

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009016340901**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Eric Lowell Small
Registered Principal
(CRD No. 2140208)

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I, Eric Lowell Small, submit this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, without admitting or denying the findings, 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, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Eric Lowell Small ("Small") became registered as a General Securities Representative on May 7, 1992 with a former FINRA registered firm. On November 22, 1993, Small also became registered as a General Securities Principal with a former FINRA registered firm. From March 18, 1994 to August 11, 2009, Small was registered in such capacities with SBK-Brooks Investment Corp. ("SBK-Brooks"), a former FINRA registered firm.¹ During this time, Small was also the President and Chief Executive Officer ("CEO") of SBK-Brooks. From September 2005 to June 2008, Small was also the Chief Compliance Officer ("CCO") of SBK-Brooks. Small is currently registered in such capacities with another FINRA registered firm.

¹ SBK-Brooks was expelled from registration with FINRA on September 2, 2009 for failing to pay a fine assessed against it in a settlement of a FINRA disciplinary action. The Firm is no longer registered with FINRA or the Securities and Exchange Commission (SEC).

RELEVANT DISCIPLINARY HISTORY

SBK-Brooks was the subject of a FINRA disciplinary action that is relevant to this matter, while Small was its President, CEO and CCO. On June 17, 2009, an AWC submitted by SBK-Brooks was accepted by FINRA, under which the Firm was fined \$5,000. The Firm consented to the following violations: conducting a securities business with public customers while failing to maintain the minimum required net capital, on August 31, 2007 (when the net capital deficiency was \$501,519.37) and October 31, 2007 (when the net capital deficiency was \$474,009.18), in violation of SEC Rule 15c3-1 and NASD Rule 2110; prepaying a subloan without receiving prior written approval by its Examining Authority, in violation of Appendix D of SEC Rule 15c3-1 and NASD Rule 2110; maintaining inaccurate books and records on August 31, and October 31, 2007, in violation of SEC Rules 17a-3 and NASD Rule 2110; and failing to file accurate FOCUS reports for the periods ending August 31, and October 31, 2007, in violation of Sec Rule 17a-5 and NASD Rule 2110.

Small, individually, also was the subject of a recent disciplinary proceeding. On December 21, 2009, an AWC submitted by Small was accepted by FINRA, under which Small was fined \$17,500 and suspended in all principal capacities for ten business days. Small consented to the following findings: from October 31, 2005 to August 6, 2007, Small was not registered as a Research Analyst or a Research Principal, while he supervised the conduct of SBK-Brooks' two research analysts including approving 26 research reports, in violation of NASD Rules 1022(a)(5) and 2110; from October 2005 to September 2007, Small failed to establish and maintain adequate supervisory procedures related to the review of e-mail correspondence, the review of incoming and outgoing hard copy correspondence at the Firm's branch offices, and the review of outside investment activity of representatives at the Firm, in violation of NASD Rules 2110, 3010(a) and 3010(b); from October 2005 to September 2007, Small failed to establish, maintain and enforce adequate written supervisory control procedures related to the review and transmittal of funds between customers and representatives; and failed to conduct a review to determine whether producing managers should have been subject to heightened supervision, as required by NASD Rule 3012, in violation of NASD Rules 2110, 3012(a)(2)(B) and (C), and 3010(b).

OVERVIEW

On January 30, February 27, March 31, April 30, May 29, and June 30, 2009, SBK-Brooks, acting through Small, engaged in securities transactions, when it was below its minimum required net capital, in contravention of SEC Rule 15c3-1. By permitting these violations, Small violated FINRA Rule 2010. On the dates in question, SBK-Brooks, acting through Small, also maintained inaccurate books and records, in contravention of SEC Rule 17a-3, and filed inaccurate FOCUS Reports with FINRA in contravention of SEC Rule 17a-5(a)(2), and in violation of FINRA Rules 2010 and 3110(a) by Small.

Finally, two judgments that were entered against Small were not timely disclosed on Small's Form U4, in violation of Article V, Section 2 of FINRA By-Laws and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Small, on Behalf of SBK-Brooks, Effected Securities Transactions While It Failed to Maintain Minimum Required Net Capital

1. During all relevant times, Small was the President, CEO, and Registered General Securities Principal of SBK-Brooks, and was responsible for the supervising, monitoring and ensuring that, among other things, SBK-Brooks' employees performed their activities and responsibilities to achieve compliance with applicable securities laws and regulations, and the firm's written supervisory procedures.
2. On June 2008, Small hired an individual to serve as the Chief Compliance Officer ("CCO") of SBK-Brooks. In March 2009, the CCO also became the Financial and Operations Principal ("FINOP") of SBK-Brooks. In addition, in March 2009, SBK-Brooks' Comptroller, who had been with the Firm for several years and was the person most familiar with the Firm's recordkeeping and financial systems, left the Firm's employment to take another position. Since the Firm and Small lacked the resources to hire a replacement for the Comptroller, they relied on its recently hired FINOP, who had only a general familiarity with the Firm's accounting process, to act as Comptroller.
3. SEC Regulation §240.15c3-1 provides, generally, that every broker or dealer shall at all times have and maintain net capital no less than the greater of the highest minimum requirement applicable to its ratio requirement under (a)(1) of such section, or to any of its activities under paragraph (a)(2) of such section.
4. On January 30, February 27, March 31, April 30, May 29, and June 30, 2009, SBK-Brooks, acting through Small, failed to comply with SEC §240.15c3-1, in that it used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities, while the Firm failed to maintain the minimum required net capital, as shown on Schedule A, attached hereto and incorporated by reference.
5. The Firm's net capital deficiencies were caused by, among other things, Small's salary advances that were withdrawn from the Firm's bank account, but not effectively communicated to the Firm's FINOP, and not properly recorded on SBK-Brooks' books and records; Small's failure to memorialize an agreement with a representative to use the commissions that the representative was owed to purchase preferred stock in SBK-Brooks, resulting in an adjustment of \$250,000; and other accounting inaccuracies that occurred when the Firm's comptroller resigned and was not replaced by Small.

6. As a result of the above, Small caused SBK-Brooks to effect transactions while the Firm failed to maintain its minimum required net capital, in contravention of SEC Regulation §240.15c3-1, and in violation of FINRA Rule 2010, by Small.

**Small, on Behalf of SBK-Brooks,
Maintained Inaccurate Books and Records**

7. SEC Rule 17a-3 provides, generally, that every broker-dealer registered with FINRA shall make and keep current books and records relating to its business, including but not limited to ledgers, or other records, reflecting all assets and liabilities, income and expense and capital accounts.
8. SBK-Brooks, acting through Small, failed to prepare an accurate general ledger and trial balance as of January 30, February 27, March 31, April 30, May 29, and June 30, 2009, as shown on Schedule A. The inaccuracies included, among other things, the following:
- The general ledger balances were different from the bank reconciliations;
 - Several adjustments were made to SBK-Brooks' general ledger in order to achieve the same balance or amount on the Firm's bank statement, however, there was no explanation for the adjustments; and
 - Several withdrawals from SBK-Brooks' operating account were not recorded in the general ledger.
9. Small contributed to inaccuracies in the Firm's general ledger and trial balance, as described in paragraph 4 above by failing to effectively inform the Firm's FINOP about the withdrawals he made from SBK-Brooks' bank account as payments for his salary, and relying on the recently hired FINOP, who had only a general familiarity with the Firm's accounting process, to act as Comptroller, after the previous Comptroller had left the Firm.
10. As a result of the above, Small caused SBK-Brooks to maintain inaccurate books and records, in contravention of SEC Regulation §240.17a-3, and in violation of FINRA Rules 2010 and 3110, by Small.

**Small, on Behalf of SBK-Brooks,
Filed Inaccurate FOCUS Reports**

11. SEC Rule 17a-5(a)(2) requires the filing of a Quarterly FOCUS Report within 17 business days following the end of the calendar quarter.
12. SBK-Brooks, acting through Small, failed to prepare and file accurate FOCUS Reports Part IIA for the quarters ending March 31, 2009 and June 30, 2009, in that the inaccuracies described in Schedule A and paragraph 4, 8 and 9 above,

caused the FOCUS Reports Part II A to be inaccurate, in contravention of SEC Rule 17a-5(a)(2).

13. As a result of the above, Small caused SBK-Brooks to file inaccurate FOCUS Reports, in contravention of SEC Regulation §240.17a-5(a)(2), and in violation of FINRA Rule 2010 by Small.

Small Failed To Disclose Judgments on his Firm U4

14. Article V, Section 2 of FINRA By-Laws provides, in pertinent part, that each applicant and FINRA registered firm shall ensure that its membership application with FINRA is kept current at all times by supplementary amendments via electronic process, or such other process as FINRA may prescribe to the original application. Such amendments to the application shall be filed with FINRA not later than 30 days after learning of the facts or circumstances giving rise to the amendment.
 15. On February 17, 2009, a default judgment of \$3,086.98 was entered against Small in the Shaker Heights Municipal Court of Cuyahoga County, Ohio. On or about July 22, 2009, a judgment of \$168,312.82 was rendered against Small in the Court of Common Pleas, Cuyahoga County, Ohio.
 16. Small failed to report these judgments as amendments to his Form U4 Uniform Application for Securities Industry Registration or Transfer until October 14, 2009. In addition, these judgments were not disclosed until after FINRA staff informed Small that he failed to disclose them. The judgments were disclosed 49 days to 209 days after they were entered.
 17. Small's failure to disclose the two judgments within 30 days of learning that they were entered against him constitutes separate and distinct violations of Article V, Section 2 of FINRA By-Laws and FINRA Rule 2010.
- B. Respondent also consents to the imposition of the sanctions of a fifteen-business day suspension from association with any FINRA registered firm in any capacities, and thereafter, a one-month suspension from association with any FINRA registered firm in any principal capacity.¹

I understand that if I am barred or suspended from associating with any FINRA member, I become 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

¹ Respondent has submitted a sworn financial statement and demonstrated an inability to pay. In light of the financial status of Respondent, no monetary sanctions have been imposed.

Exchange Act of 1934. Accordingly, I may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

I understand that if I am barred or suspended from associating with any FINRA member in a limited capacity, I become 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, I 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 I am subject to a statutory disqualification during the suspension, if I remain 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.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against Respondent;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions

FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

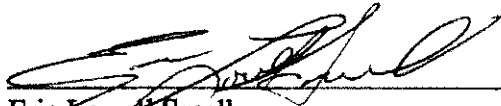
Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's rights to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct.

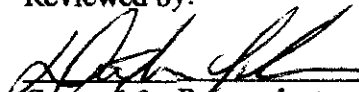
Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, Eric Lowell Small, certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, have been made to induce Respondent to submit it.

2/14/2012
Date


Eric Lowell Small
Registered Principal

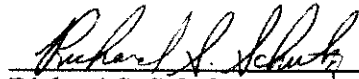
Reviewed by:


Counsel for Respondent

Accepted by FINRA:

3/7/2012
Date

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


Richard S. Schultz
Senior Regional Counsel
FINRA Department of Enforcement
55 West Monroe Street, Suite 2700
Chicago, Illinois 60603-5052
Phone Number: (312)899-4334
Fax Number: (312) 899-4600

SBK-Brooks Investment Corp Net Capital Calculations From Dates in January through June 2009

	January 30, 2009		February 27, 2009		March 31, 2009	
	<u>Firm</u>	<u>Staff</u>	<u>Firm</u>	<u>Staff</u>	<u>Firm</u>	<u>Staff</u>
Net Worth	\$ 1,214,278.00	\$ 964,278.00	(a) \$ 1,124,897.00	\$ 874,897.00	(a) \$ 750,273.00	\$ 750,273.00
Non allowable Assets	\$ 1,021,805.00	\$ 1,147,805.00	(b) \$ 977,256.00	\$ 1,108,845.00	(b) \$ 992,973.00	\$ 1,420,884.00 (b)
Tentative Net Capital	\$ 192,473.00	\$ (183,527.00)	\$ 147,641.00	\$ (233,948.00)	\$ (242,700.00)	\$ (670,611.00)
Haircuts	\$ 5,017.00	\$ 5,017.00	\$ 1,239.00	\$ 1,239.00	\$ 1,364.00	\$ 1,364.00
Net Capital	\$ 187,456.00	\$ (188,544.00)	\$ 146,402.00	\$ (235,187.00)	\$ (244,064.00)	\$ (671,975.00)
Minimum Requirement	\$ 100,000.00	\$ 5,000.00	(c) \$ 100,000.00	\$ 5,000.00	(c) \$ 100,000.00	\$ 5,000.00 (c)
Excess Net Capital	\$ 87,456.00	\$ (193,544.00)	\$ 46,402.00	\$ (240,187.00)	\$ (344,064.00)	\$ (676,975.00)

(a) SBK-Brooks Investment Corp. ("SBK-Brooks") and Small owed a registered representative that he employed about \$325,000. Rather than paying the representative these funds, Small entered into a verbal agreement with the representative to exchange \$250,000 of the funds owed for the same value of preferred stock of SBK-Brooks. At Small's direction, a journal entry was made to the Firm's financial records to add \$250,000 to its net worth, but Small never received a signed agreement from the representative for the amount in question. Lacking a signed agreement SBK-Brooks' net worth was reduced by \$250,000.

(b) Non-allowable assets were adjusted by underwriting receivables that were aged or later written off by SBK-Brooks. The non-allowable assets were increased by: \$126,000 for January 30, 2009; \$131,589 for February 27, 2009; and \$427,991 for March 31, 2009.

(c) Pursuant to the Membership Agreement, SBK Brooks agreed to maintain a minimum net capital of \$100,000, but on the dates in question the Firm engaged in securities business that only required a minimum net capital of \$5,000. That is why the Staff's used the minimum required net capital of \$5,000.

	April 30, 2009		May 29, 2009		June 30, 2009	
	<u>Firm</u>	<u>Staff</u>	<u>Firm</u>	<u>Staff</u>	<u>Firm</u>	<u>Staff</u>
Net Worth	\$ 1,179,462.00	\$ 1,179,462.00	\$ 1,115,606.00	\$ 1,115,606.00	\$ 1,236,058.00	\$ 986,058.00 (a)
Non allowable Assets	\$ 954,955.00	\$ 1,415,386.00 (b)	\$ 969,664.00	\$ 1,488,276.00 (b)	\$ 976,381.00	\$ 1,055,268.00 (b)
Tentative Net Capital	\$ 224,507.00	\$ (235,924.00)	\$ 145,942.00	\$ (372,670.00)	\$ 259,677.00	\$ (69,210.00)
Haircuts	\$ 1,543.00	\$ 1,543.00	\$ 1,592.00	\$ 1,592.00	\$ 1,637.00	\$ 1,637.00
Net Capital	\$ 222,964.00	\$ (237,467.00)	\$ 144,350.00	\$ (374,262.00)	\$ 258,040.00	\$ (70,847.00)
Minimum Requirement	\$ 100,000.00	\$ 5,000.00 (c)	\$ 100,000.00	\$ 5,000.00 (c)	\$ 100,000.00	\$ 5,000.00 (c)
Excess Net Capital	\$ 122,964.00	\$ (242,467.00)	\$ 44,350.00	\$ (379,262.00)	\$ 158,040.00	\$ (75,847.00)

(a) SBK-Brooks and Small owed a registered representative that he employed about \$325,000. Rather than paying the representative these funds, Small entered into a verbal agreement with the representative to exchange \$250,000 of the funds owed for the same value of preferred stock of SBK-Brooks. At Small's direction, a journal entry was made to the Firm's financial records to add \$250,000 to its net worth, but Small never received a signed agreement from the representative for the amount in question. Lacking a signed agreement SBK-Brooks' net worth was reduced by \$250,000.

(b) Non-allowable assets were adjusted by underwriting receivables that were aged or later written off by SBK-Brooks. The non-allowable assets were increased by: \$460,431 for April 30, 2009; \$518,612 for May 29, 2009; and \$78,887 for June 30, 2009.

(c) Pursuant to the Membership Agreement, SBK Brooks agreed to maintain a minimum net capital of \$100,000, but on the dates in question the Firm engaged in securities business that only required a minimum net capital of \$5,000. That is why the Staff's used the minimum required net capital of \$5,000.