

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

AUG - 5 2011

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

WILLIAM B. FRETZ, JR.
(CRD 1545760),
JOHN P. FREEMAN
(CRD 1651569), and
THE KEYSTONE EQUITIES GROUP,
LP (CRD 127529),

Respondents.

DISCIPLINARY PROCEEDING
No. 2010024889501

HEARING OFFICER:

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From January 2008 through December 2010 (the relevant period), Respondents William B. Fretz, Jr. and John P. Freeman misused customer funds and breached their ethical obligations by engaging in a pattern of self-dealing with the funds of one of their brokerage customers, Covenant Partners, LP (Covenant).
2. Fretz and Freeman are two principals of FINRA member and Respondent The Keystone Equities Group, LP (Keystone or the Firm).
3. Covenant, a customer of the Firm, is a private investment partnership that Fretz and Freeman controlled. Other individuals also invested in Covenant.

4. Fretz and Freeman made transfers from Covenant's brokerage and banking accounts to themselves and to entities in which they had an interest, including the Firm and the Firm's holding company, Keystone Group Holdings, LP.

5. In total, during the relevant period, Fretz and Freeman transferred approximately \$5.5 million of Covenant's funds to themselves and to entities in which they had an interest.

6. They variously described these disbursements as loans or capital distributions as it suited their purposes and directly benefitted them. At times, over \$4 million of these transfers were characterized on the contemporaneous books and records of Covenant as interest-free loans to Fretz and to Keystone Group Holdings, and as a deficit in the capital account of Covenant's general partner, Covenant Capital Management Partners, LP. None of these purported loans was documented, evidenced, or supported at the time they were made by promissory notes or other loan documents.

7. By borrowing money interest-free from Covenant in this fashion, in part to benefit Keystone, Fretz and Freeman did not act in Covenant's best interests, made an improper use of Covenant's funds, and acted unethically.

8. Fretz and Freeman, by characterizing the disbursements of Covenant funds to themselves as loans, permitted Fretz's ownership share in Covenant to remain untouched so that Fretz received a disproportionately large portion of the proceeds from a sale of Covenant's equity interest in another company.

9. Fretz and Freeman also engaged in self dealing when, among other things, they ignored material provisions in Covenant's offering circular and limited partnership agreement, thereby allowing them to receive an improperly inflated fee when they calculated Covenant's profit allocation in 2009.

10. Fretz and Freeman also misled investors because they failed to disclose their self-dealing to Covenant investors and because they continued to sell interests in Covenant via Covenant's offering circular and limited partnership agreement at a time, when by virtue of their own conduct, material terms of these documents were inaccurate.

11. Fretz, Freeman and Keystone also misled FINRA in response to requests about the nature of the payments they caused Covenant to make to Keystone. Fretz and Freeman repeatedly described the payments as distributions from Fretz's personal Covenant account, when, in fact, they were not.

12. Keystone, for its part, separately sent misleading account statements to certain Covenant investors that showed the value of their Covenant investment at cost, when, in fact, that was not the actual or accurate valuation.

13. In addition to the foregoing, Fretz had eight judgments of over \$2.4 million filed against him in 2009-2010 all of which remain unsatisfied for more than 30 days. However, Fretz failed to properly amend his Form U4 to reflect these eight unsatisfied judgments and, in one instance, he filed a false U4 amendment in which he incorrectly answered "no" to a question that asked him whether he any unsatisfied judgments.

RESPONDENTS AND JURISDICTION

14. Fretz, age 47, first held a FINRA registration in 1987. He has been employed at Keystone from 2003 to the present. At Keystone, Fretz maintained the following registrations:

- a. General Securities Representative (Series 7);
- b. General Securities Principal (Series 24);
- c. Equity Trader (Series 55);
- d. Financial and Operations Principal (Series 27);

- e. Investment Banking Representative (Series 79);
- f. Registered Options Principal (Series 4); and
- g. General Securities Sales Supervisor (Series 9 and 10).

15. Freeman, age 52, first held a FINRA registration in 1987. He has been employed at Keystone from 2003 to the present. At Keystone, Freeman maintained the following registrations:

- a. General Securities Representative (Series 7); and
- b. Investment Banking Representative (Series 79).

16. Keystone, a member of FINRA since 2003, is a privately-held broker dealer that operates one branch office in Oaks, Pennsylvania, and employs approximately 5 registered representatives, including Fretz and Freeman.

17. Fretz and Freeman are two of the owners of Keystone.

18. At all times relevant to the Complaint, Keystone was a member of FINRA and remains subject to the jurisdiction of FINRA under Article IV, Section 1 of FINRA's By-Laws.

FACTS

Keystone

19. Fretz and Freeman founded Keystone in 2003 and are two of its owners.

20. Fretz is the President and Freeman a Director.

21. Keystone's primary business is providing investment banking services for small to mid-size companies, including by raising capital through debt and equity offerings and by advising on mergers and acquisitions.

22. Keystone's financial performance was adversely affected by the financial crisis in the capital markets that began in 2008.

23. In the last three years, Keystone's revenues have dropped precipitously:

- a. 2008 revenues: \$813,234;
- b. 2009 revenues: \$276,159; and,
- c. 2010 revenues: \$99,082.

24. For the years 2008-2010, Keystone had net losses of approximately \$1.8 million, consisting of net losses of \$664,211 in 2008, \$546,547 in 2009, and \$599,994 in 2010.

25. Keystone's audited financial statements for 2010 state that losses of \$599,994 sustained in 2010 raise "substantial doubt about the Company's ability to continue as a going concern."

Covenant

26. Covenant, founded in 1996, is a limited partnership, which Fretz and Freeman have variously described as a private equity firm or hedge fund.

27. Covenant is controlled by Fretz and Freeman -- each is a 50 percent owner of Covenant's General Partner.

28. By way of background, the General Partner is the entity that is entitled to receive the annual 1% management fee and annual 20% performance fee (termed the "profit allocation" by partnership documents). These fees, the specific terms of which are set forth in Covenant's partnership agreement and offering circular, were the way in which Fretz and Freeman were supposed to be compensated for managing Covenant.

29. Covenant is a brokerage customer of Keystone and had a Keystone brokerage account at all relevant times herein.

30. Fretz is the broker of record on the Covenant account.

31. Covenant is identified on Keystone's website as an "Affiliate and Business Partner"

of Keystone.

32. During the relevant period, there were fewer than 50 limited partners (i.e., investors) in Covenant.

33. Most of the limited partners are friends or family of Fretz or Freeman.

34. During the relevant period, some of the limited partners held their Covenant investment in retirement accounts at Keystone and, accordingly, they too were customers of the Firm.

35. During the relevant period, Covenant's net asset value ranged from approximately \$6 million in 2008 to approximately \$8 million in 2010.

FIRST CAUSE OF ACTION

Improper Use of Customer Funds/Unethical Conduct - NASD Rules 2330(a) and 2110 and FINRA Rules 2150(a) and 2010 (Fretz and Freeman)

36. The Department realleges and incorporates by reference paragraphs 1-35 above.

37. NASD Rule 2330(a) and FINRA Rule 2150(a)¹ prohibit members and associated persons from making improper use of a customer's securities or funds.

38. NASD Rule 2110 and FINRA Rule 2010² require members and associated persons to observe high standards of commercial honor and just and equitable principles of trade.

39. As alleged further below, Fretz and Freeman breached each of these separate obligations.

40. During the relevant period, Covenant received in excess of \$10 million from various sources, including from investors, from the sale of an investment in a privately-held company, and by borrowing money from third parties.

¹ NASD Rule 2330(a) was superseded by FINRA Rule 2150(a) effective December 15, 2009.

² NASD Rule 2110 was superseded by FINRA Rule 2010 effective December 15, 2008.

41. Fretz and Freeman used this money to make transfers of approximately \$5.5 million to themselves and to their business interests.

42. The approximate \$5.5 million taken out of Covenant exceeded the value of equity that Fretz and Freeman had in Covenant.

43. Transfers were in the form of checks on and wire transfers from Covenant's bank and brokerage accounts.

44. In particular, during the relevant period, Fretz and Freeman transferred:

- a. approximately \$2.4 million to Fretz;
- b. approximately \$1.2 million to Keystone and Keystone Group Holdings;
- c. approximately \$726,000 to Freeman; and
- d. approximately \$1 million to other business interests of Fretz, including a restaurant and construction company Fretz owned.

45. As alleged in more detail below, the accounting treatment for these transfers has changed over time, as it suited the interests of Fretz and Freeman, with many of the disbursements at one time or another being accounted for as loans. However, Fretz and Freeman have never paid any interest to Covenant for use of this money.

Fretz borrowed \$2.5 million interest-free in 2008-2009

46. According to Covenant's contemporaneous books and records, in 2008, Fretz borrowed \$505,058 interest-free over the course of the year. The disbursements were carried on Covenant's books as "Notes Receivable - Bill Fretz."

47. No documents evidenced this Note.

48. Fretz received the funds as follows:

- a. April 2008 - \$50,000;

- b. June 2008 - \$105,058;
 - c. July 2008 - \$30,000;
 - d. August 2008 - \$40,000;
 - e. September 2008 - \$115,000;
 - f. November 2008 - \$80,000; and
 - g. December 2008 - \$85,000.
49. No interest was accounted for this purported Note.
50. In 2009, Fretz caused the disbursement of an additional \$1,984,816 over the course of the year.
51. The amount was again recorded as a "Notes Receivable - Bill Fretz" in Covenant's accounting records.
52. No documents evidence this purported Note.
53. Fretz received the funds as follows:
- a. January 2009 - \$140,000;
 - b. February 2009 - \$15,000;
 - c. March 2009 - \$15,000;
 - d. April 2009 - \$126,000;
 - e. May 2009 - \$75,000;
 - f. August 2009 - \$147,000;
 - g. September 2009 - \$115,500;
 - h. October 2009 - \$845,000; and
 - i. November 2009 - \$506,316.
54. No interest was accounted for this purported Note.

55. In total, from April 2008 through November 2009, Fretz borrowed \$2,489,874 from Covenant interest-free.

56. In effectuating the foregoing interest-free loans, Fretz and Freeman authorized the transfer of Covenant's assets from its brokerage account at Keystone (as well as Covenant's bank accounts) to Fretz and his business interests.

57. By characterizing the \$2,489,874 disbursements as a loan to himself on Covenant's accounting records during the period 2008-2009, Fretz did not have to draw down his personal capital account at, and his interest in, Covenant.

58. As a result, Fretz was able to take full advantage of a profitable event that occurred in or about October 2009 -- the merger of IXI Corporation ("IXI"), a privately-held data marketing company.

59. Prior to October 2009 Covenant owned shares in IXI. When Covenant liquidated its interest in IXI, the funds from the sale caused Covenant to have a profitable year. The profits were, in turn, disbursed to the Covenant partners according to the interests each had in Covenant.

60. At the time of the IXI liquidation, Fretz's capital account was unaffected by the disbursements to him as detailed above, because he and Freeman ensured that they were considered loans and not capital distributions. Accordingly, Fretz received approximately \$1 million as his share of the 2009 profits.

61. During the time Fretz was borrowing money interest-free from Covenant, Covenant was paying high rates of interest on existing debt and also borrowing new money at high rates of interest, including as high as 15%.

62. In December 2009, Fretz retired his debt to Covenant by taking a distribution from his personal capital account at Covenant, which had been funded by his share of the sale of Covenant's interest in IXI.

63. Fretz paid no interest on the debt.

64. In April 2011, years after the fact, Fretz and Freeman changed the accounting treatment for funds received from Covenant that they had previously characterized as "Note Receivable - Bill Fretz." They now re-characterized a portion of those funds on Covenant's books as a loan to Keystone Group Holdings.

65. This accounting change is reflected in a promissory note dated December 31, 2010 from Keystone Group Holdings to Covenant in the amount of \$1,410,573. Principal and interest at 10% are due at maturity of the Note on December 31, 2012.

66. This accounting change, which came only after FINRA investigated and questioned these payments, does not alter the fact that at the time Fretz and Freeman treated the payments as an interest-free loan.

67. In any event, treating this disbursement as an interest-bearing loan to Keystone Group Holdings, rather than a no-interest loan to Fretz, was also a misuse of customer funds and breach of Fretz's ethical obligations to make such a loan, given Keystone's financial condition at the time.

68. As previously alleged, Keystone has dwindling revenues, heavy losses, and has not been a viable business for more than three years.

69. As previously alleged, Keystone's own accountants have stated in Keystone's 2010 audited financial statements filed with the Securities and Exchange Commission that there is a substantial doubt about Keystone's ability to continue as a going concern.

70. In addition, the purported interest rate of 10% is about the same, and in some instances even less, than the rate that Covenant is currently paying on its own debt, which ranges as high as 15%.

Freeman borrowed an additional \$532,945 interest-free in 2008-2009 by running a deficit in the account of Covenant's General Partner

71. Separate and apart from the foregoing, during 2008 and 2009, Fretz and Freeman also made transfers from Covenant's banking and brokerage accounts directly to Freeman.

72. Fretz and Freeman accounted for those transfers as debits to the capital account of Covenant's General Partner, Covenant Capital Management (the "General Partner").

73. Fretz and Freeman equally owned and controlled the General Partner.

74. The General Partner's account had \$129,624 as of January 1, 2008. By reason of a series of debits made through the course of the year, however, by year end the account was negative.

75. Thus, according to Covenant's books and records, the General Partner's account had a deficit of \$34,474 as of January 1, 2009.

76. Nonetheless, Fretz and Freeman continued to make transfers to Freeman from Covenant's accounts in 2009, accounting for these payments as debits to the General Partner's account.

77. Fretz and Freeman caused monthly debits to the General Partner's account as follows:

- a. January 2009 - \$26,000;
- b. February 2009 - \$15,000;
- c. March 2009 - \$15,000;
- d. April 2009 - \$13,000;

- e. May 2009 - \$19,000;
- f. August 2009 - \$25,000;
- g. September 2009 - \$16,000;
- h. October 2009 - \$20,000;
- i. November 2009 - \$75,000; and
- j. December 2009 - \$274,471.

78. By year end, for the years 2008-2009, the General Partner had a negative account value of \$532,945.

79. The practical effect of running a negative account balance for the General Partner's account was that Fretz and Freeman borrowed money from Covenant interest free.

80. At year end 2009, the deficit in the General Partner's account was eliminated, at least on the books, based on a credit to the account based on the profit allocation, but no interest was paid.

81. Fretz and Freeman's conduct in borrowing money interest free from Covenant was an improper use of customer funds as well as unethical self-dealing.

Fretz and Freeman borrowed an additional \$1.4 million interest free in 2010

82. According to Covenant's accounting records, Fretz had no equity left in his personal account at Covenant as of January 1, 2010 and approximately \$426,852 in a separate IRA account at Covenant.

83. Due to his age, Fretz cannot take distributions from his IRA account without incurring a federal tax penalty.

84. In addition, as of January 1, 2010, there was no equity left in the General Partner's account.

85. Freeman does not have a personal account at Covenant, other than an IRA valued at less than \$5,000.

86. Nevertheless, throughout 2010, Fretz and Freeman continued to make transfers to themselves and to their various business interests, including Keystone, from Covenant's brokerage and banking accounts.

87. In the contemporaneous accounting records for Covenant, these payments were characterized as a "Note Receivable" from Keystone Group Holdings, even though many of the payments went directly to Fretz or Freeman.

88. As with other disbursements to Fretz and Freeman described above, there was no promissory note and no interest was identified as due on Covenant's Trial Balance.

89. Fretz and Freeman's conduct in borrowing money interest free was an improper use of customer funds as well as unethical self-dealing.

Fretz and Freeman Overstated the Profit Allocation For 2009

90. Covenant's limited partnership agreement and offering circular contain provisions describing a high water mark as it relates to the profit allocation.

91. These provisions require individual investor accounts to recoup past losses before the profit allocation is assessed against a current year's gains.

92. For example, the offering circular provides:

The Profit Allocation contains what is known in the industry as "high water mark." A high water mark simply means that if a Limited Partner has a Loss in any period followed by a Profit, there will not be a Profit Allocation to the General Partner until the Loss has been fully recouped.

93. Neither the offering circular nor the limited partnership agreement was ever amended to delete these provisions.

94. In addition, new investors throughout the relevant period continued to receive copies of the limited partnership agreement and offering circular containing representations that the profit allocation was subject to a high water mark.

95. Nonetheless, in calculating the 2009 profit allocation from the sale of IXI, Fretz and Freeman ignored the high water mark provisions.

96. By ignoring the high water mark provision, Fretz and Freeman were able to allocate approximately \$400,000 more to the General Partner account at Covenant than the account would otherwise have been credited and the individual investor accounts were collectively reduced by the same amount.

Fretz and Freeman overstated the value of contributions Fretz made to Covenant in 2004 by at least \$183,076

97. Fretz and his immediate family made contributions to Covenant during 2004 in the form of 123,000 shares of PetFoodDirect, Inc. (PetFood) stock.

98. They were given a total credit of \$246,000 in their Covenant accounts based on a per share valuation of \$2 for the PetFood stock.

99. However, PetFood was carried on Covenant's 2004 financials at \$.51 per share, meaning that Fretz and Freeman, on behalf of Covenant, valued the stock as being worth only \$62,924.

100. In addition, in or about April 2004, PetFood offered up to \$2 million shares at \$.32 per share in a private placement, a fact that Fretz and Freeman knew or should have known. Based on that offering, the PetFood stock was worth only \$39,360.

101. Based on these valuations, Fretz and family contributions were overstated by approximately \$183,076 to approximately \$206,640.

Freeman negotiated a loan from Covenant in 2004 but improperly failed to pay interest to Covenant

102. In July 2004, Freeman borrowed \$11,000 from Covenant with an interest rate of 6%.

103. Covenant's accounting records show that the principal balance of the loan was retired in January 2009, but Freeman failed to pay any interest on the debt at any time including to date.

104. In summary, as alleged in the six examples set forth above, Fretz and Freeman made improper use of a customer's funds and violated the ethical standards of our industry.

105. Accordingly, by reason of the foregoing, Fretz and Freeman have separately and independently violated each of the following rules: NASD Rule 2330(a), FINRA Rule 2150(a), NASD Rule 2110, and FINRA Rule 2010.

SECOND CAUSE OF ACTION

**(Misrepresentations and Omissions of Material Facts to Investors -
NASD Rule 2110 and FINRA Rule 2010) (Fretz and Freeman)**

106. The Department realleges and incorporates by reference paragraphs 1-105 above.

107. NASD Rule 2110 and FINRA Rule 2010 require members and associated persons to observe high standards of commercial honor and just and equitable principles of trade.

108. During the relevant period, Fretz and Freeman breached the foregoing obligation by making material misrepresentations and omissions to Covenant investors.

109. Fretz and Freeman failed to disclose the following:

- a. that they were paying themselves and their business interests millions of dollars out of Covenant's funds;
- b. that they were obtaining interest-free loans from Covenant; and/or

- c. that they had decided to and did make a self-interested loan of \$1.4 million to Keystone Group Holdings, notwithstanding the fact that, as alleged above, Keystone was on the brink of insolvency and that Covenant was itself a debtor paying high rates of interest on its debt.

110. In addition to the foregoing omissions, Fretz and Freeman made misstatements via the limited partnership agreement and offering circular that they distributed to investors during the relevant period.

111. These documents made certain representations, or set forth certain actions that were to be taken, that in practice were ignored by Fretz and Freeman.

112. Representations in the limited partnership agreement and offering circular that were rendered misleading and false as a result of Fretz and Freeman's conduct were as follows:

- a. The representation that the profit allocation would be subject to a high-water mark. In fact, Fretz and Freeman acted as if there was no high water mark and failed to apply one in calculating the 2009 profit allocation.
- b. The representation that proceeds from the offering were to be invested in securities and other investments. In fact, proceeds were used to support capital withdrawals and to make self-interested and interest-free loans.
- c. The representation that gains would be reinvested or distributed pro rata. In fact, gains in 2009 were used to support Fretz's capital withdrawals and to make self-interested and interest-free loans.
- d. The representation that the general partner and its affiliates would take appropriate measures to assure that none of them would unfairly profit from

any transaction between any of them and the Partnership. In fact, as alleged above, Fretz and Freeman unfairly profited from transactions with Covenant.

- e. The representation that the general partner's aggregate capital account balance will be not less than one percent of the sums of the capital account balances of all limited partners. In fact, as alleged above, the general partner's account was less than 1% (and in fact negative) in 2008-2009.
- f. The representation that the general partner would maintain complete and accurate accounts in proper books of all transactions of or on behalf of the Partnership; make or cause to be made a full accounting at the end of each fiscal year; and prepare or cause to be prepared audited financial statements for and as of the end of each fiscal year. In fact, the books and records of Covenant are neither complete nor accurate, and no financial statements -- audited or unaudited -- were prepared for years 2008, 2009 or 2010.

113. Each of the foregoing omissions and misrepresentations was material.

114. Each of the foregoing omissions and misrepresentations was intentionally, recklessly, or, at a minimum, negligently made.

115. Accordingly, by reason of the foregoing, Fretz and Freeman violated NASD Rule 2110 and FINRA Rule 2010.

THIRD CAUSE OF ACTION

(Misleading Statements To FINRA - FINRA Rules 8210 and 2010 (Fretz, Freeman and Keystone)

116. The Department realleges and incorporates by reference paragraphs 1-115 above.

117. FINRA Rule 8210 requires member firms and associated persons to respond accurately and truthfully to requests for information.

118. FINRA Rule 2010 requires member firms and associated persons to observe high standards of commercial honor and just and equitable principles of trade.

119. On three separate occasions in late 2009, Fretz, Freeman, and/or Keystone breached these obligations by representing to FINRA that payments to Keystone Group Holding from Covenant were from Fretz's capital account at Covenant.

120. In fact, as Fretz and Freeman knew or should have known, these payments were loans, not capital distributions, and were recorded as loans on Covenant's books and records.

121. On a fourth occasion in 2009, Freeman provided inaccurate and false information to FINRA regarding the value of Fretz's account at Covenant by overstating its value.

122. The specific responses that were inaccurate and false are as follows:

The September 23, 2009 Response

123. On September 17, 2009, FINRA requested pursuant to Rule 8210 that Keystone "furnish the District Office with a copy of the bank statement evidencing the origin" of a \$50,000 April 29, 2009 deposit into the firm.

124. Fretz responded by email dated September 23, 2009 stating that the \$50,000 was a distribution to him from Covenant. Attached to the email, Fretz included a "Distribution Confirmation" statement signed by Freeman to the same effect, which Fretz also signed.

The November 24, 2009 Response

125. On November 4, 2009, FINRA requested, pursuant to Rule 8210, that Fretz and Keystone produce evidence of the origins of capital infusions made during Q3, 2009, specifically asking for "Bank Statements from the source of the infused funds."

126. Keystone responded to the request by email on November 24, 2009 with an attached letter dated November 3, 2009 signed by John Freeman indicating that \$72,000 in capital infusions during Q3, 2009 were "transfers from [Bill Fretz's] personal account with Covenant." Fretz was copied on Keystone's email response.

The December 14, 2009 Response

127. On December 1, 2009, FINRA sent an email confirming that Keystone had agreed during a conference call of that day to provide information "to evidence that the capital infusions constitute good capital for net capital purposes." One item was "A signed, written statement from William Fretz on [Keystone] letterhead explaining the origin and flow of funds from his personal account at Covenant Partners to the Firm's account."

128. FINRA's email did not explicitly state that it was being sent pursuant to Rule 8210.

129. Fretz responded by letter dated December 14, 2009, "confirming that the funds that I have invested into Keystone Equities have originated from my personal account with Covenant Partners, L.P. My funds from Covenant have been transferred to Keystone Group Holdings, LP, which in turn invests in The Keystone Equities Group, LP."

130. In fact, each of the three responses above was inaccurate and false.

131. The contemporaneous books and records of Covenant, including not only the trial balances, but also a ledger of payments maintained by Covenant at its offices, record these payments as loans.

132. In addition, at or about the time these representations were being made, Fretz separately stated in an email to an accountant that he did not take any distributions from Covenant Partners, only loans.

133. Specifically, on November 5, 2009, he wrote: "A few things that need to get cleared up I didn't take any distributions only loans from the partnership in 2008-2009. I will try to pay off that number before the end of 2009."

134. Consistent with the foregoing, when Fretz and Freeman calculated the profits to be allocated to each limited partner as a result of a profitable liquidation in the 4th Quarter of 2009, they treated the payments to Keystone as loans against Fretz's account, not capital distributions.

135. For these and other reasons, Fretz and Freeman knew or should have known that their responses to FINRA were inaccurate and false.

December 16, 2009 Response

136. On December 1, 2009, FINRA requested from Keystone "A Financial statement detailing William Fretz's account value in the Covenant Partners fund."

137. FINRA's email did not explicitly state that it was being sent pursuant to Rule 8210.

138. Freeman responded by letter dated December 16, 2009 in which he stated that as of November 1, 2009, "William Fretz's account value with Covenant Partners, LP was in excess of \$2,000,000."

139. In fact, the 2008 and 2009 trial balances show that Fretz's account was worth approximately \$1.4 million as of January 1, 2009. By November 2009, Fretz's account had dropped to less than \$500,000 by reason of his outstanding loans.

140. Freeman knew or should have known that this was the case and he failed to act reasonably in satisfying himself of the truth or accuracy of his response to FINRA prior to

sending it.

141. Accordingly, Fretz and Keystone violated FINRA Rules 8210 and 2010 by reason of the Response dated September 23, 2009; Fretz, Freeman, and Keystone violated FINRA Rules 8210 and 2010 by reason of the Response dated November 24, 2010; Fretz and Keystone violated FINRA Rule 2010 by reason of the Response dated December 16, 2009; and, Freeman and Keystone violated FINRA Rule 2010 by reason of the Response dated December 14, 2009.

FOURTH CAUSE OF ACTION

(Misleading Brokerage Account Statements - NASD Rule 2110 and FINRA Rule 2010) (Keystone)

142. The Department realleges and incorporates by reference paragraphs 1-141 above.

143. NASD Rule 2110 and FINRA Rule 2010 require member firms and associated persons to observe high standards of commercial honor and just and equitable principles of trade.

144. During the relevant period, Keystone breached that obligation by sending misleading brokerage account statements to certain customers.

145. During the relevant period, approximately 11 of Keystone's customers invested in Covenant through qualified retirement accounts held at Keystone.

146. Each of these customers received a monthly account statement from Keystone.

147. Each of these statements contained a representation of the value of the Covenant investment.

148. The value was obtained by Keystone's clearing firm at the time, Pershing LLC, from employees of Keystone or from a third-party pricing service that in turn obtained the information from Keystone.

149. The value shown on the accounts was the value of the customer's initial investment in Covenant, not the actual value of the account as shown on Covenant's books and records.

150. For this reason, the brokerage statements are misleading.

151. Accordingly, by reason of the foregoing, Keystone violated NASD Rule 2110 and FINRA Rule 2010.

FIFTH CAUSE OF ACTION

**(False Form U4 Filing and Failure to Amend -
FINRA Rules 2010, 1122 and Article V, Section 2 of FINRA's By-laws (Fretz))**

152. The Department realleges and incorporates by reference paragraphs 1-151 above.

153. FINRA Rule 2010 requires member firms and associated persons to observe high standards of commercial honor and just and equitable principles of trade.

154. FINRA Rule 1122 provides in relevant part that no member or associated person shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.

155. Article V, Section 2 of FINRA's By-laws requires that every application for registration be kept current at all times by supplementary amendments and that such amendment to the application be filed not later than 30 days after learning of the facts or circumstances giving rise to the amendment.

156. During the relevant period, beginning in or about July 2009, eight judgments of over \$2.4 million were entered against Fretz personally in Montgomery County, Pennsylvania.

157. The creditors, amounts and dates of entry of each such judgment are as follows:

- a. Susquehanna Bank in the amount of \$131,029 entered in or about July 2009;
- b. Susquehanna Bank in the amount of \$422,187.70 entered in or about September 2009;
- c. 1139 Easton Partners, LLC in the amount of \$781,955.96 entered in or about

September 2009;

- d. Francis Grimes in the amount of \$308,488.08 entered in or about June 2010;
- e. National Loan Investors LP in the amount of \$146,365.55 entered in or about October 2010;
- f. National Loan Investors LP in the amount of \$216,136.34 entered in or about October 2010;
- g. National Loan Investors LP in the amount of \$228,595.22 entered in or about October 2010; and,
- h. National Loan Investors LP in the amount of \$194,046.55 entered in or about October 2010.

158. Question 14m on Form U4 asks: "Do you have any unsatisfied judgments or liens against you?"

159. In a Form U4 amendment dated December 18, 2009, Fretz answered "no" to Question 14m even though, as of the date of that amendment, he had one unsatisfied judgment in favor of Susquehanna Bank outstanding.

160. By reason of that Form U4 amendment, Fretz willfully violated FINRA Rule 1122 and 2010.

161. All eight judgments identified above remained unsatisfied over 30 days.

162. Fretz failed to ever amend his U4 to reflect these unsatisfied judgments.

163. By reason of that failure, Fretz willfully violated Article V, Section of FINRA's By-laws and FINRA Rule 2010.

RELIEF REQUESTED

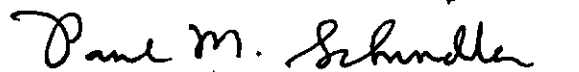
WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that the Respondents be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- B. order that the Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and,
- C. make specific findings that Respondent William Fretz's conduct, as alleged in the Fifth Cause of Action, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: August 5, 2011

Respectfully submitted,



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