.

32. Kajmowicz started the day flat with no position in UCBI.

33. Beginning at 9:28:24 a.m. and continuing through 9:29:10 a.m., Kajmowicz entered 110 IO orders to sell a total of 68,000 shares of UCBI in the Opening Book, in increments of 400 and 1,000 shares.

34. During this same two minutes leading up to the Opening Cross, and while his IO sell orders were pending in the Opening Book, Kajmowicz entered a series of small, progressively higher priced orders to buy UCBI in the Continuous Book.

35. In total, between 9:28:00 a.m. and 9:30:00 a.m., Kajmowicz executed 87 buy orders in the Continuous Book, buying 26,000 shares at progressively higher prices. Thirty-three of these buy orders were entered at prices above the current Nasdaq offer at the time they were entered.

36. Kajmowicz’s buy orders in the Continuous Book were priced to execute against the existing inside offer. His buy orders exhausted the shares available at the inside offer, causing the offer to adjust upward to the next available price. These buy orders increased the inside offer 40 times in the two minutes preceding the Opening Cross.

37. Further, in the last ten seconds before the Opening Cross – after the Nasdaq Data Feed had revealed that the buy-side imbalance in UCBI had dropped to zero; *i.e.*, that all

imbalance shares in the Opening Book had been paired off – Kajmowicz became the dominant buyer in the Continuous Book in UCBI, increasing both the size and frequency of his buy orders in UCBI.

38. Specifically, in the last ten seconds before the Opening Cross, Kajmowicz entered 16 separate orders in the Continuous Book to buy a total of 8,800 shares, placing eight of these orders in the last five seconds for 1,000 shares each.

39. He received executions on 15 of these buy orders, at prices between \$17.95 and \$18.35. These 15 transactions exhausted all shares available for sale between those prices.

40. In the last ten seconds before the Opening Cross, Kajmowicz accounted for approximately 74 percent of all the buy executions in UCBI in the Continuous Book.

41. In these last ten seconds before the Opening Cross, Kajmowicz accounted for approximately 93 percent of all shares purchased in UCBI in the Continuous Book.

42. Kajmowicz's last buy order for UCBI in the Continuous Book was executed at 9:30:00 at \$18.35, exhausting the supply of shares at that price and pushing the inside offer to \$18.48.

43. Kajmowicz knew that the last inside offer price in the Continuous Book would directly affect and likely establish the cross price at which IO sell orders in the Opening Book would be executed in the Opening Cross.

44. Indeed, the Opening Cross for UCBI executed at \$18.48 (reflecting the last inside offer price in the Continuous Book before the Opening Cross).

45. Out of his total IO orders to sell 68,000 shares of UCBI, Kajmowicz received executions on his Opening Book sell orders in the Opening Cross for a total of 63,673 shares – all at the Opening Cross price of \$18.48.

46. By causing the inside offer in the Continuous Book to adjust upward in the two minutes prior to the Opening Cross, Kajmowicz obtained executions on his IO sell orders in the Opening Cross at prices higher than he would have otherwise received.

47. The costs incurred by Kajmowicz in executing the small buy transactions in the pre-open Continuous Book at successively higher prices were offset by profits obtained on the executions of his sell orders at the Opening Cross price.

48. After the Opening Cross, Kajmowicz was still short 37,673 shares of UCBI as a result of his IO sell order executions.

49. By 9:30:50 a.m., however, UCBI's stock price on Nasdaq had retreated from the Opening Cross price of \$18.48 to \$17.20. By 9:40:55 it had dropped back to \$15.98.

50. During the first ten minutes of regular hours trading in the Continuous Book (9:30:00 a.m. to 9:40:00 a.m.), Kajmowicz covered his short position in UCBI, buying back 37,673 shares at an average price of \$16.32.

51. This average price to cover his short position was substantially lower than the Opening Cross price of \$18.48, *a price that Kajmowicz had set with his own small purchases of UCBI in the Continuous Book.*

52. In total, Kajmowicz's purchases and sales of UCBI resulted in profits of approximately \$105,850 in just 12 minutes of trading.

53. Kajmowicz repeated this same pattern of trading prior to the Opening Cross in the security symbols identified below. This list of securities is also attached to this Complaint as Exhibit A. In each instance, Kajmowicz's purchase of shares in the Continuous Book caused the inside offer for each security in the Continuous Book to adjust upward to the next available price.

No.	Date	Symbol	Security	Opening/Closing Cross
1	9/29/08	UCBI	United Community Banks, Inc.	Opening Cross
2	11/14/08	NANO	Nanometries, Inc.	Opening Cross
3	2/20/09	STRN	Sutron Corp.	Opening Cross
4	3/11/09	DPTR	Delta Petroleum Corp.	Opening Cross
5	6/1/09	FEED	AgFeed Industries, Inc.	Opening Cross
6	5/27/10	NAUH	National American University	Opening Cross
7	12/16/11	TRIPV	TripAdvisor, Inc.	Opening Cross
8	12/5/12	WDC	Western Digital Corporation	Opening Cross

54. Kajmowicz executed all transactions in the securities identified in this Complaint on a proprietary basis on behalf of Great Point, with the knowledge and authorization of Great Point's President, Olson.

Raatz' Trading Activity Prior to the Opening Cross and the Closing Cross

55. Raatz employed the same trading pattern as Kajmowicz in the two minutes leading up to the Opening Cross. He focused on securities in which large buy-side order imbalances existed in the Nasdaq Opening Book, and selected those in which the buy-side imbalances were large relative to the average daily trading volume of the securities.

56. In addition, Raatz employed the same trading pattern in the ten minutes leading up to the Closing Cross. His method of trading prior to the Closing Cross is illustrated below with respect to LCCI International, Inc. ("LCCI").

57. On August 29, 2008, the Nasdaq Data Feed disseminated its first Closing Cross imbalance message for LCCI at 3:50:01 p.m., revealing a large buy-side order imbalance in the Closing Book of 48,653 shares. At the time of the dissemination of this message, LCCI was trading at \$0.19 in the Continuous Book.

58. Raatz had no position in LCCI before he began entering IO sell orders into the Closing Book.

59. Between 3:50:11 p.m. and 3:50:13 p.m. (two seconds) Raatz entered 29 IO orders in the Closing Book to sell a total of 58,000 shares of LCCI.

60. By 3:50:16 p.m. the Nasdaq Data Feed disclosed that the buy-side imbalance in LCCI had dropped to zero.

61. Simultaneous with the entering of the 29 IO sell orders in the Closing Book, beginning at 3:50:11 p.m. and continuing through the Closing Cross, Raatz entered a series of small progressively higher-priced orders to buy LCCI in the Continuous Book. Twenty of these buy orders were entered at prices above the current Nasdaq offer price at the time they were entered.

62. In total, Raatz bought 38,173 shares in the Continuous Book at progressively higher prices between \$0.19 and \$0.49.

63. Like Kajmowicz, Raatz priced his buy orders in the Continuous Book to execute against the existing inside offer. His buy orders exhausted the shares available at the inside offer, causing the offer to adjust upward to the next available price.

64. Raatz' purchases increased the inside offer in the Continuous Book 14 times in the ten minutes leading up to the Closing Cross.

65. In the last ten seconds before the Closing Cross, Raatz was the dominant buyer in LCCI in the Continuous Book, placing 41 separate orders to buy a total of 30,300 shares of LCCI.

66. In these last 10 seconds, Raatz accounted for 87.5 percent of all buy executions in the Continuous Book, and 88.5 percent of all LCCI shares purchased in the Continuous Book.

67. In the last seven seconds before the Closing Cross, Raatz received 49 buy-side executions in the Continuous Book at progressively higher prices.

68. Raatz received the last 14 executions of the day in LCCI in the Continuous Book at prices between \$0.30 and \$0.45.

69. These 14 executions pushed the inside offer in LCCI in the Continuous Book from \$0.32 to \$0.59.

70. Raatz knew that the last inside offer price in the Continuous Book would directly affect and likely establish the cross price at which IO sell orders would be executed in the Closing Cross.

71. Indeed, the Closing Cross for LCCI executed at \$0.59 (reflecting the last inside offer in the Continuous Book before the Closing Cross).

72. Out of his total orders to sell 58,000 shares of LCCI, Raatz received sell executions on 39,090 shares of LCCI – all at the Closing Cross price of \$0.59, leaving him almost flat at the close with a short position in LCCI of only 917 shares, which he covered the following day.

73. By causing the inside offer in the Continuous Book to adjust upward in the ten minutes prior to the Closing Cross, Raatz obtained executions on his IO sell orders in the Closing Cross at prices higher than he would have otherwise received.

74. The costs incurred by Raatz in executing the small buy transactions at successively higher prices were offset by profits obtained on the executions of his sell orders at the Closing Cross price.

75. In total, Raatz' purchases and sales in LCCI resulted in profits of approximately \$12,887.

76. Raatz repeated this same pattern of trading prior to the Opening Cross in the security symbols identified in items 2 through 7 below. This list of securities is also attached to

this Complaint as Exhibit B. In each instance, Raatz' purchase of shares in the Continuous Book caused the inside offer for each security in the Continuous Book to adjust upward to the next available price.

No.	Date	Symbol	Security	Opening/Closing Cross
1	8/29/08	LCCI	LCC International, Inc.	Closing Cross
2	2/20/09	STRN	Sutron Corp.	Opening Cross
3	3/11/09	DPTR	Delta Petroleum Corp.	Opening Cross
4	6/1/09	FEED	AgFeed Industries, Inc.	Opening Cross
5	9/28/09	GAME	Shanda Games Limited	Opening Cross
6	11/09/09	RCON	Recon Technology, LTD	Opening Cross
7	12/5/12	WDC	Western Digital Corporation	Opening Cross

77. Raatz executed all transactions in the securities identified in this Complaint on a proprietary basis on behalf of Great Point, and with the knowledge and authorization of Great Point's President, Olson.

Supervision of Trading Prior to the Opening and Closing Cross

78. During the relevant period, with the exception of the nine-month period between June 16, 2008 through March 15, 2009, during which time Olson was suspended from associating with any FINRA member in a principal capacity, Olson supervised the trading activity of the firm's proprietary traders, including Kajmowicz and Raatz. He also served as Great Point's President.

79. During the relevant period, Olson monitored the trading profits and losses of the firm's proprietary traders, including Kajmowicz and Raatz (collectively the "traders"), on a real-time basis. Olson also reviewed the underlying trading activity that formed the basis of these profits and losses.

80. Olson knew, through discussion with the traders, including Kajmowicz and Raatz, that the traders routinely employed the same core strategy, described above, in connection with their trading prior to the Opening Cross and Closing Cross.

81. Specifically, Olson knew through discussion and observation that:
- a. Traders selected securities in which buy-side imbalances in the Opening Book or Closing Book were large relative to the average daily trading volume in the security;
 - b. The traders would rapidly enter IO orders to sell the selected securities in the Opening Book or Closing Book;
 - c. At the same time, the traders would place small, progressively higher-priced buy orders in the Continuous Book;
 - d. Due to a lack of sellers in the selected low-volume stocks (and the limited number of sellers in pre-open trading), the traders' buy orders would execute at the inside offer, exhausting the shares available for sale at the inside, and causing it to adjust upward to the next available price.
 - e. The last inside offer price in the Continuous Book directly affected and typically established the price at which the traders' IO orders to sell would execute in the Opening Cross and in the Closing Cross.
 - f. By causing the inside offer in the Continuous Book to adjust upward prior to the Opening Cross and the Closing Cross, the traders obtained executions on their IO sell orders at prices higher than they would have otherwise received.

82. Despite Olson's knowledge that the traders' buy executions increased the prices of securities in the Continuous Book in the minutes preceding the Opening and Closing Cross, and that the traders obtained (on behalf of Great Point) advantageous price executions on the opposite side of the market on IO orders to sell at the Opening or Closing Cross price, Olson

failed to take reasonable steps to supervise this trading activity to detect and prevent its occurrence.

83. Further, as President, Olson was responsible for Great Point's compliance with all applicable FINRA rules unless and until he reasonably delegated a particular supervisory responsibility to another person in the firm. As such, Olson was responsible for providing adequate training and resources to supervisors to whom he delegated supervisory duties, and for ensuring that these supervisors diligently carried out those responsibilities.

84. For the nine-month period during which he was suspended, Olson delegated his responsibility to supervise trading activity to a newly-appointed supervisor at the firm. Olson, however, failed to provide adequate training and resources to this new supervisor to carry out his delegated responsibilities, and failed to ensure that the supervisor diligently exercised his supervisory duties.

85. Further, Great Point had no specific written supervisory procedure, review or exception report during the relevant period to monitor for manipulative trading activity occurring in the minutes preceding the Opening Cross and Closing Cross.

86. Olson took no action during the relevant period to revise Great Point's supervisory system or written supervisory procedures to address the supervision of manipulative trading occurring prior to the Opening and Closing Cross.

87. Olson failed to take reasonable steps during the relevant period to ensure that any supervisor(s) to whom he delegated authority with respect to supervision of trading prior to the Opening or Closing Cross had reasonably and diligently carried out those responsibilities.

Supervision of “Layering” Activity

88. “Layering” occurs when a market participant enters a series of non-bona fide orders on one side of the market in order to obtain advantageous pricing on the execution of a bona fide order on the opposite side of the market. The non-bona fide orders are intended to create the appearance of significant selling (or buying) pressure on one side of the market and to entice another trader (algorithm or human) into executing against the bona fide order. After the bona fide order is executed at an advantageous price, the non-bona fide orders on the opposite side are cancelled. After the bona fide order is executed, and the non-bona fide orders cancelled, the same pattern is typically repeated on the other side of the market. By engaging in this manipulative activity, the market participant is able to obtain executions of buy (or sell) orders at prices lower (or higher) than it would have received in the absence of such activity.

89. Great Point’s written supervisory procedures, dated January 13, 2013, contained no reference to “layering” or any supervisory procedure or review to address such activity.

90. Between September 2012 and continuing through June 2013 (the “layering review period”), Olson was responsible for reviewing the firm’s trading activity to detect and prevent instances of potential layering activity. Olson was, on occasion, assisted in this review by a newly-hired compliance assistant.

91. During the layering review period, Olson carried out his review for potential layering activity primarily by manually reviewing on his computer screen orders placed by approximately 600 Great Point proprietary traders, customers, and customer sub-account traders, including all orders entered, executed and cancelled.

92. Neither Olson nor Great Point maintained a supervisory log or other record evidencing the completion of such reviews.

93. Through Cross Market Surveillance Alerts generated by Market Regulation's electronic surveillance systems, Market Regulation identified approximately 1,100 instances of potential layering activity occurring through Great Point during the layering review period.

94. Market Regulation's Cross Market Surveillance Alerts are triggered when a market participant enters a series of orders on one side of the market, followed by the cancellation of the original orders. The Cross Market Surveillance Alerts also search for instances in which the pattern is subsequently repeated on the opposite side of the market.

95. Market Regulation traced each of the approximately 1,100 instances of potential layering activity identified through its Cross Market Surveillance Alerts to a single account held by a direct market access customer account at Great Point. This customer is not, and has never been, a member of FINRA (the "DMA Customer").

96. As of October 2013, the DMA Customer employed approximately 300 proprietary traders located in India.

97. The proprietary traders of the DMA Customer were assigned sub-accounts to trade on behalf of the DMA Customer through Great Point.

98. Olson admitted knowledge of the potential layering activity occurring in the DMA Customer's account during the layering review period, but failed to take reasonable steps to supervise this trading activity to detect and prevent its occurrence.

99. Further, as of October 2013, Great Point had no specific written supervisory procedure to address potential layering activity, and no specific exception report designed to monitor for layering activity.

100. Olson failed to take reasonable steps to revise Great Point's supervisory system or written supervisory procedures to address the supervision and review for potential layering activity.

101. Olson also failed to take reasonable steps to ensure that any other supervisor(s) to whom he delegated authority with respect to supervision and review for potential layering activity had reasonably and diligently carried out those duties.

Retention of Electronic Communications

102. Between December 2008 and October 2013, the firm failed to retain electronic communications occurring between Great Point traders ("trader-to-trader electronic communications").

103. Between December 2008 and October 2013, with the exception of the nine-month period during which he was suspended, Olson was responsible for the firm's retention of electronic communications.

104. Olson was advised during this period by Great Point's compliance officers, and by an outside consultant, that the firm was required to maintain all trader-to-trader electronic communications. Notwithstanding this notice, Olson failed to ensure that the firm retained all trader-to-trader electronic communications.

Supervision of Electronic Communications

105. Great Point's written supervisory procedures dated December 26, 2008, required that all electronic communications, including emails and instant messages, sent or received relating to broker dealer business be retained for three years.

106. Notwithstanding this provision, between December 2008 and October 2013, the firm failed to retain trader-to-trader electronic communications.

107. Further, Great Point's written supervisory procedures dated January 13, 2013, prohibited the use of personal e-mail accounts for business communications.

108. Notwithstanding this provision, between December 2008 and August 2013, Great Point had no effective means, or supervisory review in place, to enforce compliance with this or any other provisions of the firm's policy relating to electronic communications.

109. Between December 2008 and October 2013, with the exception of his suspension period, Olson was responsible for establishing and enforcing the firm's supervisory system and procedures with respect to electronic communications, including the firm's e-mail retention policy.

110. During this period, Olson failed to establish, maintain and enforce an effective system of supervision and written supervisory procedures reasonably designed to address the supervision and review of trader-to-trader electronic communications.

111. Further, Olson failed to take reasonable steps to ensure that any other supervisor(s) with delegated authority regarding the supervision of electronic communications reasonably and diligently carried out those duties.

Supervision of Short Sales

112. Great Point's written supervisory procedures manuals, dated March 15, 2008 and December 26, 2008, relating to supervision of short sale transactions made no reference to Regulation SHO, promulgated by the Securities and Exchange Commission in 2004 pursuant to the Securities Exchange Act of 1934, and contained references to short sale rules no longer in effect. Regulation SHO requires broker dealers to, among other things: mark sale orders as long, short or short exempt; locate securities to borrow before selling; and comply with certain heightened delivery requirements. Great Point failed to take reasonable steps to ensure that its

supervisory procedures were up-to-date, reasonably designed to ensure compliance with respect to Regulation SHO, and adequately described the firm's written supervisory procedures with respect to short sales.

FIRST CAUSE OF ACTION
Manipulation of the Nasdaq Opening Cross and Closing Cross
Violations of Section 10(b) of the Securities Exchange Act of 1934
and Rule 10b-5 thereunder, NASD Rules 2110 and 2120 and
FINRA Rules 2010 and 2020 by Great Point, Kajmowicz and Raatz

113. Market Regulation realleges and incorporates all preceding paragraphs.

114. Between August 29, 2008 and December 5, 2012, Kajmowicz, Raatz and Great Point, acting through Kajmowicz and Raatz, executed a series of small, progressively higher-priced orders for multiple securities in the Nasdaq Continuous Book during the two minutes leading up to the Nasdaq Opening Cross. These securities are identified in Exhibits A and B attached to this Complaint and incorporated by reference.

115. These orders were intended to inflate, and did inflate, the price of each such security in the Nasdaq Continuous Book, so that Great Point, Kajmowicz, and Raatz, could obtain advantageous pricing on IO sell orders, which executed at the Nasdaq Opening Cross price.

116. In at least one instance, Great Point and Raatz engaged in the same trading activity with respect to LCCI in the ten minutes leading up to the Nasdaq Closing Cross.

117. The orders to purchase LCCI in the Continuous Book in the ten minutes leading up to the Closing Cross were intended to inflate, and did inflate, the price of LCCI in the Nasdaq Continuous Book, so that Great Point and Raatz could obtain advantageous pricing on IO sell orders, which executed at the Nasdaq Closing Cross price.

118. By intentionally or recklessly raising the reported price of each security identified in this Complaint, Kajmowicz, Raatz, and Great Point, acting through Kajmowicz and Raatz, artificially influenced and distorted the market price level of each security, and conveyed false information to the market as to the demand for each security.

119. Based on this conduct, Great Point, Kajmowicz and Raatz, directly or indirectly, in connection with the purchase or sale of any security, and by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, (a) employed a device, scheme, or artifice to defraud, (b) made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or (c) engaged in an act, practice or course of business which operated as a fraud or deceit upon any person, in willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, NASD Rule 2110 (for conduct occurring prior to December 15, 2008), and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008).

120. In the alternative, and based on this same conduct, Kajmowicz, Raatz, and Great Point, acting through Kajmowicz and Raatz, intentionally or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances, in violation of NASD Rules 2110 and 2120 (for conduct occurring prior to December 15, 2008) and FINRA Rules 2010 and 2020 (for conduct occurring on or after December 15, 2008).

121. In the alternative, and based on this same conduct, Kajmowicz, Raatz and Great Point, acting through Kajmowicz and Raatz, engaged in unethical business conduct, *i.e.*, to “push” the price of securities in the Nasdaq Stock Market prior to the Opening and/or Closing

Crosses to obtain advantageous pricing on sell orders executed during the Nasdaq Opening and/or Closing Cross, in contravention of just and equitable principles of trade and high standards of commercial honor, in violation of NASD Rule 2110 (for conduct occurring prior to December 15, 2008) and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008).

SECOND CAUSE OF ACTION
Supervision of Trading Prior to the Opening Cross and Closing Cross
Violations of NASD Rules 2110 and 3010 and
FINRA Rule 2010 by Great Point and Olson

122. Market Regulation realleges and incorporates all preceding paragraphs.

123. NASD Rule 3010(a) requires FINRA members to establish and maintain a system to supervise the activities of their registered representatives that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable rules of FINRA.

124. Between August 29, 2008 and December 5, 2012, Great Point and Olson had notice of, and ignored, red flags suggesting that Great Point traders were engaging in potentially manipulative trading activity occurring prior to the Opening Cross and Closing Cross. Despite such notice, Great Point and Olson each failed to reasonably supervise the trading activity of Great Point traders and failed to establish and maintain a system to supervise the trading activities of the firm's proprietary traders that was reasonably designed to detect and prevent them from engaging in potentially manipulative, or otherwise improper, trading activity prior to the Opening Cross and Closing Cross.

125. NASD Rule 3010(b) requires FINRA members to establish, maintain and enforce written supervisory procedures to supervise the types of business in which they engage and to

supervise the activities of their registered representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable Rules of FINRA.

126. Between August 29, 2008 and December 5, 2012, Great Point and Olson failed to establish, maintain and enforce reasonable written supervisory procedures with respect to trading activity occurring prior to the Opening Cross and Closing Cross.

127. Based on this conduct, Great Point and Olson violated NASD Rule 2110 (for conduct occurring prior to December 15, 2008), FINRA Rule 2010 (for conduct occurring on or after December 15, 2008), and NASD Rule 3010.

THIRD CAUSE OF ACTION
Supervision of Potential “Layering” Activity
Violations of NASD Rules 2110 and 3010 and
FINRA Rule 2010 by Great Point and Olson

128. Market Regulation realleges and incorporates all preceding paragraphs.

129. Between September 2012 and June 2013, Great Point and Olson failed to detect and prevent approximately 1,100 instances of potential manipulative “layering” activity occurring through a DMA customer account held at Great Point.

130. As such, Great Point and Olson each failed to reasonably supervise the trading activity of the DMA customer to detect and prevent potential manipulative “layering” transactions.

131. In addition, Great Point and Olson also each failed to establish, maintain and enforce reasonable supervisory procedures, including written supervisory procedures, designed to monitor and review the trading activity of the DMA Customer to detect and prevent potential “layering” transactions.

132. Based on this conduct, Great Point and Olson violated NASD Rule 2110 (for conduct occurring prior to December 15, 2008), FINRA Rule 2010 (for conduct occurring on or after December 15, 2008), and NASD Rule 3010.

FOURTH CAUSE OF ACTION
Failure to Retain Electronic Communications
Violations of Rule 17a-4(b)(4) of the Securities Exchange Act
of 1934 by Great Point, and NASD Rules 2110 and 3110 and
FINRA Rules 2010 and 4511 by Great Point and Olson

133. Market Regulation realleges and incorporates all preceding paragraphs.

134. Rule 17a-4(b)(4) of the Securities Exchange Act of 1934 (“Exchange Act”) requires all broker dealers subject to the record retention requirements of Rule 17a-3 of the Exchange Act to preserve for a period of not less than three years, originals of all communications received and copies of all communications sent by the broker dealer (including inter-office memoranda and communications) relating to the business of the firm.

135. NASD Rule 3110 (now FINRA Rule 4511) requires FINRA members to make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations and statements of policy promulgated thereunder, with all FINRA Rules and with the requirements of Rules 17a-3 and 17a-4 of the Exchange Act.

136. Between December 2008 and October 2013, Great Point, and Olson, acting through Great Point and as President and designated principal responsible for the firm’s retention of electronic communications, knowingly failed to retain trader-to-trader electronic communications.

137. Based on this conduct, Great Point wilfully violated Rule 17a-4(b)(4) of the Exchange Act, NASD Rules 2110 (for conduct occurring prior to December 15, 2008) and 3110 (for conduct occurring prior to December 5, 2011) and FINRA Rules 2010 (for conduct

occurring on or after December 15, 2008) and 4511 (for conduct occurring on or after December 5, 2011), and Olson violated NASD Rules 2110 (for conduct occurring prior to December 15, 2008) and 3110 (for conduct occurring prior to December 5, 2011) and FINRA Rules 2010 (for conduct occurring on or after December 15, 2008) and 4511 (for conduct occurring on or after December 5, 2011).

FIFTH CAUSE OF ACTION
Supervision of Electronic Communications
Violations of NASD Rules 2110 and 3010 and
FINRA Rule 2010 by Great Point and Olson

138. Market Regulation realleges and incorporates all preceding paragraphs.

139. Great Point's written supervisory procedures dated December 26, 2008, required that all electronic communications, including emails and instant messages, sent or received relating to broker dealer business be retained for three years. Notwithstanding this provision, between December 2008 and October 2013, the firm failed to retain trader-to-trader communications.

140. Great Point's written supervisory procedures dated January 13, 2013, prohibited the use of personal e-mail accounts for business communications. Notwithstanding this provision, between December 2008 and August 2013, Great Point had no effective means, or supervisory review in place, to enforce compliance with this or any other provisions of the firm's policy relating to electronic communications.

141. Between December 2008 and October 2013, with the exception of his suspension period, Olson was responsible for establishing and enforcing the firm's supervisory system and procedures with respect to electronic communications, including the firm's e-mail retention policy. During this period, Olson failed to establish, maintain and enforce an effective system of

supervision and written supervisory procedures reasonably designed to address the supervision and review of trader-to-trader electronic communications.

142. Further, Olson failed to take reasonable steps to ensure that any other supervisor(s) with delegated authority regarding the supervision of electronic communications reasonably and diligently carried out those duties.

143. Based on this conduct, Great Point and Olson violated NASD Rule 2110 (for conduct occurring prior to December 15, 2008), FINRA Rule 2010 (for conduct occurring on or after December 15, 2008), and NASD Rule 3010.

SIXTH CAUSE OF ACTION
Supervision of Short Sale Transactions
Violations of NASD Rules 2110 and 3010 and
FINRA Rule 2010 by Great Point

144. Market Regulation realleges and incorporates all preceding paragraphs.

145. Great Point's written supervisory procedures manuals dated March 15, 2008 and December 26, 2008 were deficient in that they included outdated references to short sale rules no longer in effect, and failed to make reference to the requirements of Regulation SHO concerning order marking, locating and borrowing stock, and delivery procedures.

146. Based on this conduct, Great Point failed to establish, maintain, and enforce a reasonable system of supervision, including adequate written supervisory procedures, with respect to short sale transactions.

147. Based on this conduct, Great Point violated NASD Rule 2110 (for conduct occurring prior to December 15, 2008), FINRA Rule 2010 (for conduct occurring on or after December 15, 2008), and NASD Rule 3010.

RELIEF REQUESTED

WHEREFORE, Market Regulation respectfully requests that the Panel:

- A. make findings of facts and conclusions of law that the Respondents committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed, including that Respondents be required to disgorge fully any and all ill-gotten gains, together with interest;
- C. order that the Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;
- D. make specific findings that Respondents Great Point, Kajmowicz and Raatz willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder;
- E. make specific findings that Respondent Great Point willfully violated Rule 17a-4(b)(4) of the Exchange Act; and
- F. grant all further relief, legal or equitable, that is warranted under the circumstances.

FINRA Department of Market Regulation

Date: 9-26-14

A handwritten signature in black ink, appearing to be 'R. Marchman', with a long horizontal line extending to the right.

Robert A. Marchman, Executive Vice President
David E. Rosenstein, Senior Vice President
James J. Nixon, Chief Litigation Counsel
Justin Chretien, Chief Counsel
Laurie A. Doherty, Senior Counsel
Joel Vengrin, Senior Counsel
FINRA Department of Market Regulation
9509 Key West Avenue
Rockville, MD 20850
Tel. (240) 386-5006
Laurie.Doherty@finra.org
marketreglitigation@finra.org

Exhibit A

Kajmowicz

No.	Date	Symbol	Security	Opening/Closing Cross
1	9/29/08	UCBI	United Community Banks, Inc.	Opening Cross
2	11/14/08	NANO	Nanometrics, Inc.	Opening Cross
3	2/20/09	STRN	Sutron Corp.	Opening Cross
4	3/11/09	DPTR	Delta Petroleum Corp.	Opening Cross
5	6/1/09	FEED	AgFeed Industries, Inc.	Opening Cross
6	5/27/10	NAUH	National American University	Opening Cross
7	12/16/11	TRIPV	TripAdvisor, Inc.	Opening Cross
8	12/5/12	WDC	Western Digital Corporation	Opening Cross

Exhibit B

Raatz

No.	Date	Symbol	Security	Opening/Closing Cross
1	8/29/08	LCCI	LCC International, Inc.	Closing Cross
2	2/20/09	STRN	Sutron Corp.	Opening Cross
3	3/11/09	DPTR	Delta Petroleum Corp.	Opening Cross
4	6/1/09	FEED	AgFeed Industries, Inc.	Opening Cross
5	9/28/09	GAME	Shanda Games Limited	Opening Cross
6	11/09/09	RCON	Recon Technology, LTD	Opening Cross
7	12/5/12	WDC	Western Digital Corporation	Opening Cross