

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

Department of Enforcement,

Complainant,

v.

Milkie Ferguson Investments, Inc. (CRD No. 17606),
Edward Milkie (CRD No. 871257),
Manny Aizen (CRD No. 1676247),
Daniel Levin (CRD No. 707280),
and
Scott Schroeder (CRD No. 2277248),

Respondents.

**Disciplinary Proceeding
No. 2009016271801**

Hearing Officer – MC

**ORDER ACCEPTING OFFER OF
SETTLEMENT AS TO
RESPONDENT MILKIE**

Date: June 7, 2013

INTRODUCTION

Disciplinary Proceeding No. 2009016271801 was filed on September 7, 2012, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Edward Milkie submitted an Offer of Settlement (Offer) to Complainant dated May 30, 2013. 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 (as amended by the Offer of Settlement), 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 findings and violations consistent with the allegations of the Complaint (as amended by the Offer of Settlement), 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 Milkie was the President and principal owner of Milkie Ferguson. He first entered the securities industry in 1979 as a General Securities Representative of a FINRA member firm. Milkie became associated with Milkie Ferguson in 1986. Milkie has not been associated with a FINRA member firm since September 19, 2012, when a Form U5 was filed on his behalf, terminating his association with it as of the prior day.

FINDINGS AND CONCLUSIONS

The findings herein are pursuant to Respondent Milkie's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding. It has been determined that the Offer be accepted and that findings be made as follows:

FOURTH CAUSE OF ACTION

**Failure to Supervise by Failing to Conduct Due Diligence and to Respond to Red Flags
against Respondent Edward Milkie
(Violations of NASD Rules 3010, 2110 and FINRA Rule 2010)**

1. Respondent Milkie failed to adequately supervise the sale of private placements, in violation of NASD Rules 3010, 2110 and FINRA Rule 2010, because he failed to conduct adequate due diligence and by not responding to red flags on the Provident Shale Royalties offerings private placements that the firm offered to customers.

Provident Shale Royalties Offerings

2. **Milkie, the President of Milkie Ferguson, was responsible for conducting due diligence on behalf of Milkie Ferguson and had supervisory authority over due diligence on the Provident Shale Royalty offerings.**
3. **Milkie Ferguson entered into a selling agreement to sell Provident's Shale Royalty 12 offering on June 2, 2008; to sell Provident's Shale Royalty 14 offering on July 22, 2008; and to sell Provident's Shale Royalty 18 offering on October 24, 2008. Milkie Ferguson, acting through Milkie, failed to conduct an adequate investigation as a basis for its recommendation that customers purchase the Provident Shale Royalty offerings, did not adequately verify the issuer's representations in the offering documents, and did not review (1) formation documents, (2) escrow documents, (3) ownership or title documents relating to wells allegedly owned, (4) financial statements or performance reports from previous projects, or (5) internal audit controls of the issuer.**
4. **Milkie failed to review third-party due diligence reports that were available for the Shale Royalty 12 and 14 offerings from Mick & Associates. The Mick & Associates' reports raised numerous concerns and red flags. For Shale Royalties 14 in particular, the Mick & Associates report noted that Provident and its affiliated entities were collectively reporting (as a group) a net operating loss of \$8 million for the first five months of 2008. The report also noted that the affiliated Provident entities were collectively reporting about \$40 million of affiliated account receivables at the time, which was up from \$25 million as of March 30, 2008 and \$10 million as of year-end 2007. The report recommended that Provident should establish a formal set of guidelines to follow when engaging in affiliated-party transactions and that the procedures should expressly clarify that the money raised in**

one program may not be advanced to another program for the purpose of making distributions to investors. The report also expressed the author's desire to see third-party validation of Provident's financials for the remaining fiscal quarters in 2008.

5. As a result of the foregoing, Respondent Milkie violated NASD Rules 3010 and 2110 (for conduct occurring before December 15, 2008), and FINRA Rule 2010 (for conduct occurring after December 15, 2008).

FIFTH CAUSE OF ACTION

Insufficient Written Supervisory Procedures, by Edward Milkie (Violations of NASD Rules 3010 and 2110, and FINRA Rule 2010)

6. NASD Rule 3010(b) requires that each member "establish, maintain and enforce written procedures to supervise the types of business in which it engages." Written supervisory procedures are deficient if they failed to address a line of business in its entirety, or if they fail to memorialize any of the following:
 - a. Specific identification of the individual(s) responsible for supervision.
 - b. The supervisory steps and reviews to be taken by the appropriate supervisor.
 - c. The frequency of such reviews.
 - d. How such reviews shall be documented.
7. As described in the Complaint, Milkie Ferguson engaged in both private placement offerings (Regulation D offerings) and contingent offerings during the period from 2007 to 2009. Milkie Ferguson's written supervisory procedures in place during this time (dated August 8, 2005 and July 18, 2008), however, did not address either of these lines of business. Although the August 8, 2005 procedures indicated that JM was responsible for the sale of private placements, the July 18, 2008 procedures indicated "N/A" as responsible for supervision of this area.

8. The firm's written supervisory procedures failed to address how private placements were reviewed and approved for sale by the firm, and failed to address the due diligence to be conducted prior to approval.
9. The firm's written supervisory procedures failed to address the regulatory requirements related to private placements, and specifically, Regulation D, the offering exemption relied upon in the Provident and TRA Bryan offerings.
10. The firm's written supervisory procedures failed to address the suitability of recommendations for investments in private placements. In fact, although offerings in both Provident and TRA Bryan were limited to accredited investors, numerous Milkie Ferguson customers who invested in those offerings were either not accredited, or the firm lacked documentation evidencing that they were accredited.
11. During the period when the firm was selling interests in the Dino Partners contingency offering—January 2007 through February 2008—Milkie Ferguson's written supervisory procedures failed to include any provisions regarding the sale of contingency offerings, including the establishment of escrow accounts or the requirement that investor funds be returned if the contingency was not met. In addition, no individual at the firm was designated as responsible for the supervision of this area.
12. Milkie, as the President of Milkie Ferguson during the period in question, was responsible for the overall supervision of the firm.

As a result of the foregoing, Respondent Milkie violated NASD Rules 3010 and 2110 (for conduct occurring before December 15, 2008), and FINRA Rule 2010 (for conduct occurring after December 15, 2008).

Based on the foregoing, Respondent Milkie violated NASD Rules 3010 and 2110 (for conduct occurring before December 15, 2008), and FINRA Rule 2010 (for conduct occurring after December 15, 2008), as alleged in the Fourth Cause of Action, and NASD Rules 3010 and 2110 (for conduct occurring before December 15, 2008), and FINRA Rule 2010 (for conduct occurring after December 15, 2008), as alleged in the Fifth Cause of Action.

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 Milkie be suspended from association with any FINRA member in any principal capacity for six months and fined \$30,000.

The fine shall be due and payable either immediately upon reassociation 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.

Respondent Milkie understands that if he is barred or suspended from associating with any FINRA member in a principal capacity, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, he may not be associated with any FINRA member in a principal capacity, during the period of the bar or suspension (see FINRA Rules 8310 and 8311). Furthermore, because Respondent Milkie is subject to a statutory disqualification during the suspension, if he remains associated with a member firm in a non-

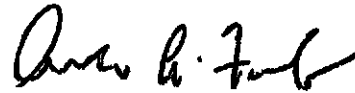
suspended capacity, an application to continue that association may be required.

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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