

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

Department of Enforcement,

Complainant,

v.

Oppenheimer & Co., Inc.
BD No. 249,

Respondent.

Disciplinary Proceeding
No. 2009018668801

Hearing Officer – LLB

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: August 5, 2013

INTRODUCTION

Disciplinary Proceeding No. 2009018668801 was filed on May 6, 2013, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Oppenheimer & Co., Inc. submitted an Offer of Settlement (Offer) to Complainant dated July 9, 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

Oppenheimer has been a FINRA member since at least 1954. The Firm is headquartered in New York City and is a full-service, self-clearing broker-dealer. It employs approximately 2,450 registered persons in 115 branch offices.

In 2005, Oppenheimer was fined \$2.8 million for failing to establish and implement policies and procedures reasonably expected to detect and cause the reporting of certain transactions, establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with Bank Secrecy Act and the implementing regulations thereunder. Specifically, the Firm failed to make reasonable inquiries in connection with certain suspicious wire transfers and intra-Firm journals, to keep books and records reflecting those transfers, and failed to evidence reviews of customer letters of authorization. Moreover, the Firm failed to adhere to good business principles by permitting customers to engage in wire transfers and journal transfers while executing few investment transactions.

On February 1, 2012, Oppenheimer was sanctioned by the State of New Hampshire for the sale of unregistered securities, mismarking order entry tickets, failure to supervise and unsuitability. This involved the sale of penny stock. The Firm was fined \$125,000 and assessed costs of \$30,000. The Firm also underwent a compliance review conducted by an independent third party.

FINDINGS AND CONCLUSIONS

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

1. Between August 19, 2008, and September 20, 2010 (the “Relevant Period”), Oppenheimer & Co., Inc. (“Oppenheimer” or the “Firm”), through seven brokers working out of five branch offices located across the country, sold a total of over one billion shares of twenty penny stocks without registration or an applicable exemption, in violation of Section 5 of the Securities Act of 1933 (“Section 5”). Failures in the Firm’s supervisory system and Anti-Money Laundering (“AML”) program led to these widespread sales of unregistered securities.
2. The Firm’s supervisory system failed in two ways and led to the Section 5 violations. First, the Firm knew customers were depositing and selling large blocks of low-priced securities, but, contrary to its obligations under FINRA rules and its own policies and procedures, failed to conduct adequate supervisory reviews to determine whether the securities were registered.
3. Second, the Firm took inadequate steps to follow up on specific red flags, such as a stranger appearing at a branch office carrying certificates for penny stocks or deposits of penny stocks constituting a large percentage of the float for that security.
4. The Firm also failed to detect suspicious activity in penny stocks through its AML program, which should have identified and investigated such suspicious activity. First, the AML program focused on asset movements, not securities transactions, and therefore failed to monitor patterns of suspicious activity associated with the penny stock trades. Second, the Firm failed to conduct adequate due diligence of suspicious trading by Customer G, a broker-dealer in the Bahamas, and therefore a Foreign Financial Institution (FFI) (as defined under the Bank Secrecy Act); the Firm’s failure allowed Customer G to use its Oppenheimer account to sell securities on behalf of parties not subject to Oppenheimer’s AML review.

5. By reason of the foregoing, the Firm violated NASD Rule 2110 and FINRA Rule 2010 by violating Section 5 for the sale of unregistered securities; NASD Rules 3010 and 2110 and FINRA Rule 2010 for inadequate supervisory systems and procedures;¹ and NASD Rules 3011 and 2110 and FINRA Rules 3310² and 2010 for an inadequate AML program.

Respondent and Jurisdiction

6. Oppenheimer has been a FINRA member since at least 1954. The Firm is headquartered in New York City and is a full-service, self-clearing broker-dealer. It employs approximately 2,450 registered persons in 115 branch offices.

Oppenheimer Sold Unregistered Securities from Customer Accounts

7. During the Relevant Period, Oppenheimer sold a total of over one billion unregistered shares of the twenty penny stocks identified in paragraphs 13 to 120 below. No exemptions applied to any of these sales, and each sale violated Section 5.

8. Sales were made through five branch offices: Boca Raton, Florida; New York, New York; Newport Beach, California; Alpharetta, Georgia; and Jericho, New York.

9. The sales involved thirteen customers, some of whom appeared to be affiliated with issuers, and seven Oppenheimer Financial Advisers.

10. All of these sales raised at least two red flags: (1) they involved penny stocks for which no registration statement was in effect for the sale, and (2) the customers made deposits of large blocks of these securities.

¹ NASD Rule 2110 became FINRA Rule 2010 on December 15, 2008 (NASD Rule 3010 did not change).

² NASD Rule 3011 became FINRA Rule 3310 on January 1, 2010.

11. In addition, as detailed for each customer below, sales by these customers presented one or more of the following red flags indicating that there may have been sales of unregistered securities that should have prompted further inquiry:

- a. the customer sold large amounts of the securities shortly after depositing the shares into the account;
- b. the customer wired out proceeds shortly after the sales;
- c. the customer deposited share certificates that were recently issued or represented a large percentage of the float for the security;
- d. the customer opened accounts and deposited large quantities of penny stocks shortly after opening;
- e. the customer appeared to be acting as an agent for an undisclosed principal;
- f. the customer was the subject of NASD or SEC actions or was the subject of news reports indicating possible regulatory violations;
- g. the customer had multiple accounts under a single name or multiple names for no apparent reason, with a large number of inter-account or third-party transfers;
- h. the customer had walked into a branch office with share certificates of thinly-traded securities for deposit;
- i. the customer was promoting the penny stock that he owned;
- j. the customer sold in the midst of a sudden spike in investor demand for, and rising price in, a low-priced security;
- k. the issuer had not filed periodic reports with the SEC or published current financial reports; or

1. the issuer had been through several recent name changes.

12. Notwithstanding the above, Oppenheimer sold unregistered stocks on behalf of the thirteen customers as follows:

Customer G

13. Oppenheimer opened an account for Customer G on May 7, 2007, in its New York branch office.

14. During all times relevant to the Complaint, Customer G was a broker-dealer domiciled in the Bahamas and was therefore a Foreign Financial Institution under the Bank Secrecy Act as defined in 31 CFR 1010.605(f).

15. On or about July 12, 2007, the Firm designated Customer G as a "high risk" account because it was a foreign broker-dealer.

16. Oppenheimer did not conduct adequate due diligence upon the opening of the account for Customer G. The only in-person contact with Customer G came in approximately 2007, before the account was opened, during a brief encounter.

17. Prior to execution of Customer G's sales, no one at Oppenheimer inquired into the enforcement regime of the jurisdiction that granted Customer G a license to operate, or examined Customer G's AML program beyond Customer G's own one-sentence description of its Customer Identification Program.

18. During the Relevant Period, Customer G's account at Oppenheimer received and sold the following penny stocks:

- a. On November 13, 2008, the account received 3,500,000,000 shares of Sunrise Consulting Group, Inc. (SNRS), a Pink Sheets issuer purportedly involved in investment banking in Pacific rim countries;

- b. Between April 29, 2009 and June 5, 2009, the account sold 673,072,771 shares of SNRS;
- c. On May 13, 2009, the account received 2,654,381 shares of Enerbrite Technologies Group, Inc. (ETGG), a Pink Sheets issuer purportedly engaged in the development of oil and natural gas properties;
- d. Between May 20 and June 5, 2009, the Firm sold 2,642,468 shares of ETGG;
- e. On May 1, 2009, the account received 3,157,550 shares of Jedi Mind, Inc. (JEDM), a Pink Sheets issuer purportedly engaged in the development of thought controlled technology software;
- f. Between May 26 and 27, 2009, the account sold 267,000 shares of JEDM;
- g. On May 19, 2009, the account received 10,750,000 shares of Galloway Energy, Inc. (GWGI), a Pink Sheets issuer purportedly involved in the exploration and acquisition of natural gas resources;
- h. Between May 19 and June 9, 2009, the account sold 1,431,674 shares of GWGI;
- i. On May 19, 2009, the account received 3,500,000 shares of Cancer Therapeutics, Inc. (CTHP), an OTC Bulletin Board listed company, purportedly involved with research and technology that would disrupt the spread of cancer;
- j. Between May 27 and June 8, 2009, the account sold 1,987,000 shares of CTHP;

k. On February 20, 2009, the account received 50,000,000 shares of Nutripure, Inc. (NBVG), a Pink Sheets issuer purportedly involved in the development of nutrient-enhanced bottled water products; and

l. Between April 1 and May 22, 2009, the account sold 31,289,679 shares of NBVG.

19. As of the date of Customer G's last sales of the securities described above, registration statements were not in effect for the sales of SNRS, GWGI, CTHP and NBVG.

20. Customer G acted as an agent for undisclosed principals. For example, on or about November 5, 2008, Oppenheimer received from Customer G seven share certificates of SNRS for the benefit of seven different third parties: 500,000,000 for AR; 500,000,000 for PI; 500,000,000 for KC; 500,000,000 for NH; 500,000,000 for DC; 500,000,000 for LZ; and 500,000,000 for MB.

21. Customer G also deposited into its account at Oppenheimer share certificates of NBVG for the benefit of other Firm customers, including:

- a. On or about July 9, 2008, 255,000,000 shares for the benefit of Customer MB;
- b. On or about August 12, 2008, 500,000,000 shares for the benefit of Customer MB;
- c. On or about July 9, 2008, 255,000,000 shares for the benefit of Customer RT; and
- d. On or about August 20 2008, 500,000,000 shares for the benefit of Customer RT.

22. As noted in paragraphs 30 and 43 below, MB and RT were customers of the Firm.

23. During the period April 1, 2009 through June 1, 2009, Customers G, MB, BC, and RT sold NBVG, as noted in paragraphs 32, 33, 41, and 45 below. The sale of the same penny stock by multiple customers of the firm over the same two-month period is a red flag.

24. The average daily trading volume of GWGI increased between April 1, 2009, and May 29, 2009, from an historical average of approximately 1,800,000 shares to a two-month average of 4,270,000 shares.

25. The Firm's sales of GWGI between May 19 and June 9, 2009, occurred in the wake of a series of Internet promotions for GWGI between April 9 and May 1, 2009.

26. An employee of the Firm's surveillance staff investigated the sales of Customer G beginning on or about January 22, 2009, and concluded that its pattern of trading activity constituted a red flag.

27. There was inadequate follow-up on red flags associated with the sales.

28. Customer G withdrew substantially all of the proceeds of stock sales within the same month the sales were realized, leaving a small cash balance in the account. For example, in February of 2009, Customer G withdrew \$1,000,000 in cash, leaving a closing balance of \$13,558.46.

29. The Firm failed to place any limitations on Customer G's activity until the account was closed on or about June 2009.

Customer MB

30. Oppenheimer opened a personal account for Customer MB on approximately August 1, 2008, in the Firm's Newport Beach office.

31. At or around the time that Customer MB opened his account, he carried into the Newport Beach office and delivered into his new account share certificates for 255,000,000 and

500,000,000 shares of NBVG. These certificates were in the name of Customer MB. The Firm's written supervisory procedures state that employees should exercise "extreme care" with walk-in customers.

32. Between approximately April 28 and May 12, 2009, the Firm sold 1,287,731 shares of NBVG on behalf of Customer MB.

33. Between April 1 and May 22, 2009, the Firm also sold 31,289,679 shares of NBVG on behalf of Customer G.

34. The Firm knew or should have known that different customers were selling NBVG during the same two-month window.

Customer BC

35. Oppenheimer opened a personal account for Customer BC on approximately April 13, 2009, in the Firm's Newport Beach office.

36. The account was opened by Customer MB and listed the same legal permanent address and employer's address as Customer MB.

37. Customer MB facilitated the opening of an account for Customer BC, and directed sales in the Customer BC account, notwithstanding the fact that no one at the Firm met Customer BC, and Customer BC's new account form listed the same legal permanent address and employer's address as Customer MB.

38. The Operations Manager at the Firm's Newport Beach office knew that Customer MB was a walk-in customer and that Customer MB opened an account for Customer BC, yet failed to follow up on these red flags.

39. Wire transfer instructions for the account were also received via fax from Customer MB.

40. On or about April 14, 2009, Oppenheimer received 50,000,000 shares of NBVG on behalf of Customer BC.

41. Between May 22 and May 28, 2009, the Firm sold 10,582,000 shares of NBVG on behalf of Customer BC.

42. The Firm knew or should have known that Customers MB and BC were related accounts selling the same penny stock during the same two-month window as Customers G and RT.

Customer RT

43. On approximately December 10, 2008, and January 22, 2009, respectively, the Firm opened a corporate and personal account for Customer RT in its Alpharetta office.

44. Between January 1, 2009, and April 14, 2009, Customer RT received 19,300,000 shares of NBVG into his account at Oppenheimer.

45. Between approximately April 22 and June 1, 2009, the Firm sold 9,004,000 shares of NBVG on behalf of RT.

46. The new account form for Customer RT's corporate account indicates that Customer RT "is ... now, or has ... been a corporate officer, director, or ... own[s] 10 percent of" NBVG's stock.

47. In April, May and June 2009, Customer RT wired out substantially all of the proceeds of NBVG sales realized in each of those months.

48. The Firm knew or should have known that Customers MB and BC were related accounts selling the same penny stock during the same period as Customers G and RT.

49. NBVG had been formerly known as Liberty Diversified Holdings, Inc.

50. As of the dates that Customers MB, BC and RT sold NBVG shares, no registration statement was in effect at the time of sale.

Customer MV

51. On or about August 31, 2009, Oppenheimer opened a corporate account for Customer MV in its Boca Raton office.

52. During the Relevant Period, Oppenheimer received and sold the following penny stocks on behalf of Customer MV:

- a. On September 1, 2009, the account received 140,000 shares of Atlantic Wind & Solar (AWSL), a Pink Sheets issuer purportedly focused on providing renewable power generation products;
- b. On October 7, 2009, the account received 150,000 shares of AWSL;
- c. Between September 11 and October 23, 2009, the account sold 290,000 shares of AWSL;
- d. On January 4, 2010, the account received 70,000 shares of AWSL;
- e. Between January 8 and 27, 2010, the account sold 70,000 shares of AWSL;
- f. On October 21, 2009, the Firm received 483,334 shares of MSE Enviro-Tech Corp. (MEVT), a Pink Sheets issuer purportedly involved in environmental technology transfer;
- g. On October 26, 2009, the account purchased 50,000 shares of MEVT;
- h. Between October 27 and November 17, 2009, the Firm sold 533,334 shares of MEVT;

- i. On May 6, 2010, the account received 5,000,000 shares of Act Clean Technologies (ACLH), a Pink Sheets issuer purportedly involved with the reactivation of old oil wells; and
- j. On May 11 and 12, 2010, the account sold 3,000,000 shares of ACLH.

53. As of the date of Customer MV's last sale of AWSL and MEVT, the issuers of those securities had never filed periodic financial reports or registration statements with the SEC.

54. As of the date of Customer MV's last sale of ACLH, the securities were not registered with the SEC.

55. During the period that Customer MV held AWSL and MEVT, the managing director for Customer MV was affiliated with a stock promotion website that promoted AWSL and MEVT.

56. The managing director for Customer MV referenced above notified the registered representative for the account at the Firm that the managing director was promoting ACLH on Twitter.

57. The registered representative for Customer MV received a fax of an email between the customer and the issuer discussing the distribution of AWSL and MEVT.

58. Boca Raton office branch management reviewed the Customer MV fax referenced above at or around the time it was received at the office.

59. Despite being aware of the Customer MV fax, Oppenheimer took inadequate steps to determine the legality of Customer MV's sale of AWSL and MEVT.

Customer TC

60. On or before October 17, 2007, Oppenheimer opened a personal account in the name of Customer TC.

61. On or before October 17, 2007, Oppenheimer opened a corporate account controlled by Customer TC and in which Customer TC was listed as the CEO on corporate account documentation.

62. On or before August 1, 2008, Oppenheimer opened another corporate account controlled by Customer TC in which Customer TC was the Chairman and CEO. The three accounts related to Customer TC were opened in the Firm's Boca Raton office.

63. During the Relevant Period, Oppenheimer received and sold the following penny stocks on behalf of Customer TC and those corporate entities he controlled:

- a. On or about February 24, 2009, Customer TC's account received 2,000,000 shares of Bio-Clean International (BCLE), a Pink Sheets issuer purportedly involved with providing environmentally-safe cleaning products to the military;
- b. On or about February 24, 2009, Customer TC's corporate account received another 1,000,000 shares of BCLE;
- c. Between March 2 and May 29, 2009, the Customer TC accounts sold 2,545,000 shares of BCLE;
- d. In April 2010, Customer TC's account received 10,000,000 shares of International Merchant Advisors, Inc. (IMAI), a Pink Sheets issuer purportedly involved with wellness centers and medical marijuana clinics for chronic pain relief;
- e. Between May 13 and 28, 2010, Customer TC's account sold 1,630,000 shares of IMAI;

- f. Between May 4 and May 26, 2010, Customer TC's account received 50,580,000 shares of ACLH;
- g. Between May 4 and May 26, 2010, Customer TC's account sold 42,060,000 shares of ACLH;
- h. Between May 5 and May 19, 2010, Customer TC received 14,002,375 shares of AppTech Corp. (APCX), a Pink Sheets issuer purportedly in the business of developing mobile applications for international markets; and
- i. Between May 18 and June 30, 2010, Customer TC's account sold 6,182,450 shares of APCX.

64. As of the date of the last sales by Customer TC of BCLE and IMAI shares, these securities were not registered with the SEC.

65. As of the date of the last sales by Customer TC of APCX and ACLH shares, these securities were not registered with the SEC.

66. Customer TC hosted an internet radio show on which he interviewed an employee of BCLE, a penny stock owned by Customer TC.

67. AppTech Corp. had formerly been known as Natural Nutrition, Inc.

68. Act Clean Technologies, Inc. had formerly been known as Turnaround Partners, Inc.

69. A Firm's surveillance staff employee reported the radio show to the Firm's Senior Director of Surveillance.

70. On April 9, 2009, a surveillance staff employee noted in an email to other surveillance employees that Customer TC's accounts had, in the aggregate, 3,790,000 shares of BCLE, which appeared to be close to 40% of the shares. Thereafter, Customer TC's ownership

level of BCLE was brought to the attention of the Firm's Senior Director of Surveillance, and ultimately to the Director of Compliance.

71. The Director of Compliance reviewed the concentration and decided not to allow further purchase or receipt of the stock, but permitted selling the stock already in the client's accounts.

72. Customer TC had multiple accounts with a large number of inter-account or third-party transfers, including "gifts" of stock to family members.

Customer SS

73. Oppenheimer opened a personal account for Customer SS on or about September 2, 2008 and a trust account for Customer SS on or about August 18, 2008. Both were opened in Oppenheimer's Boca Raton office.

74. In 1989, prior to the time Customer SS opened up the accounts at Oppenheimer, Customer SS had been found by NASD (n.k.a. FINRA) to have violated its rules by providing NASD examiners a falsified checking account statement that reflected a nonexistent cash deposit of \$40,000. As a result, Customer SS was barred from association with any member firm in a principal or supervisory capacity.

75. Also, Customer SS's registration had been revoked in 1990 for non-payment of costs associated with the disciplinary matter.

76. Oppenheimer knew or should have known of Customer SS's disciplinary history at the time the account was opened.

77. Between August 19, 2008, and February 19, 2009, Customer SS's account received 50,561,800 shares of Colorado Goldfields, Inc. (CGFIA), a Pink Sheets issuer purportedly involved with gold and silver exploration and mining. The Form 10-Q for Colorado Goldfields

for the period ending November 30, 2008, disclosed that the issuer had 190,197,327 shares outstanding.

78. Between August 19, 2008, and February 27, 2009, Customer SS sold 41,392,333 shares of CGFIA.

79. Customer SS received CGFIA stock directly from the issuer, purportedly as payment for professional services.

80. The securities of CGFIA were not properly registered with the SEC for resale.

81. Customer SS also journaled shares of CGFIA to unrelated parties, purportedly in payment for personal services.

82. Proceeds from the stock sales were withdrawn on a monthly basis.

83. On or about February 25, 2009, a surveillance staff employee estimated that Customer SS owned 7.8 percent of the outstanding shares and 18.5 percent of the float for CGFIA.

Customer DM

84. Oppenheimer opened a personal account for Customer DM in its Boca Raton office on or about February 2, 2009.

85. On February 3, 2009, Customer DM's account received 3,000,000 shares of Convergence Technologies Group, Inc. (CNVC), a Pink Sheets issuer purportedly providing merchant banking and advisory management consulting services to microcap issuers and sold 3,000,000 of these shares between March 10 and April 16, 2009.

86. Customer DM was an officer and affiliate of CNVC.

87. As of the dates that Customer DM sold CNVC, the securities were not registered with the SEC.

88. Customer DM was an affiliate of CNVC.

89. Customer DM exhibited a pattern of wiring out the proceeds of stock sales within the same month the sales were realized.

Customer JK

90. Oppenheimer opened a personal account for Customer JK in its Boca Raton office prior to October 23, 2008.

91. On October 3, 2008, the Oppenheimer financial advisor for the account was directed by another customer to an online discussion that characterized Customer JK as a “con artist” and a “scam artist.”

92. Customer JK exhibited a pattern of wiring out the proceeds of stock sales within the same month the sales were realized.

93. During the Relevant Period, Oppenheimer received and sold the following penny stocks on behalf of Customer JK:

- a. Between April 7 and June 5, 2009, the account received 32,250,000 shares of Zippi Networks (ZIPN), a Pink Sheets issuer purportedly in the online auction business, and sold 32,250,000 shares between April 13 and June 12, 2009; and
- b. On November 18-19, 2009, the account received 10,000,000 shares of the Football Network, Inc. (TFN), a Pink Sheets issuer purportedly involved with a cable and satellite television network dedicated to football, and sold these 10,000,000 shares between November 30, 2009, and January 28, 2010.

94. As of the dates that Customer JK sold ZIPN, these securities were not registered with the SEC.

95. As of the dates that Customer JK sold TFN, these securities were not registered with the SEC.

Customer WI

96. Oppenheimer opened a corporate account for Customer WI in its Boca Raton office on or about February 2, 2009.

97. Between April 2 and June 8, 2009, Customer WI's account received 108,208,303 shares of Ingen Technologies, Inc. (IGNT), a Pink Sheets issuer purportedly involved with the manufacture of medical devices for respiratory patients, and sold all 108,208,303 shares between April 8 and June 12, 2009.

98. As of the dates that Customer WI sold IGNT, these securities were not registered with the SEC.

99. Customer WI received the stock certificates from the issuer IGNT, and directed the transfer agent to issue IGNT shares.

100. Customer WI exhibited a pattern of wiring out the proceeds of stock sales within the same month the sales were realized.

Customer KI

101. Oppenheimer opened a corporate account for Customer KI in its Boca Raton office on approximately March 17, 2009.

102. On June 4, 2009, Customer KI's account received 2,100,000 shares of Cotton & Western Mining (CWRN), a Pink Sheets issuer purportedly involved in iron ore mining, and sold those 2,100,000 shares between June 8 and 15, 2009.

103. As of the dates that Customer KI sold CWRN, these securities were not registered with the SEC.

104. The sales of CWRN between June 8 and 15 coincided with an increase in investor demand for the stock that peaked on June 16.

105. Customer KI exhibited a pattern of wiring out the proceeds of stock sales within the same month the sales were realized.

Customer QC

106. Oppenheimer opened a corporate account for Customer QC in its Boca Raton office on or about June 4, 2008.

107. Between September 29, 2008, and December 16, 2009, Customer QC's account received 25,000,000 shares of Anviron Holding Company (ANVH), a Pink Sheets issuer purportedly involved with the production of environmentally safe products. The account sold 25,287,722 shares (as well as additional shares it had purchased) between October 15 and January 5, 2009.

108. Customer QC's deposits include three sequentially numbered certificates, all dated October 8, 2008.

109. As of the dates that Customer QC sold ANVH, these securities were not registered with the SEC.

110. Customer QC directed the transfer agent to issue stock certificates for ANVH.

111. Customer QC exhibited a pattern of wiring out the proceeds of stock sales within the same month the sales were realized.

Customer IH

112. Oppenheimer opened a corporate account for Customer IH in its Jericho, New York Office on or about April 25, 2008. TM was an authorized agent for Customer IH.

113. In March 2004, the SEC had filed a complaint seeking a temporary restraining order against TM and others for the illegal distribution of common stock to the public.

114. Oppenheimer knew or should have known of TM's regulatory history with the SEC when the account was opened.

115. Between April 2, 2009, and June 15, 2009, Customer IH's account received 37,500,000 shares of Zevotek (ZVTK), a Pink Sheets issuer that purportedly marketed homecare and household products.

116. The 37,500,000 shares of ZVTK owned by Customer IH represented approximately 21.3 percent of the shares outstanding.

117. The Firm should have known that Customer IH was an affiliate of ZVTK.

118. Between April 8 and June 22, 2009, Customer IH sold 39,472,200 shares of ZVTK.

119. As of the dates that Customer IH sold ZVTK, these securities were not registered with the SEC.

120. Customer IH exhibited a pattern of wiring out the proceeds of stock sales within the same month the sales were realized.

Oppenheimer Failed to Adequately Supervise the Sale of Unregistered Securities

121. Oppenheimer did not conduct a reasonable inquiry into the penny stocks transactions identified above by Customers G, MB, BC, RT, MV, TC, SS, DM, JK, WI, KI, QC, or IH including, but not limited to, how, when and from whom the securities were acquired, whether a

registration statement was in effect for the shares under the Securities Act and whether any valid exemption from registration under the Securities Act applied to the securities or the transactions.

122. Oppenheimer did not have a system or procedure to monitor accounts selling penny stocks for suspicious trading activity.

123. Oppenheimer relied on its brokers to identify and report on red flags of suspicious activity, or to seek further review if the stock appeared to be restricted.

124. If the broker identified suspicious activity, the broker was required to report such activity to an AML or compliance officer.

125. If the broker determined that a stock sale might be restricted, the broker was required to refer the sale to the Firm's Executive Services Department, which would perform the Rule 144 analysis to determine whether the stock was free to trade.

126. Brokers failed in most instances to send penny stocks to Executive Services for review, notwithstanding the many red flags outlined above. When penny stocks were sent to Executive Services, the department failed to conduct sufficient reviews to determine if the stock was freely tradable. Furthermore, the Firm failed to refer or adequately follow up when surveillance or compliance staff identified other red flags.

127. The Firm failed to follow up on red flags of the sale of unregistered securities known to branch administration, compliance and surveillance staff identified in paragraphs 13 to 120 above.

***Oppenheimer Did Not Adequately Monitor
Penny Stock Transactions for AML Compliance***

128. Oppenheimer's Anti-Money Laundering policy required all employees to monitor accounts for suspicious activity and report such activity to the compliance department or the AML officer.

129. The policy also required enhanced due diligence for accounts held by FFIs.
130. The policy also restricted new FFI correspondent accounts to proprietary trades.
131. The Firm's AML policy required accounts to be monitored for ongoing suspicious activity, and identified penny stock trading as a potential red flag, but provided no guidance on how Firm employees were to conduct such monitoring.
132. The AML group reviewed exception reports that focused on asset movements, but not trading activity.
133. The Firm's Surveillance department manually reviewed a low-priced securities exception report to determine whether penny stock trades were solicited.
134. Neither the AML group nor the surveillance department systematically reviewed customer trading in penny stocks for suspicious activity.
135. As a result, the Firm failed to identify and investigate the suspicious activity outlined above.
136. Oppenheimer's AML policy also required enhanced due diligence on any correspondent account held by an FFI, including a prohibition on third-party wire and asset movements, a requirement that each customer have separate accounts, and that those accounts be subject to review by the AML unit.
137. Oppenheimer had no surveillance or exception reports for monitoring activity in any correspondent account held by an FFI.
138. The AML policy also limited new FFI accounts to "conducting proprietary business for the entity that opened the account."
139. Oppenheimer opened and maintained an account for customer G, which was an FFI, from May 2007 until June 2009.

140. Oppenheimer did not appropriately assess Customer G's risk as an FFI as required by 31 CFR 103.176 (subsequently renumbered to 31 CFR 1010.610) or enforce its own limitations on Customer G's trading activity before executing trades.

141. The Firm ignored the restrictions set forth in its own Anti-Money Laundering Policies and Procedures Manual, and failed to follow up on red flags indicating that Customer G was improperly trading on behalf of third parties, such as stock certificates deposited by Customer G bearing the names of third parties, or emails from Customer G discussing trades for Customer G's own clients in its Oppenheimer account.

142. The Firm failed to investigate other red flags in Customer G's account as well, such as Customer G's pattern of liquidating penny stocks and sending the proceeds to its bank account.

Based on the foregoing, Respondent the Firm violated NASD Rule 2110 and FINRA Rule 2010 by violating Section 5 for the sale of unregistered securities; NASD Rules 3010 and 2110 and FINRA Rule 2010 for inadequate supervisory systems and procedures;³ and NASD Rules 3011 and 2110 and FINRA Rules 3310⁴ and 2010 for an inadequate AML program.

FIRST CAUSE OF ACTION
Sale of Unregistered Securities
(NASD Rule 2110, FINRA Rule 2010 and
Section 5 of the Securities Act of 1933)

143. Section 5(a) of the Securities Act prohibits the sale of any securities in interstate commerce unless a registration statement is in effect as to the offer or sale of such securities or there is an applicable exemption from the registration requirements.

³ NASD Rule 2110 became FINRA Rule 2010 on December 15, 2008 (NASD Rule 3010 did not change).

⁴ NASD Rule 3011 became FINRA Rule 3310 on January 1, 2010.

144. No registration statement was in effect for the sales of the 20 penny stocks identified in paragraphs 13 through 120 above: NBVG, SNRS, ETGG, JEDM, GWGI, CTHP, MEVT, AWSL, ACLH, BCLE, IMAI, APCX, CGFIA, CNVC, ZIPN, TFN, IGNT, CWRN, ANVH, or ZVTK.

145. Through use of the mails, telephone and other interstate communications, Oppenheimer used the means or instruments of transportation or communications in interstate commerce to effect the sales of securities referenced in paragraphs 13 through 120 above.

146. Based on the foregoing, Oppenheimer sold securities in contravention of Section 5 of the Securities Act of 1933, and thereby violated NASD Rule 2110 and FINRA Rule 2010.

SECOND CAUSE OF ACTION
Inadequate Supervisory Systems and Procedures
(NASD Rules 3010 and 2110 and FINRA Rule 2010)

147. NASD Rule 3010(a) requires firms to “establish and maintain a system to supervise activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations.” A failure to respond to known red flags constitutes a failure to supervise.

148. During the Relevant Period, Oppenheimer failed to implement a supervisory system reasonably designed to achieve compliance with Section 5 in the sale of penny stocks.

149. The Firm had no system or procedure to determine whether stocks were restricted or freely tradable and failed to conduct an appropriate review for compliance with Section 5.

150. Oppenheimer failed to appropriately follow up to determine whether the stocks were in fact free to trade.

151. Based on the foregoing, Oppenheimer failed to implement an adequate system of supervision over penny stock sales in contravention of NASD Rules 3010 and 2110 and FINRA Rule 2010.

THIRD CAUSE OF ACTION
Inadequate Anti-Money Laundering Compliance Program
(NASD Rules 3011(a) and (b) and 2110, FINRA Rules 3310 and 2010)

152. FINRA Rule 3310, and NASD Rule 3011 before it, require each member to “develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the firm’s compliance with the requirements of the Bank Secrecy Act (31 U.S.C. § 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury.”

153. During the Relevant Period, the Firm failed to develop and implement AML policies, procedures, and internal controls that were reasonably designed to achieve compliance with the Bank Secrecy Act, and the implementing regulations thereunder.

154. Specifically, the Firm’s AML procedures failed to adequately address the detection, monitoring, analyzing, investigating, and reporting of suspicious activity in the context of patterns of suspicious activity in penny stock trades, or red flags relating to penny stock transactions identified by the Firm’s surveillance or compliance personnel. As a result, the Firm failed to investigate any of the suspicious activity identified in paragraphs 13 through 120.

155. Section 312 of the PATRIOT Act, which amended the Bank Secrecy Act, requires all financial institutions to exercise due diligence when accepting foreign-owned correspondent accounts. 31 U.S.C. § 5318(i). The due diligence must include “appropriate, specific, risk-based, and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to enable the covered financial institution to detect and report, on an ongoing basis, any

known or suspected money laundering activity conducted through or involving any correspondent account” 31 C.F.R. 1010.610(a).

156. According to 31 CFR 1010.610(a)(2), assessing the money laundering risk presented by a correspondent account may include an examination of the following factors:

- a. the nature of the foreign financial institution's business and the markets it serves;
- b. the type, purpose, and anticipated activity of such correspondent account;
- c. the nature and duration of the covered financial institution's relationship with the foreign financial institution (and any of its affiliates);
- d. the anti-money laundering and supervisory regime of the jurisdiction that issued the charter or license to the foreign financial institution; and
- e. information known or reasonably available to the covered financial institution about the foreign financial institution's anti-money laundering record.

157. The risk-based procedures for monitoring the correspondent account must include “a periodic review of the correspondent account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account.” 31 CFR 1010.610(a)(3).

158. Oppenheimer’s policies required enhanced due diligence for correspondent accounts, and restricted a new FFI account to proprietary business for the entity that opened it. Notwithstanding the Firm’s procedures, Oppenheimer failed to investigate or respond to the pattern of suspicious activity in Customer G’s account and ignored red flags that Customer G was trading for its own underlying clients.

159. Based on the foregoing, the Firm's procedures and internal controls for monitoring suspicious activity were inadequate and not reasonably designed to monitor and achieve compliance with the requirements of the Bank Secrecy Act relating to Foreign Financial Institutions, in violation of NASD Rules 3011(a) and (b) and 2110; and FINRA Rules 3310(a) and (b) and 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be censured, fined in the amount of \$1,425,000, and undertake the following:

Oppenheimer shall:

- a. Retain, within 60 days of the date of the Order Accepting Offer of Settlement, an Independent Consultant, not unacceptable to FINRA staff, to conduct a comprehensive review of the adequacy of the Firm's policies, systems and procedures (written and otherwise) and training relating to: (1) the receipt or purchase and subsequent journal or sale of penny stock; (2) the supervision of Foreign Financial Institutions, including the firm's "know your customer" obligations; and (3) the firm's anti-money laundering procedures, including Foreign Financial Institutions and handling the movement of securities;

- b. Exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Consultant;
- c. Cooperate with the Independent Consultant in all respects, including by providing staff support. Oppenheimer shall place no restrictions on the Independent Consultant's communications with FINRA staff and, upon request, shall make available to FINRA staff any and all communications between the Independent Consultant and the Firm and documents reviewed by the Independent Consultant in connection with his or her engagement. Once retained, Oppenheimer shall not terminate the relationship with the Independent Consultant without FINRA staff's written approval; Oppenheimer shall not be in and shall not have an attorney-client relationship with the Independent Consultant and shall not seek to invoke the attorney-client privilege or other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports or documents to FINRA;
- d. At the conclusion of the review, which shall be no more than 120 days after the date of the Order Accepting Offer of Settlement, require the Independent Consultant to submit to the Firm and FINRA staff a Written Report. The Written Report shall address, at a minimum, (i) the adequacy of the Firm's policies, systems, procedures, and training relating to: (1) the receipt or purchase and subsequent journal or sale of penny stock; (2) the supervision of

- Foreign Financial Institutions, including the firm's "know your customer" obligations; and (3) the firm's anti-money laundering procedures, including Foreign Financial Institutions and handling the movement of securities; (ii) a description of the review performed and the conclusions reached, and (iii) the Independent Consultant's recommendations for modifications and additions to the Firm's policies, systems, procedures and training; and
- e. Require the Independent Consultant to enter into a written agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any other employment, consultant, attorney-client, auditing or other professional relationship with Oppenheimer, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any firm with which the Independent Consultant is affiliated in performing his or her duties pursuant to the Order Accepting Offer of Settlement shall not, without prior written consent of FINRA staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Oppenheimer or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

2. Within 60 days after delivery of the Written Report, Oppenheimer shall adopt and implement the recommendations of the Independent Consultant or, if it determines that a recommendation is unduly burdensome or impractical, propose an alternative procedure to the Independent Consultant designed to achieve the same objective. The Firm shall submit such proposed alternatives in writing simultaneously to the Independent Consultant and FINRA staff. Within 30 days of receipt of any proposed alternative procedure, the Independent Consultant shall: (i) reasonably evaluate the alternative procedure and determine whether it will achieve the same objective as the Independent Consultant's original recommendation; and (ii) provide the Firm with a written decision reflecting his or her determination. The Firm will abide by the Independent Consultant's ultimate determination with respect to any proposed alternative procedure and must adopt and implement all recommendations deemed appropriate by the Independent Consultant.
3. Within 30 days after the issuance of the later of the Independent Consultant's Written Report or written determination regarding alternative procedures (if any), Oppenheimer shall provide FINRA staff with a written implementation report, certified by an officer of Oppenheimer, attesting to, containing documentation of, and setting forth the details of the Firm's implementation of the Independent Consultant's recommendations.

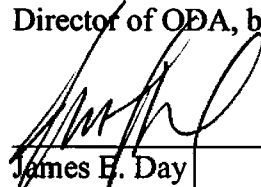
4. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth above.

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

A handwritten signature in black ink, appearing to read "James E. Day", is written over a horizontal line.

James E. Day
Vice President & Chief Counsel
FINRA Department of Enforcement
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