

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009018819201**

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

RE: Garden States Securities, Inc., Respondent
Member Firm
CRD No. 10083

Kevin John DeRosa, Respondent
General Securities Principal
CRD No. 2314895

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondents 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 us alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondents hereby accept and consent, 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

Garden State Securities, Inc. ("GSS") has been a member of FINRA since August 1981. GSS conducts a general securities business, has 16 registered branch offices and employs about 130 registered persons.

Kevin John DeRosa ("DeRosa") first became registered with FINRA as a General Securities Representative on February 5, 1993. On November 17, 1995, he also became registered as a General Securities Principal. From 1999 to the present, DeRosa has been registered in those two capacities, and as an Equity Trader, Research Principal and Investment Banking Representative, through GSS. DeRosa holds a 25% ownership interest in GSS.

RELEVANT DISCIPLINARY HISTORY

000057132 2011

On April 22, 2010, GSS entered into an AWC with FINRA in which it agreed to a censure and a \$55,000 fine for offering and selling unregistered securities without an available exemption, making commission payments to an unregistered entity, failing to make proper use of the Federal Trade Commission's national do-not-call registry and for certain advertising violations. As part of that AWC, DeRosa agreed to a censure and a \$5,000 fine for certain advertising violations. (AWC No. 2008011696501)

On February 22, 2010, GSS entered into an AWC with FINRA in which it agreed to a censure, a \$50,000 fine and the payment of \$3,984 in restitution for suitability, improper pricing and related supervision violations involving corporate bond transactions. (AWC No. 2005000525902)

On June 13, 2006, GSS entered into an AWC with NASD in which it agreed to a censure and a \$10,000 fine for failing to enforce its policies and procedures relating to the customer identification requirements of its written anti-money laundering compliance program. (AWC No. E9B20050057)

OVERVIEW

From December 2006 through October 2008 ("relevant time period"), GSS failed to establish, maintain and enforce a supervisory system and written supervisory procedures ("WSPs") that were reasonably designed to achieve compliance with the rules and regulations related to private offering solicitations. As a result of its deficient supervisory system and WSPs, GSS failed to conduct adequate due diligence on private placements by Medical Capital Holdings, Inc. ("MedCap") and U.S. Drillers, Inc. ("U.S. Drillers"). This conduct violated NASD Conduct Rules 3010 and 2110.

From on or about August 8, 2008 through October 17, 2008, GSS, acting through DeRosa, sold promissory notes issued by MedCap to six customers. In connection with those sales, GSS and DeRosa mischaracterized and/or negligently omitted certain material facts provided to investors. This conduct violated NASD Conduct Rule 2110.

In addition, on or about December 28, 2007, DeRosa distributed a piece of sales literature provided by an unaffiliated third party regarding U.S. Drillers to three customers that, among other things, were not fair and balanced and contained unwarranted claims and predictions and therefore did not comply with the content standards applicable to communications with the public and sales literature. This conduct violated NASD Conduct Rules 2210 and 2110.

FACTS AND VIOLATIVE CONDUCT

Supervisory Deficiencies

During the relevant time period, GSS failed to ensure that it established, maintained and enforced a supervisory system and WSPs reasonably designed to achieve compliance with the applicable rules and regulations concerning private offering solicitations. Specifically, the firm's procedures were deficient in that they failed to specify, among other things:

- Who at GSS was responsible for performing due diligence;
- What activities by GSS personnel were required to satisfy the due diligence requirement;
- How due diligence was to be documented;
- Who at GSS was responsible for reviewing and approving the due diligence that was performed and authorizing the sale of the securities; and
- Who was to perform ongoing supervision of the private offerings once customer solicitations commenced.

As a result of its deficient WSPs, GSS failed to conduct adequate due diligence on its MedCap and U.S. Drillers offerings, as described below.

Medical Capital Holdings, Inc.

MedCap was a medical receivables financing company based in Anaheim, California. MedCap's core business was to provide financing to healthcare providers by purchasing their accounts receivable and making secured loans to the providers.

In 2001, MedCap began raising funds for its operations through the sales of promissory notes through FINRA-registered firms. These notes were securities that were not registered with the U.S. Securities and Exchange Commission ("SEC") but were sold under the registration exemption provided by Rule 506 of Regulation D of the Securities Act of 1933. Pursuant to the private placement memoranda for the offerings, the notes could be sold only to accredited investors.

From 2001 through 2009, MedCap raised approximately \$2.2 billion from over 20,000 investors through nine Regulation D private placements offered through FINRA firms and other sales avenues. Each investor purchased a minimum of \$25,000 in promissory notes with maturities ranging from one to seven years. The notes promised annual interest rates from 8.25% to 10.50%.

MedCap made all interest and principal payments on these Regulation D offerings until July 2008. At that time, MedCap began experiencing liquidity problems

and, in August 2008, stopped making payments on two of its earlier offerings, which had not been sold by GSS or DeRosa. Nevertheless, MedCap proceeded with its last Regulation D offering, called Medical Provider Funding Corporation VI ("MPFC VI"), which it offered through an August 5, 2008 private placement memorandum (the "PPM"). In this offering, MedCap sought to sell up to \$400,000,000 of promissory notes with two, three and six-year terms, with interest rates ranging from 9% to 9.5%. MPFC VI differed from some of MedCap's earlier offerings in several respects, including allowing MedCap to use up to 40% of the proceeds raised to invest in businesses other than medical receivables and limiting the trustee's power to oversee MedCap's operations.

In July 2009, the SEC filed a civil injunctive action in federal district court in which it sought and was granted a preliminary injunction to stop all MedCap sales. The SEC alleged that MedCap and its executives defrauded investors in MPFC VI by misappropriating approximately \$18.5 million of investor funds. The SEC also alleged that MedCap had misrepresented that it had never defaulted on or had been late in making interest or principal payments, when in fact MedCap had defaulted or was late in paying nearly \$1 billion in principal and interest on the notes from its Regulation D offerings. The court appointed a receiver to gather and conduct an inventory of MedCap's remaining assets. The SEC action is pending.

The Firm's Sales of MPFC VI

On August 8, 2008, GSS executed an agreement to market and sell the MPFC VI notes. The WSPs of GSS required due diligence to be conducted on every private placement it offered, and required that such review had to be documented. GSS, however, failed to enforce those provisions with respect to the MPFC VI offering. For example, other than reading the PPM, no one at the firm conducted further due diligence on the offering before signing the sales agreement. Had the firm conducted adequate due diligence, GSS reasonably should have known by August 2008 that MedCap had defaulted on two of its earlier notes offerings and that, therefore, there was a misrepresentation in the PPM with respect to principal and interest payments to investors in the earlier offerings. GSS, however, failed to take reasonable steps to ensure that it timely learned of the missed payments on the earlier notes offerings and disclosed them to prospective investors in the MPFC VI notes.

Despite GSS's lack of adequate due diligence, from August 8, 2008 through October 17, 2008, DeRosa sold \$833,000 of MPFC VI notes to six customers, including his brother, and generated approximately \$37,485 in gross commissions from the sales of the notes. DeRosa sold MPFC VI notes through the use of the PPM, which, among other things, stated that MPFC VI's affiliated companies had

never defaulted in the payment of their obligations to their investors. By at least October 2008, and prior to his sixth customer investing in MPFC VI, however, DeRosa was aware that that was no longer true. Nevertheless, even after learning of the defaults, GSS and DeRosa negligently omitted to disclose that material fact in selling MPFC VI to at least the sixth customer. In addition, while selling MPFC VI notes, DeRosa mischaracterized the offering to customers as a safe investment with a "guaranteed 9% return."

U.S. Drillers, Inc.

On or about December 21, 2007, GSS first learned of the private placement in U.S. Drillers from SG, an owner and Managing Partner of BCG, an investment banking firm that recruited institutional investors and placed capital into its client companies. U.S. Drillers, which was one of BCG's clients, was intended to be an end-to-end drilling rig fabrication platform company to be created through the acquisition of two other companies in the drilling equipment business.

From December 2007 through 2008, SG recruited equity investors to put their money in U.S. Drillers.

The Firm's Sale of U.S. Drillers Stock

On or about December 28, 2007, GSS, through DeRosa and another registered representative, began to solicit customers to invest in the company's stock. From on or about December 2007 through August 2008, 21 individual customers of GSS invested a total of \$1.98 million in U.S. Drillers. GSS provided the only investors in U.S. Drillers.

GSS, however, failed to conduct adequate due diligence before soliciting investments. SG had represented to GSS that the customers' funds would be wired to a client trust account at a bank and then forwarded to an escrow account, which would be controlled by a third party, before being invested with U.S. Drillers. GSS, however, took no steps to verify this claim before wiring the customer funds to the account specified by SG. No one at GSS verified the existence of the client trust account and escrow account, and, after the funds were wired, no one requested or received a bank account statement to verify the receipt and location of the funds. Moreover, GSS failed to question why the wire instructions forwarded by SG failed to reference the client trust account in the "Bank Account Title" section of the form. Instead, the form referenced BCG.

In fact, SG had completely misrepresented the purported U.S. Drillers offering. Instead of directing the customers' money into the escrow account, SG kept the funds in bank accounts that he controlled and then used the funds for his own

benefit, including for paying his business and personal expenses such as restaurant tabs, travel, and purchasing a Range Rover Sport. On December 7, 2009, SG pleaded guilty in federal district court to wire fraud for misappropriating the customers' funds. On August 25, 2010, SG was sentenced to 6½ years in federal prison.

In connection with his sales of U.S. Drillers stock, DeRosa disseminated a PowerPoint presentation, which summarized the offering, to three prospective investors. This presentation, which DeRosa had received from SG, constituted sales literature under NASD Conduct Rule 2210(a)(2). It did not, however, comply with the content standards applicable to communications with the public and sales literature in the following respects:

1. It failed to provide a fair and balanced treatment of risks and potential benefits, in that the "U.S. Drillers Summary Projected Financials" failed to *disclose the assumptions used to arrive at the projected revenues, profits, expenses and earnings*. Further, the 2008-2012 income statement failed to disclose the basis of the management estimates and the assumptions used in the calculations.
2. It contained unwarranted or exaggerated claims, such as the statement that "U.S. Drillers will be one of the only publicly traded U.S. based end to end rig fabrication platforms" and the "rig mechanization reduces and eliminates safety hazard exposure, so newer rigs create a safer work environment for inexperienced rig employees."
3. It contained predictions of performance by indicating that "U.S. Drillers projects revenues for calendar 2008 of approximately \$217 million, with EBITDA of \$59 million."
4. It also failed to disclose prominently the name of GSS, failed to reflect any relationship between GSS and the non-FINRA member entities involved in the offering and failed to reflect which product or services were being offered by GSS.

Violations

By failing to establish, maintain and/or enforce a supervisory system and WSPs that were reasonably designed to achieve compliance with the rules and regulations in connection with private offering solicitations, and consequently ensure that the firm conducted adequate due diligence on its MedCap and U.S. Drillers offerings, GSS violated NASD Conduct Rules 3010 and 2110.

By mischaracterizing and/or negligently omitting material facts in connection with the MPFC VI note offering, GSS and DeRosa violated NASD Conduct Rule 2110.

By distributing sales literature that was not fair and balanced and which contained unwarranted, exaggerated and/or inaccurate statements, DeRosa violated NASD Conduct Rules 2210(d)(1)(A), 2210(d)(1)(B), 2210(d)(1)(D), 2210(d)(2)(C) and 2110.

B. Respondents also consent to the imposition of the following sanctions:

- a censure against GSS;
- an order requiring GSS and DeRosa to pay restitution on a joint and several basis to six MedCap investors in the total amount of \$300,000, all as indicated on Attachment A;¹
- a 20-business day suspension of DeRosa from association with any FINRA member in any capacity;
- an additional two-month suspension of DeRosa from association with any FINRA member in any principal capacity to commence immediately following the completion of the 20-business-day suspension above; and
- a \$25,000 fine against DeRosa.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondent DeRosa has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Respondents specifically and voluntarily waive any right to claim that they are unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

If for any reason a MedCap investor listed on Attachment A refuses to accept the ordered restitution payment, then Respondents must distribute that amount, on a *pro rata* basis with respect to the dollar amount of their investment in MedCap, to the other customers listed on Attachment A.

Respondent DeRosa and a registered principal on behalf of Respondent GSS shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Noel C. Downey, Senior Regional Counsel FINRA Department of Enforcement, 581 Main Street – Suite 710, Woodbridge, NJ 07095 either by letter

¹ Pursuant to the General Principles Applicable to all Sanction Determinations contained in the Sanction Guidelines, FINRA did not also impose a fine against GSS after it considered, among other things, the firm's revenues and financial resources. See Notice to Members 06-55.

that identifies Respondents and Examination No. 20090188192 and includes a copy of the check, money order or other method of payment or by e-mail from DeRosa and/or a work-related account of the registered principal of Respondent GSS to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 120 days after acceptance of the AWC.

If for any reason Respondents cannot locate any MedCap investor identified in Attachment A after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by a FINRA staff member in writing, Respondents shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. Respondents shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Respondent DeRosa understands that if he is barred or suspended from associating with any FINRA member, 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, DeRosa 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).

Respondent DeRosa 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, DeRosa 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 DeRosa is subject to a statutory disqualification during the suspension, if DeRosa 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.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against them;
- 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, Respondents specifically and voluntarily waive 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.

Respondents further specifically and voluntarily waive 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 regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondents understand 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 them;
- C. If accepted:
1. this AWC will become part of their permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against them;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about their 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. Respondents 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. Respondents 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and
- D. Respondents may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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, on behalf of Respondent GSS, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the firm 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, has been made to induce the firm to submit it.

Respondent DeRosa 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 he 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, has been made to induce him to submit it.

04/08/11
Date (mm/dd/yyyy)

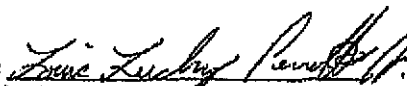

Kevin John DeRosa
Respondent

Reviewed by:

Gerald J. Russello
Counsel for Respondent DeRosa
Bingham McCutchen LLP
399 Park Avenue
New York, NY 10022-4689
(212) 705-7849

Garden States Securities, Inc.

4/8/11
Date (mm/dd/yyyy)

By: 
Louis Lucky Perrotte, Jr.
Chief Executive Officer

Reviewed by:

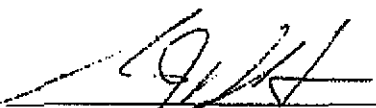

Robert I. Rabinowitz, Esq.
Counsel for Respondent GSS
Becker & Poliakoff, LLP
11 Wharf Avenue - Suite 4
Red Bank, NJ 07701
(732) 842-1662

than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit it.

April 3, 2011
Date (mm/dd/yyyy)

Kevin John DeRosa
Respondent

Reviewed by:



Gerald J. Russello
Counsel for Respondent DeRosa
Bingham McCutchen LLP
399 Park Avenue
New York, NY 10022-4689
(212) 705-7849

Garden States Securities, Inc.

Date (mm/dd/yyyy)

By: _____
Louis Lucky Perrotto, Jr.
Chief Executive Officer

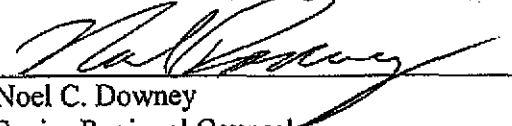
Reviewed by:

Robert I. Rabinowitz, Esq.
Counsel for Respondent GSS
Becker & Poliakoff, LLP
11 Wharf Avenue - Suite 4
Red Bank, NJ 07701
(732) 842-1662

Accepted by FINRA:

5/10/2011
Date

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


Noel C. Downey
Senior Regional Counsel
FINRA Department of Enforcement
581 Main Street - Room 710
Woodbridge, NJ 07095
732-596-2042 (telephone)
202-721-6548 (facsimile)