

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009019837303**

To: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

Re: Brookstone Securities, Inc.
CRD No. 13366

David W. Locy
General Securities Principal
CRD No. 4682865

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondents Brookstone Securities, Inc. ("Brookstone") and David W. Locy ("Locy") 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 Brookstone or Locy alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. Brookstone and Locy 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

Brookstone is currently, and was during all times relevant hereto, a member of FINRA and registered as a broker-dealer with the U.S. Securities and Exchange Commission. Brookstone purchased predecessor broker-dealer RISE, Inc. on July 14, 2005. RISE, Inc. had been a member of FINRA since April 8, 1983. Brookstone currently employs approximately 157 registered personnel and operates 44 branch offices.

Locy entered the securities industry in July 2003 as a General Securities Representative with a FINRA registered firm. He has been registered as a General Securities Principal, Financial & Operations Principal, Municipal Securities Principal, and Registered Options Principal with Brookstone since June 2005. Locy served as the firm's Chief Compliance Officer between July 2005 and August 2008. Locy has served as Brookstone's President since April 2008, and has served as the firm's Chief Executive Officer since August 2009.

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Relevant Disciplinary History

Neither Brookstone nor Locy has been the subject of prior formal disciplinary action by FINRA that is relevant to this matter.

Overview

Brookstone, acting through Locy, failed to conduct adequate due diligence for a Regulation D offering sponsored by Midwest Investment. In addition, Brookstone, acting through Locy, failed to have adequate written supervisory procedures addressing due diligence. Through this conduct, Brookstone and Locy violated NASD Conduct Rules 3010 and 2110.

Facts and Violative Conduct

NASD Conduct Rule 3010 requires registered broker-dealers to establish, maintain and enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA Rules. Rule 3010 also requires that a member firm establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives and associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules.

A broker-dealer must conduct due diligence on its securities products in order to understand the inherent risks of these products and to determine whether these products are suitable for its customers. This due diligence is especially important for alternative investments or private offerings, such as Regulation D offerings, where there is no registration of the securities with the SEC.

Between approximately January 2008 and June 2009, Brookstone registered representatives B.M., F.S. and T.G. sought approval from Brookstone to engage in a \$100,000,000 Regulation D offering by the name of Midwest Investment Partners, LLC ("Midwest"), to accredited retail customers. Midwest was formed primarily to market and distribute an investment opportunity with Vestium Equity Fund, LLC ("Vestium"). Vestium, in turn, invested in notes that were to provide monthly income to investors.

Brookstone's WSPs provide that, "Due diligence is an essential measure to be taken in order to protect [Brookstone] customers, the firm itself and other broker/dealers from fraud on the part of the issuer. Furthermore, it is not possible for us to adequately assess the viability of an issuer's business plan, or the suitability of the securities for the member's customers, without undertaking an in-depth due diligence investigation or by receiving written verification that such due diligence activities have been completed by a third party (i.e., another

broker/dealer, attorney, public accountants, industry experts, etc.).” Accordingly, the WSPs included four pages addressing the firm’s due diligence requirements for each offering in which Brookstone contemplated participating.

However, the above WSPs regarding due diligence were applicable only to underwritings undertaken by Brookstone, and were not applicable to a “third-party private placement,” which Locy defined as a private placement that another broker-dealer marketed as a syndicator and for which Brookstone was simply a selling member. Locy testified that he considered the Midwest offering to be a third-party private placement.

Brookstone, acting through Locy, had no WSPs addressing the due diligence requirements for third-party placements, such as the Midwest offering.

Brookstone, acting through Locy, also failed to conduct an adequate due diligence of the Midwest offering before he approved the offering of Midwest shares to customers. Locy’s due diligence efforts did not include any investigation into Vestium, despite acknowledging that he knew very little about either company and that he could not get any solid information on Vestium. He made no attempt to contact anyone at Vestium and did not look into whether there was any pending litigation against Vestium. No one audited or made any attempt to verify Vestium’s financial statements. Locy, in essence knew nothing about Vestium that was not contained in Midwest’s private placement memoranda. Instead, Locy simply accepted that the Brookstone representatives forming the Midwest offering had done the due diligence on it, and relied on their opinion regarding the management at Vestium, the fund’s performance history, and general background.

Locy’s faith on the due diligence efforts of the Brookstone representatives putting together the Midwest offering was also misplaced. Locy acknowledged that the representatives had very limited, if any, experience forming a private placement. As Series 6 representatives, none of the Brookstone representatives had experience selling notes, so Locy’s reliance on the representatives’ opinion concerning Vestium’s management team and fund performance was suspect, at best. Furthermore, B.M., F.S., T.G. and at least one other Brookstone representative sold or participated in sales of Midwest shares to customers, without notifying Locy or anyone else at Brookstone, causing those sales to not be recorded on the books and records of the firm.

Through this conduct, Brookstone, acting through Locy, violated NASD Conduct Rules 3010 and 2110 and FINRA Rule 2010.

B. Brookstone and Locy also consent to the imposition of the following sanctions:

1. A censure; and
2. A joint and several fine of \$25,000.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

Brookstone and Locy agree to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Brookstone and Locy have submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

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

II. WAIVER OF PROCEDURAL RIGHTS

Brookstone and Locy 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, Brookstone and Locy 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.

Brookstone and Locy 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

Brookstone and Locy 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; and
- C. If accepted:
 - 1. this AWC will become part of Brookstone's and Locy's 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 Brookstone's or Locy'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. Brookstone and Locy 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. They 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 their right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Brookstone and Locy may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Brookstone and Locy 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.

Date 5/9/11

By: [Signature]

David W. Locy, Respondent

5/20/11
Date

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