

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

Department of Enforcement,

Complainant,

v.

GARDEN STATE SECURITIES, INC.
(BD No. 10083),

Respondent.

Disciplinary Proceeding
No. 2011025318202

Hearing Officer DRS

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: June 16, 2015\

INTRODUCTION

Disciplinary Proceeding No. 2011025318202 was filed on July 23, 2014, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Garden State Securities, Inc. (GSS, Firm or Respondent) submitted an Offer of Settlement (Offer) to Complainant dated June 12, 2015. 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, 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, 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

GSS has been a member of FINRA since August 1981. The Firm is based in Red Bank, New Jersey and conducts a general securities business. GSS has approximately 14 registered branch offices and employs about 91 registered persons.

Within the past five years, GSS has been formally disciplined for violations relating to its supervisory system, customer complaint reporting, telemarketing and advertising, including the following:

- On November 27, 2013, GSS entered into an Acceptance, Waiver and Consent (AWC) with FINRA in which it agreed to a censure and a \$15,000 fine for failing to execute orders fully and promptly. Specifically, in transactions for or with customers, the Firm failed to use reasonable diligence to ascertain the best inter-dealer market for the subject securities so that the resultant prices to the customers would be as favorable as possible under prevailing market conditions. Additionally, the firm failed to show the correct entry time on brokerage order memorandum. (AWC No. 2010023958401)
- On January 15, 2013, GSS entered into an AWC with FINRA in which it agreed to a censure and a \$5,000 fine for transmitting execution or combined order/execution reports to the Order Audit Trail System (OATS) that OATS was unable to link to the related trade reports in a FINRA trade reporting system due to inaccurate, incomplete or improperly formatted data. In addition, GSS failed to timely report reportable order

events to OATS and transmitted new order reports to OATS and related subsequent reports where the timestamp for the related subsequent report occurred prior to the receipt of the order, which prevented OATS from creating an accurate, time-sequenced record from the receipt of the order through its resolution. (AWC No. 2010025139801)

- On September 20, 2012, GSS entered into an Offer of Settlement with FINRA in which it agreed to a censure, a \$265,000 fine and a requirement that each of the Firm's associated personnel must complete 16 hours of AML training by a provider not unacceptable to FINRA. In addition, GSS was required to undertake to review its supervisory system and written supervisory procedures for compliance with the laws, regulations, and rules concerning the preservation of electronic communications. Co-respondent VB, the Firm's CCO and AMLCO, settled the matter in a separate offer. The findings as to GSS included 12 causes of action involving the Firm's AML program, supervisory deficiencies, the filing of customer complaints, e-mail retention and books and records violations. (Offer No. 2009016230601)
- On July 24, 2012, GSS entered into an AWC with FINRA in which it agreed to a censure and a \$50,000 fine for failing to provide a complete response to FINRA staff's request for information regarding a copy of its due diligence files for any and all private placements. Additionally, GSS failed to establish, maintain and enforce a system of written supervisory control policies and procedures that were reasonably designed to review and monitor all transmittal of customer funds. (AWC No. 2010023469301)
- On January 4, 2012, GSS entered into an AWC with FINRA in which it agreed to a censure, a \$7,500 fine and an order requiring GSS to pay restitution to certain customers in the total amount of \$1,629.42. In 84 instances, the Firm accepted and held customer

market orders, traded for its own account at prices that would have satisfied the customer market orders, and failed to immediately thereafter execute the customer market orders up to the size and at the same price at which it traded for its own account or at a better price. Additionally, in five instances, the Firm accepted and held a customer market order, traded for its own account at prices that would have satisfied the customer market order, and failed to immediately thereafter execute the customer market order. (AWC No. 2008013206601)

- On April 8, 2011, as part of a sweep involving private placement Medical Capital Holdings, Inc. ("MedCap") and another private placement involving U.S. Drillers, Inc., ("U.S. Drillers") GSS entered into an AWC with FINRA in which it agreed to a censure and an order requiring GSS and Firm President KD to pay restitution on a joint-and-several basis to six MedCap investors in the total amount of \$300,000. KD received a 20-business day suspension from association with any FINRA member in any capacity, an additional two-month suspension of KD 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 fine of \$25,000. (AWC No. 2009018819201)
- 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, and failing to make proper use of the Federal Trade Commission's national do-not-call registry. In addition, GSS and Firm President KD violated certain advertising rules, which was included in the Firm's overall fine and DeRosa was fined \$5,000. (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)

FINDINGS AND CONCLUSIONS

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

SUMMARY

1. Between February 2010 and March 2012, Respondent Garden State Securities, Inc. failed to report, or timely report, various events to FINRA pursuant to NASD Conduct Rule 3070 and FINRA Rule 4530. The events included four arbitration settlements and an internal disciplinary action. GSS also failed to report, or timely report, statistical and summary information regarding forty-six customer complaints, and in some instances failed to accurately report this information for customer complaints - specifically, eleven complaints were reported with inaccurate "problem codes." Moreover, GSS failed to maintain required books and records concerning customer complaints pursuant to NASD Conduct Rule 3110(d).
2. Between July 2009 and March 2012, GSS failed to ensure that Uniform Applications for Securities Industry Registration or Transfer (Forms U4) were updated, or timely updated, to disclose material information concerning certain of its representatives of which the Firm was aware. Such information included activities that should have been disclosed under the "Other Business" section of the Form U4 for twenty-five representatives, and arbitration

and/or litigation-related events, and customer complaints for eight other representatives, pursuant to Article V, Section 2(c) of FINRA By-Laws.

3. During a three-day period in September 2011, multiple GSS representatives in the Firm's Wellington, Florida branch office failed to include the Firm's address or telephone number during their telemarketing efforts as required by NASD Conduct Rule 2212.
4. During the period from June 2009 through June 2011, GSS failed, in accordance with its Written Supervisory Procedures (WSPs) and NASD Conduct Rule 2210, to: (a) demonstrate appropriate principal approval of certain advertising materials, including sales literature and websites, and (b) retain certain advertising materials. In addition, during the same period, the Firm's website, websites of its registered representatives and sales literature distributed via e-mail by the Firm's registered representative contained unbalanced, exaggerated or misleading statements.
5. Finally, from June 2009 through March 2012, GSS failed to establish, maintain, and enforce an adequate supervisory system, including WSPs, designed to achieve compliance with the requirements of FINRA rules and the federal securities laws regarding: (a) the approval, use and dissemination of sales material, (b) the requirement embodied in NASD Conduct Rule 2212 that telemarketing callers provide the called party with the name of the individual caller, the name of the member, and an address or telephone number at which the member firm may be contacted, and (c) telemarketing efforts in the United Kingdom (UK) consistent and compliant with requirements established by the Financial Services Authority (FSA). GSS' conduct violated NASD Rule 3010.

6. For engaging in the above-referenced conduct, GSS failed to conduct its business in observance of high standards of commercial honor and just and equitable principles of trade in violation of FINRA Rule 2010.

**Failure to Report and/or Timely Report Information to FINRA, Inaccurate use of Problem Codes, and Failure to Maintain Books and Records
(NASD Conduct Rules 3070, 3110(d) and FINRA Rules 4513, 4530 and 2010)**

7. The Firm failed to report, or timely report, various events to FINRA pursuant to NASD Conduct Rule 3070 and FINRA Rule 4530 (which took effect on July 1, 2011). The events included arbitration settlements, an internal disciplinary action and customer complaints. In addition, GSS failed to report or timely report statistical and summary information regarding forty-six customer complaints, and failed to accurately report eleven customer complaints.
8. GSS also failed to maintain required books and records concerning customer complaints pursuant to NASD Rule 3110(d).

Failure to Timely Report Arbitration Settlements and an Internal Disciplinary Action

9. NASD Conduct Rule 3070(a)(7) states:

Each member shall promptly report to the Association whenever such member or person associated with the member: (7) is a defendant or respondent in any securities or commodities-related civil litigation or arbitration which has been disposed of by judgment, award or settlement for an amount exceeding \$15,000. However, when the member is the defendant or respondent, then the reporting to the Association shall be required only when such judgment, award, or settlement is for an amount exceeding \$25,000;

10. In addition, FINRA Rule 4530(a)(1)(G) states:

Each member shall promptly report to FINRA, but in any event not later than 30 calendar days, after the member knows or should have known of the existence of any of the following: (1) the member or an associated person of the member: (G) is a defendant or respondent in

any securities- or commodities-related civil litigation or arbitration, is a defendant or respondent in any financial-related insurance civil litigation or arbitration, or is the subject of any claim for damages by a customer, broker or dealer that relates to the provision of financial services or relates to a financial transaction, and such civil litigation, arbitration or claim for damages has been disposed of by judgment, award or settlement for an amount exceeding \$15,000. However, when the member is the defendant or respondent or is the subject of any claim for damages by a customer, broker or dealer, then the reporting to FINRA shall be required only when such judgment, award or settlement is for an amount exceeding \$25,000;

11. FINRA Rule 4530(a)(2) states:

Each member shall promptly report to FINRA, but in any event not later than 30 calendar days, after the member knows or should have known of the existence of any of the following: (2) an associated person of the member is the subject of any disciplinary action taken by the member involving suspension, termination, the withholding of compensation or of any other remuneration in excess of \$2,500, the imposition of fines in excess of \$2,500 or is otherwise disciplined in any manner that would have a significant limitation on the individual's activities on a temporary or permanent basis.

12. During the period from July 2010 through March 2012, GSS failed to timely report four arbitration settlements and an internal disciplinary action to FINRA as specified in Part I of Schedule A, attached hereto and incorporated herein by reference.

Failure to Report or Timely Report Statistical and Summary
Information Regarding Customer Complaints

13. NASD Conduct Rule 3070(c), in effect until July 1, 2011, provided that each FINRA member firm is required to report to FINRA:

statistical and summary information regarding customer complaints in such detail as the Association shall specify by the 15th day of the month following the calendar quarter in which customer complaints are received by the member. For the purposes of this paragraph, "customer" includes any person other than a broker or dealer with whom the member has engaged, or has sought to engage, in securities

activities, and “complaint” includes any written grievance by a customer involving the member or person associated with a member.

14. FINRA Rule 4530(d), in effect since July 1, 2011, requires identical reporting for “written” customer complaints.
15. During the period from February 2010 through November 2011, GSS failed to timely report to FINRA statistical and summary information regarding 24 written customer complaints as specified in Part II of Schedule A, attached hereto and incorporated herein by reference.
16. During the period from February 2010 through June 2011, GSS also failed to report to FINRA at all statistical and summary information regarding 22 written customer complaints as specified in Part III of Schedule A, attached hereto and incorporated herein by reference.

The Inaccurate Use of Problem Codes in Filing Customer Complaints

17. As set forth above, NASD Rule 3070(c) and FINRA Rule 4530(d) (since July 1, 2011) require member firms to report statistical and summary information regarding customer complaints “in such detail as [the Association/FINRA] shall specify.”
18. The information that firms must submit when they submit statistical and summary information electronically is discussed in Notice to Members 06-34, “NASD Rule 3070 System Requirements - Technical Changes in the Reporting of Statistical and Summary Information Regarding Customer Complaints and Disclosure Events Pursuant to Rule 3070” and the attachments thereto.
19. Generally, for customer complaints, firms must select from a list of problem codes and enter the code that describes the allegation(s).

20. Notice to Members 96-85 "Customer Complaint Reporting Rule Update" provides answers to frequently asked questions regarding the customer complaint reporting system and Rule 3070, including where multiple allegations are included in a complaint, and states the following:

Question #4: If a member receives a customer complaint letter regarding an associated person's conduct that includes more than one allegation, security, or damage amount, what information is the member required to submit to NASD Regulation?

Answer: The member is obligated to send one report for each customer complaint letter received. Even though the complaint may include more than one allegation, security, or damage amount, the member should report the most egregious problem code alleged (e.g., fraud, misrepresentation, unauthorized transaction), the security associated with the most egregious problem code, and the highest alleged damage amount. [Emphasis added].

21. Beginning in July 2010, FINRA's website also has provided guidance to firms regarding regulatory filings pursuant to FINRA Rule 4530(d) by including a "valid list of Rule 4530 Products and Problem Codes required for specified events." See www.finra.org/web/groups/industry/@ip/@comp/@rf/documents/appsupportdocs/p117562.pdf. Members were informed that they should select "the most egregious" problem code to describe the customer complaint.

22. From November 2010 through October 2011, GSS failed to accurately report 11 written customer complaints to FINRA as specified in Part IV of Schedule A, attached hereto and incorporated herein by reference. For these complaints, GSS failed to report the most egregious problem code in favor of more benign and less accurate problem codes.

Failure to Maintain Books and Records of Customer Complaints

23. NASD Conduct Rule 3110(d) indicates the following:

Each member shall keep and preserve in each office of supervisory jurisdiction, as defined in Rule 3010, either a separate file of all written complaints of customers and action taken by the member, if any, or a separate record of such complaints and a clear reference to the files containing the correspondence connected with such complaint as maintained in such office.

24. From February 2010 through November 2011, GSS failed to ensure that the Firm maintained required books and records concerning customer complaints. Specifically, a number of documents were not preserved, including: a copy of the customer complaints; statements from the representatives at issue; documentation evidencing the Firm's investigation of the complaints; and information regarding the resolution of complaints.
25. By reason of the foregoing, GSS violated NASD Conduct Rules 3070 (for conduct before July 1, 2011), 3110(d) (for conduct before December 5, 2011) and FINRA Rules 4530 (for conduct after July 1, 2011) and 2010.

**Form U4 Reporting Violations
(Article 5, Section 2(c) of FINRA's By-Laws and FINRA Rule 2010)**

26. Article V, Section 2(c) of the FINRA By-Laws provides that "Every application for registration filed with the NASD shall be kept current at all times. . . . Such amendment to the application shall be filed with the Corporation not later than 30 days after learning of the facts or circumstances giving rise to the amendment."
27. From approximately July 2009 through approximately March 2012, GSS failed to ensure that Forms U4 were updated, or timely updated, to disclose material information concerning certain of its representatives of which the Firm was aware, including activities that should have been disclosed under the "Other Business" section of the Form U4, arbitration and/or litigation-related events, and customer complaints.

Inadequate Disclosure of Other Business Activities

28. On the Form U4, Section 13 "Other Business" provides the following instruction:

Are you currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise? (Please exclude non *investment-related* activity that is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt.) If YES, please provide the following details: the name of the other business, whether the business is *investment-related*, the address of the other business, the nature of the other business, your position, title, or relationship with the other business, the start date of your relationship, the approximate number of hours/month you devote to the other business, the number of hours you devote to the other business during securities trading hours, and briefly describe your duties relating to the other business.

29. From approximately October 2009 through approximately March 2012, GSS failed to provide the required details under the "Other Business" sections of Forms U4 for twenty-five GSS registered representatives engaged in "Other Business" activities. GSS failed to ensure that these Form U4 disclosures were adequate as specified in Part V of Schedule A, attached hereto and incorporated herein by reference.

Untimely Disclosure of Arbitrations, Litigation-related Events and/or Customer Complaints

30. Questions 14(I) (1) through 14(I)(5) on the Forms U4 require disclosure of certain customer complaints, arbitrations, and civil litigations. Specifically:

- 14I (1) Have you ever been named as a respondent/defendant in an investment-related, consumer-initiated arbitration or civil litigation which alleged that you were involved in one or more sales practice violations and which:
- (a) is still pending, or;
 - (b) resulted in an arbitration award or civil judgment against you, regardless of amount, or;
 - (c) was settled, prior to 05/18/2009, for an amount of \$10,000 or more, or;
 - (d) was settled, on or after 05/18/2009, for an amount of \$15,000 or more?
- (2) Have you ever been the subject of an investment-related, consumer-initiated (written or oral) complaint, which alleged that you were involved in one or more sales practice violations, and which:

- (a) was settled, prior to 05/18/2009, for an amount of \$10,000 or more, or;
 - (b) was settled, on or after 05/18/2009, for an amount of \$15,000 or more?
- (3) Within the past twenty four (24) months, have you been the subject of an investment-related, consumer-initiated, written complaint, not otherwise reported under question 14(2) above, which:
- (a) alleged that you were involved in one or more sales practice violations and contained a claim for compensatory damages of \$5,000 or more (if no damage amount is alleged, the complaint must be reported unless the firm has made a good faith determination that the damages from the alleged conduct would be less than \$5,000), or;
 - (b) alleged that you were involved in forgery, theft, misappropriation or conversion of funds or securities?

Answer questions (4) and (5) below only for arbitration claims or civil litigation filed on or after 05/18/2009.

- (4) Have you been the subject of an investment-related, consumer-initiated arbitration claim or civil litigation which alleged that you were involved in one or more sales practice violations, and which:
- (a) was settled for an amount of \$15,000 or more, or;
 - (b) resulted in an arbitration award or civil judgment against any named respondent(s)/defendant(s), regardless of amount?
- (5) Within the past twenty four (24) months, have you been the subject of an investment-related, consumer-initiated arbitration claim or civil litigation not otherwise reported under question 14I(4) above, which:
- (a) alleged that you were involved in one or more sales practice violations and contained a claim for compensatory damages of \$5,000 or more (if no damage amount is alleged, the arbitration claim or civil litigation must be reported unless the firm has made a good faith determination that the damages from the alleged conduct would be less than \$5,000), or;
 - (b) alleged that you were involved in forgery, theft, misappropriation or conversion of funds or securities?

31. From November 2009 through approximately August 2011, six GSS registered representatives were parties to, or the subject of, arbitrations, litigation-related events and/or customer complaints that should have been disclosed on their Forms U4. GSS failed to ensure that these required Form U4 disclosures were made in a timely manner as specified in Part VI of Schedule A, attached hereto and incorporated herein by reference.

Failure to Disclose Arbitration and a Customer Complaint

32. From July 2009 through November 2010, two GSS registered representatives were parties to, or the subject of an arbitration and customer complaint that should have been disclosed on their Forms U4. GSS failed to ensure that these required disclosures were made, notwithstanding its knowledge of the precursor events.

33. Specifically:

- a. On July 9, 2009, the arbitration of *WB v. GSS and Registered Representative TB* (FINRA Case #09-4185) was filed with FINRA that included a cause of action alleging fraud:

[GSS'] registered representative [TB] made false representations and material omissions, excessively traded, purchased highly speculative commission laden investments, failed to limit losses, over concentrated [WB's] portfolio in the auto sector, churned her account, solicited her to participate in a multi-level marketing program, and sold penny stock to an income investor. [TB] knew, or should have known, that his representations and conduct were fraudulent.

On July 1, 2010, the arbitration settled for \$110,000. GSS never amended TB's Form U4 to disclose the settlement of the arbitration; and

- b. On November 19, 2010, GSS received a customer complaint from WH against representative JC regarding reimbursement of "unearned/excess buy/sell fees" totaling approximately \$18,202.00. GSS never amended JC's Form U4 to disclose the complaint.

34. By reason of the foregoing, GSS violated Article 5, Section 2(c) of FINRA's By-Laws and FINRA Rule 2010.

Telemarketing
(Violation NASD Conduct Rule 2212 and FINRA Rule 2010)

35. NASD Conduct Rule 2212(d), which was effective through June 29, 2012, indicates that prior to engaging in telemarketing, a member must institute procedures that meet minimum standards, including the following:

(4) Identification of sellers and telemarketers. A member or person associated with a member making a call for telemarketing purposes must provide the called party with the name of the individual caller, the name of the member, an address or telephone number at which the member may be contacted, and that the purpose of the call is to solicit the purchase of securities or related service. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges. [Emphasis added.]

36. GSS' procedures regarding telemarketing did not indicate that the caller must provide an address or telephone number at which the member may be contacted.

37. Over a three day period in September 2011, FINRA examination staff were present in the Firm's Wellington, Florida branch office and witnessed GSS, acting through at least three of its representatives, repeatedly fail to include the address or telephone number of the Firm during telemarketing efforts.

38. By reason of the foregoing, GSS violated NASD Conduct Rule 2212 and FINRA Rule 2010.

Advertising Violations – Approval and Retention
(NASD Conduct Rules 2210(b)(1), 2210(b)(2) and FINRA Rule 2010)

39. NASD Conduct Rule 2210(b)(1) requires principal approval for advertisements, sales literature and independently prepared reprints.

40. NASD Conduct Rule 2210(b)(2) requires members to maintain all advertisements, sales literature, and independently prepared reprints in a separate file for a period beginning on the date of first use and ending three years from the date of last use.
41. NASD Rule 2210(a)(2) defines Sales Literature as “[a]ny written or electronic communication other than . . . correspondence . . .” For the purposes of this rule, “Correspondence” is defined in NASD Rule 2211(a)(1) as any written letter or electronic mail message distributed to at least one retail customer and fewer than 25 prospective retail customers in any 30 calendar-day period.
42. Consistent with the aforementioned rules, during the period from June 2009 through June 2011, the Firm’s WSPs provided that:
- a. All written sales material that is distributed to clients (other than FINRA-approved sales materials supplied by the issuer/underwriter) must be approved prior to use by an appropriate supervising principal.
 - b. The Firm will retain copies of all such sales material, indicating approval or denial of such use, the date of such and the name or initials of the individual who conducted the review.
43. During this period, GSS’ WSPs indicated Regional Supervisors were assigned to Advertising Review.
44. From June 2009 through June 2011, GSS (a) failed to demonstrate appropriate principal approval of certain advertising materials, and (b) failed to maintain certain advertising materials in a separate file for a period beginning on the date of first use and ending three years from the date of last use for the following advertising materials and sales literature:

- a. Only three of the weekly newsletters and commentaries issued via e-mail to more than 25 Firm customers in a 30-day period by Staten Island, New York Branch Manager DG were maintained in the Firm's central advertising file;
- b. The Firm could not provide evidence of supervisory review, approval and retention of e-mails forwarded to approximately 168 individuals including customers and prospective customers by registered representative SR in the Hackensack, N.J. branch office concerning information about fixed income products;
- c. The Firm could not provide evidence of supervisory review, approval and retention of at least five customer testimonials on the website of GSS, including the customer's approval for using their quote; and
- d. The Firm could not provide evidence of supervisory review, approval and retention of at least ten customer testimonials on the website of TOG, a d/b/a utilized by KD, one of the Firm's owners, and Firm representatives GG and TG, including the customer's approval for using their quotes on the website.

45. By reason of the foregoing, GSS violated NASD Conduct Rules 2210(b)(1), 2210(b)(2) and FINRA Rule 2010.

**Advertising Violations – Content
(NASD Conduct Rules 2210(d)(1)(A)
and 2210(d)(1)(B) and FINRA Rule 2010)**

46. NASD Rule 2210(d)(1) describes the content standards applicable to all communications with the public.

47. Specifically, NASD Rule 2210(d)(1)(A) states that,

[a]ll member communications with the public shall be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security, industry, or service. No member may omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communications to be misleading.

48. In addition, NASD Rule 2210(d)(1)(B) states that,

[n]o member may make any false, exaggerated, unwarranted or misleading statement or claim in any communication with the public. No member may publish, circulate or distribute any public communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.

49. IM-2210-1 provides guidelines to ensure that a member's communications with the public are not misleading taking into consideration the context in which the statements are made.

50. From June 2009 through June 2011, the Firm's website, websites of its registered representatives and sales literature distributed via e-mail contained unfair, unbalanced, exaggerated and/or misleading statements as specified below:

- a. A press release posted on the Firm's website, www.gardenstatesecurities.com, exaggerated the meaning and significance of a Better Business Bureau rating and failed to provide a fair and complete representation of GSS' track record.
- b. Language contained on the website for Branch Manager JZ's d/b/a company, JEZC, referred to "[JZ] Wealth Management" but failed to provide a fair representation of the products and services offered through this entity. Further, the website did not include a description of the relationship between GSS and the entity.

- c. The JEZC website statement that “Securities and Investment Advisory services offered through Garden State Securities” is inaccurate. According to the Firm’s filings on the Central Registration Depository (CRD), advisory services are provided through Garden State Investment Advisory Services, LLC, an affiliated investment advisor established by the owners of GSS.
- d. The JEZC website provided an exaggerated statement regarding JZ’s prior performance (e.g. that he was the firm’s “top producer”) at a previous employer member firm without providing any basis for the statement.
- e. Language contained on the website for representative MK referred to “[MK] Wealth Management” but failed to provide a clear or fair representation of the products and services offered through this entity. Further, the website did not provide a description of the relationship between GSS and the entity.
- f. The MK website misidentified investment advisory services as being provided by GSS.
- g. The MK website contained inaccurate and misleading information by including a photograph of the New York Stock Exchange (NYSE). GSS, however, is not a NYSE member.
- h. The MK website included a statement that the Firm is not in a position to provide a basis for. Specifically, it read:

For over three decades, [GSS] has earned a worldwide reputation for excellence in providing a high quality of investment management and advice to small businesses, corporate executives, and the individual investor.

- i. A misleading statement on the MK website indicated “[GSS’ clearing firm] has purchased an additional policy that offers coverage on securities” but fails to clearly indicate that the policy does not protect against market losses.
- j. Representative SR’s e-mail, that was forwarded to approximately 168 individuals including customers and prospective customers from October 19, 2010 through October 21, 2010, with the subject line “MS Bonds,” which included a summary of certain bonds, was oversimplified and failed to reflect the significant risks inherent in the investments addressed in the message.
- k. In addition, SR sent follow-up e-mails on October 20, 2010 and October 22, 2010 to customer DS that included exaggerated, unwarranted and misleading information regarding the same bonds. The October 20, 2010 e-mail stated, “Either way, if they’re called or held to maturity, you will receive 100% of your investment dollars back.” The October 22, 2010 e-mail stated that “these notes are tradable like a security, so we could always get out in advance of a significant downturn in the S&P, even if that were to happen prior to the end of the 4-year/7% period.”

51. By reason of the foregoing, GSS violated NASD Conduct Rules 2210(d)(1)(A) and 2210(d)(1)(B) and FINRA Rule 2010.

**Supervisory Deficiencies
(NASD Conduct Rule 3010 and FINRA Rule 2010)**

52. From June 2009 through March 2012, GSS failed to establish, maintain, and enforce an adequate supervisory system, including WSPs, to supervise the activities of registered representatives and associate persons in a manner which is reasonably designed to achieve compliance with the securities laws in several areas.

53. First, the WSPs required a supervising principal to review and approve all sales, marketing and promotional material prior to use. Further, the WSPs indicated

If written sales material is to be distributed to clients (other than already-FINRA-approved sales materials supplied by the issuer/underwriter), such material must be approved prior to use by an appropriate supervising principal. [GSS] will retain copies of all such sales material, indicating approval or denial of such use, the date of such and the name or initials of the individual who conducted the review.

54. The Firm's supervisory system was deficient because GSS failed to provide adequate training to representatives on identifying sales material that required principal review, and the Firm failed to provide adequate training to its supervisory principals regarding the approval process and the required retention of certain sales materials. Accordingly, the Firm could not provide evidence of review, approval and retention of various sales, marketing and promotional materials.

55. Second, the Firm's supervisory system and WSPs failed to address or speak to the requirement embodied in NASD Conduct Rule 2212 that telemarketing callers provide the called party with the name of the individual caller, the name of the member, and an address or telephone number at which the member firm may be contacted.

56. Third, the Firm failed to establish a WSP regarding unsolicited telemarketing calls to prospective customers in the UK. Between February 2010 and July 2011, the Firm's WSPs did not address foreign telemarketing.

57. GSS did have a document entitled "Internal Policy & Procedure Update Telemarketing in the U.K." (Procedure Update), which relied upon an outdated version of the Financial Services Act of 1986 that was later redrafted in 2000. Despite the outdated reference, the Procedure Update did address certain telemarketing compliance issues, starting, *inter alia*:

- a. The FSA requires persons conducting business in the UK to be authorized and registered;
- b. Cold calling was prohibited in the UK;
- c. Unsolicited calls may be made only to existing customers; and
- d. Unsolicited calls may be made to non-private customers or business investors, which are more commonly referred to as "institutional investors." Compliance should be contacted regarding whether an account meets this definition.

58. Pursuant to Section 21 of the Financial Services and Markets Act 2000 (the "Act"), a person must not, in the course of business, communicate an invitation or inducement to engage in investment activity unless that person is authorized or registered through the FSA. Buying and selling shares and providing investment advice constitutes investment activity.

59. From February 2010 through July 2011, GSS failed to enforce the Procedure Update, or otherwise comply with the Act, as it relates to foreign telemarketing in the UK by representatives at the Wellington, Florida branch office.

60. During that period, the following occurred:

- a. On or about February 5, 2010, following a telephone solicitation by the Branch Manager JZ, prospective customer and UK resident PN indicated in an e-mail that JZ's financial services firm, JEZC (his branch dba), must be registered with the FSA in order to conduct business in the UK and it is otherwise illegal to offer such services without proper registration.
- b. Despite PN's warning, throughout 2010, JZ and representatives from the GSS Wellington, Florida branch office (JEZC) continued to solicit customers in the UK without registering JEZC with the FSA. From about February 2010 to December

2010, the FSA received approximately twelve complaints from UK citizens regarding JZ and/or JEZC;

- c. On December 8, 2010, FSA representative AN forwarded an e-mail to JZ at his GSS e-mail address and indicated representatives of JEZC had made unsolicited telephone calls to UK residents regarding the purchase of certain stocks and JEZC was not authorized to participate in investment activities in the UK. The e-mail further indicated this activity was a violation of Sections 19 and 21 of the Act and is recognized as a criminal offense in the UK. Additionally, the FSA representative indicated JEZC was being added to a list of unauthorized overseas firms operating in the UK and JEZC would be the subject of a consumer alert issued by the FSA.
- d. Despite the FSA e-mail in December 2010, from January 2011 through July 2011, JZ and his branch office continued to solicit customers in the UK without registering with the FSA. During this period, JZ opened approximately 62 GSS accounts for UK residents who were introduced to the Firm via cold calling practices, and approximately 27 of these accounts were opened after JZ's receipt of the December 8, 2010 e-mail from the FSA.

61. By reason of the foregoing, GSS violated NASD Conduct Rule 3010 and FINRA Rule 2010.

Based on the foregoing, Respondent violated NASD Conduct Rules 3070 (for conduct before July 1, 2011), 3110(d) (for conduct before December 5, 2011), 2210(b)(1), 2210(b)(2), 2210(d)(1)(A), 2210(d)(1)(B), 2212, and 3010 and FINRA Rules 4513 (for conduct after December 4, 2011), 4530 (for conduct after July 1, 2011), and 2010 and Article V, Section 2(c) of FINRA's By-Laws.

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 and fined \$85,000

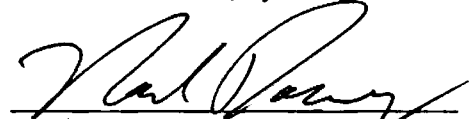
Respondent agrees to pay the monetary sanction upon notice that this Offer has been accepted and that such payments are due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

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



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