

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2011025438902**

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

RE: Middlebury Securities LLC (BD No. 122602),
Respondent

and

James Baldwin Robinson (CRD No. 1651804),
Respondent

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, we, Middlebury Securities LLC ("Middlebury" or the "Firm") and James Baldwin Robinson ("Robinson") (collectively "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

Middlebury is based in Weybridge, Vermont and conducts a general securities business. The Firm has been a FINRA member since January 2003. During the period from in or about December 2009 through in or about April 2012 (hereinafter the "Relevant Period"), Middlebury employed approximately 20 registered persons and maintained branch offices in Ridgewood, New Jersey ("Ridgewood Branch") and Boca Raton, Florida. Middlebury has no FINRA disciplinary history.

Robinson first became registered with FINRA as a General Securities Representative on July 21, 1987. On June 19, 2002, Robinson became registered as a General Securities Principal.

On January 2, 2003, he became registered in those same capacities through Middlebury, and also as a Financial and Operations Principal. While at Middlebury, he subsequently became registered as an Investment Banking Representative on December 14, 2009, and as an Operations Professional on November 8, 2011. Robinson remains registered with Middlebury.

Robinson is the owner, President and Chief Compliance Officer of Middlebury and held those positions during the Relevant Period. He works in the Firm's main office in Vermont. Robinson has no FINRA disciplinary history.

OVERVIEW

During the Relevant Period, Middlebury, acting through GO, one of its registered representatives, established two escrow accounts to hold investor monies from nine private offerings in which Middlebury participated as the selling broker-dealer, including the NVG, NVL and BCT offerings. Investor funds received from these offerings were commingled in a non-segregated manner in the escrow accounts, which were maintained by a law firm.

GO converted approximately \$125,000 in customer funds received from the Middlebury offerings by directing that those funds be wired from the escrow accounts to his personal bank account. In addition, Middlebury, acting through GO, misused approximately \$200,000 in escrowed investor funds from two of the offerings to make payments to, or on behalf of, the third issuer (e.g., legal fees and commission payments).

From in or about December 2009 through in or about December 2011, GO made fraudulent misrepresentations and omissions of material facts in connection with the NVG and NVL private offerings, which collectively raised approximately \$5 million.

Middlebury, acting through Robinson, (i) failed to reasonably supervise GO, (ii) failed to establish and maintain an adequate supervisory system, written supervisory procedures, and written supervisory control procedures relating to the handling and transmittal of customer funds, and the use of escrow accounts in connection with private offering activity, and (iii) allowed GO to engage in activities that required a principal registration while he was not so registered.

Middlebury also failed to make and keep current required records, such as monthly bank statements for the escrow accounts that it used to hold customer funds.

By this conduct, Middlebury violated NASD Membership and Registration Rule 1021(a), FINRA Rules 2150, 2010, and 4511 (for conduct after December 4, 2011), Exchange Act Rule 17a-4, and NASD Conduct Rules 3010, 3012, and 3110 (for conduct before December 5, 2011), and Robinson violated NASD Membership and Registration Rule 1021(a), FINRA Rules 2010 and NASD Conduct Rules 3010 and 3012.

FACTS AND VIOLATIVE CONDUCT

The NVG and NVL Offerings

During the Relevant Period, GO was registered with Middlebury as a General Securities Representative. He worked in the Firm's Ridgewood Branch and was the investment banker and primary salesman for all of Middlebury's private offerings, which accounted for the majority of the Firm's revenues during this period. Among other things, GO performed due diligence for the offerings and was the primary contact with the issuers and their counsel.

From in or about December 2009 through in or about April 2011, GO raised approximately \$2.63 million from 23 investors through the sale of the NVG offering. In the NVG offering, investors received both secured convertible promissory notes and common stock warrants.

From in or about February 2010 through in or about December 2011, GO raised approximately \$2.46 million from 23 Middlebury investors through the sale of the NVL offering. In the NVL offering, investors again received both secured convertible promissory notes and common stock warrants.

The NVG and NVL secured convertible preferred notes had the same structure. Each had a six-month maturity and paid 12% interest a quarter. The maturity dates could be extended, once, for up to sixty days, provided that, if such an extension occurred, the quarterly interest rate would increase to 15%.

During the Relevant Period, only three NVG investors (who were personally selected for repayment by GO) received their principal back, a total of approximately \$300,000. The principal invested by the remaining 20 Middlebury customers was not returned, resulting in a loss of approximately \$2.33 million to those investors. In addition, NVG never made any interest payments to investors.

During the Relevant Period, only one NVL investor (personally selected for repayment by GO) received his principal back, a total of approximately \$100,000. The principal invested by the remaining 22 Middlebury customers was not returned, resulting in a loss of approximately \$2.36 million to those investors. In addition, NVL never made any interest payments to investors.

In connection with his sale of the NVG and NVL Offerings, GO made fraudulent misrepresentations and omissions of material facts concerning:

- the financial condition of the two issuers, including the fact that NVG (and its CEO) were the subject of pending federal and state tax liens totaling over \$3 million during the offering;
- the fact that NVL had no revenues and was operating at a loss;
- the fact that both issuers defaulted on their promises to repay investors in full and failed to make promised interest payments; and
- the fact that GO had a substantial financial and ownership interest in NVL.

The Escrow Accounts

During the Relevant Period, Middlebury, acting through GO, established two escrow accounts to hold investor monies from nine private offerings in which Middlebury participated as the selling broker-dealer, including the NVG and NVL offerings. The accounts were maintained by a law firm. Investor funds received from these offerings were commingled in a non-segregated manner in the escrow accounts.

Because the offerings overlapped, at any given point in time during the Relevant Period the escrow accounts included offering proceeds from two or more of the nine offerings.

The first escrow account was maintained at CBank (the "CBank Escrow Account"). From in or about December 2009 through at least March 2012, Middlebury utilized the CBank Escrow Account to hold investor funds from the following five private offerings:

Issuer	Offering Period	Total Deposits between December 2009 and March 2012
BCT	December 2009 – June 2011	\$4.12 M
NVG	December 2009 – September 2011	\$2.96 M
NVL	March 2010 – December 2011	\$1.9 M
VSE	April 2010 – July 2010	\$690,000
CAS	December 2010 – Feb 2011	\$250,000

The second escrow account that Middlebury used to hold offering funds was held at HBank (the "HBank Escrow Account").

Beginning in or about March 2011 and continuing through at least April 2012, Middlebury used the HBank Escrow Account to hold investor funds from the following five private offerings:

Issuer	Offering Period	Total Deposits between March 2011 and April 2012
MV II	March 2011- April 2012	\$13.59 M
MV III	March 2011- April 2012	\$6.13 M
VSE	April 2011- April 2012	\$502,000
RYM	September 2011- April 2012	\$1.72M
ABT	March 2012 – April 2012	\$6.55 M

The CBank Escrow Account and HBank Escrow Account are collectively referred to herein as the “Middlebury Escrow Accounts.”

GO's Conversion of Monies From the Escrow Accounts

During the Relevant Period, GO converted approximately \$125,000 in escrowed monies received from offering investors by directing that those funds be wired to his personal bank account.

Middlebury's Misuse of Escrowed Monies

Middlebury, acting through GO, misused \$200,000 in escrowed customer funds that were given to Middlebury for investment in the BCT and NVL offerings to make payments to, or on behalf of NVG, as follows:

- On or about March 4, 2010, Middlebury, acting through GO, directed that three wires totaling \$50,000 be sent from the CBank Escrow Account. The monies were sent to NVG (\$36,000) or were payments to Middlebury (\$4,000) and outside counsel (\$10,000) for purported commissions and fees associated with the NVG offering. The only offering funds in the CBank Escrow Account at the time of these transfers were on deposit from the NVL and BCT offerings.
- On or about March 30, 2010, Middlebury, acting through GO, directed that \$50,000 be wired from the CBank Escrow Account to NVG. The only offering funds in the CBank Escrow Account at the time of this transfer were on deposit from the NVL and BCT offerings.
- On or about April 5, 2010, Middlebury, acting through GO, directed four wires totaling \$50,000 from the CBank Escrow using funds on deposit from the NVL and BCT offerings. The monies were sent to NVG (\$2,500) or were payments to third parties on behalf of NVG (\$47,500),

including \$11,000 to Middlebury, purportedly for offering commissions in connection with the NVG offering when there were no NVG monies on deposit.

- On or about April 13, 2010, Middlebury, acting through GO, directed that three wires totaling \$50,000 be sent from the CBank Escrow Account. The monies were sent to NVG (\$44,000) or were payments to Middlebury (\$2,000) and outside counsel (\$4,000) for purported commissions and fees associated with the NVG offering. The only offering funds in the CBank Escrow Account at the time of these transfers were on deposit from the NVL and BCT offerings.

NVG had no authority to receive funds from BCT or NVL under the terms of each of these offerings.

By improperly using customer funds as described above, Middlebury violated FINRA Rules 2150 and 2010.

Middlebury and Robinson Failed to Reasonably Supervise GO

During the Relevant Period, Robinson had supervisory responsibility over GO and was responsible for reviewing GO's activities to ensure his compliance with applicable securities laws and Middlebury's written supervisory procedures.

As noted above, GO converted approximately \$125,000 in customer funds received from the Middlebury offerings, and made fraudulent misrepresentations and omissions of material facts in connection with the NVG and NVL private offerings, which collectively raised approximately \$5 million.

During the Relevant Period, Middlebury, acting through Robinson, failed to reasonably supervise GO, by among other things, failing to review GO's selling activity and handling of customer offering funds through the escrow accounts. In particular, Robinson failed to monitor and review GO's releases of funds from those accounts. As a result, GO was given access to investor money, resulting in the conversion noted above. Robinson failed to detect this activity.

Robinson was also aware of "red flags" suggestive of violative conduct by GO, but failed to take reasonable follow-up steps to review GO's conduct. For example, Robinson was aware:

- that GO, the primary salesman of the NVL offering, had an ownership interest in NVL and had lent the company approximately \$325,000, creating potential conflicts of interest;
- that NVG had a large tax liability, creating potential disclosure issues; and

- that GO owed a large tax liability to the IRS and had other financial difficulties that resulted in him borrowing funds from customers, an activity prohibited by Middlebury's written supervisory procedures.

By failing to reasonably supervise GO, Middlebury and Robinson violated NASD Conduct Rule 3010 and FINRA Rule 2010.

Other Supervisory Violations by Middlebury and Robinson

During the Relevant Period, Middlebury, acting through Robinson, failed to establish and maintain an adequate supervisory system, and failed to establish, maintain and enforce adequate written supervisory procedures and written supervisory control procedures, reasonably designed to achieve compliance with the applicable securities laws and regulations and FINRA rules applicable to the handling and transmittal of customer funds in connection with private offering activity, including the monitoring of fund transmittals to third-party accounts.

As the President and Chief Compliance Officer of Middlebury, Robinson was responsible for establishing and implementing a reasonable supervisory system and written supervisory procedures for Middlebury, as well as establishing and implementing the Firm's supervisory control system.

Middlebury, acting through Robinson, failed to obtain monthly bank statements for the Middlebury Escrow Accounts. Instead, the Firm and Robinson relied solely on manually-prepared spreadsheets that the escrow agent provided monthly for each offering showing escrow account activity. This information was incomplete, however, as it did not, until in or about December 2010, identify the recipients of outgoing wires from the accounts.

Further, since Middlebury never obtained the actual bank statements for the Middlebury Escrow Accounts, it was unable to verify that the information that the law firm provided on the escrow spreadsheets was accurate.

Robinson also failed to implement any procedures requiring the review and retention of Escrow Release Notices, the sole document used to release customer funds from the Middlebury Escrow Accounts. The Firm failed to perform any supervisory review of the Release Notices until in or about December 2010, at which time it began attempting to reconcile the information on the Release Notices with the information on the escrow spreadsheets, even though it lacked the necessary bank statements to accomplish this, as described above.

The Firm also failed to retain all of the Release Notices for its private offerings. Based in part on these deficiencies, the Firm and Robinson failed to detect that GO was converting customer funds.

By this conduct, Middlebury and Robinson violated NASD Conduct Rules 3010 and 3012, and FINRA Rule 2010.

Registration Violation

During the Relevant Period, GO performed the functions of a principal of Middlebury by *inter alia*:

- making virtually all of the decisions regarding Middlebury's securities activities in the Ridgewood Branch;
- acting as the *de facto* branch manager of the Ridgewood Branch by providing instructions and guidance to the registered representatives in the Ridgewood Branch concerning the offering activity in that office;
- signing Escrow Agreements and investor fund Release Notices on behalf of Middlebury; and
- determining the compensation of a registered representative in the Ridgewood Branch office.

GO, however, was not registered as a principal during the Relevant Period.

GO also erroneously identified himself as a "managing partner" and "co-founder" of Middlebury on his business card and in Middlebury-related e-mails.

Robinson knew that GO was acting in such capacities and making such representations and that GO was not registered as a principal. He approved GO's business card that identified GO as a "managing partner" of the Firm.

By permitting GO to act as a principal of Middlebury without the required principal registration, Middlebury and Robinson violated NASD Membership and Registration Rule 1021(a) and FINRA Rule 2010.

Recordkeeping Violations

NASD Conduct Rule 3110 and FINRA Rule 4511 require member firms, such as Middlebury, to make and keep records in accordance with Exchange Act Rules 17a-3 and 17a-4.

During the Relevant Period, Middlebury failed to maintain copies of the following records: bank statements for the Middlebury Escrow Accounts and an escrow account established for another offering at TBank; and Escrow Release Notices for the TBank escrow account.

Middlebury was required to maintain these records under Exchange Act Rule 17a-4.

By failing to maintain required books and records, Middlebury willfully violated Exchange Act Rule 17a-4, NASD Conduct Rules 3110 (for conduct before December 5, 2011) and FINRA Rules 4511 (for conduct after December 4, 2011) and FINRA Rule 2010.

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

1. Middlebury to be:
 - a. Censured; and
 - b. Fined \$325,000.
2. Robinson to be:
 - a. Suspended from associating in any and all principal capacities with any FINRA member firm for a period of one year;
 - b. Required to requalify as a General Securities Principal by passing the Series 24 examination prior to associating with any FINRA member firm in any principal capacity following the one-year suspension; and
 - c. Fined \$45,000.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have submitted Election of Payment forms showing the method by which they propose to pay the fines imposed.

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

Robinson 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, he 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 he is subject to a statutory disqualification during the suspension, if he remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

Robinson understands that this settlement includes a finding that he failed to supervise an individual who violated Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 10b-5 promulgated thereunder and that under Article III, Section 4 of FINRA's By-Laws, this makes him subject to a statutory disqualification with respect to association with a member.

Middlebury understands that this settlement includes a finding that it failed to supervise an individual who violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder and that under Article III, Section 4 of FINRA's By-Laws, this makes it subject to a statutory disqualification with respect to membership.

Middlebury understands that this settlement includes a finding that it willfully violated Rule 17a-4 of the Exchange Act and that under Article III, Section 4 of FINRA's By-Laws, this makes it subject to a statutory disqualification with respect to membership.

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; and
- 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 Respondents: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- 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.

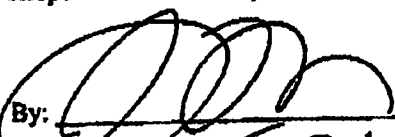
The undersigned, on behalf of Middlebury, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has agreed to its provisions voluntarily; and that no offer, threat, 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 the Firm to submit it.

Robinson certifies that he has read and understand 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.

Respondent Middlebury Securities LLC,

August 7, 2013

Date (mm/dd/yyyy)

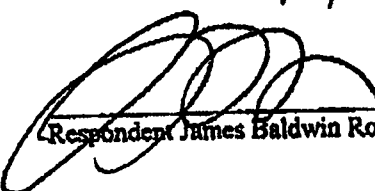
By: 

Print Name: Jim Robinson

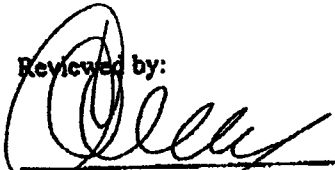
Print Title: Managing Member

August 7, 2013

Date (mm/dd/yyyy)


Respondent James Baldwin Robinson

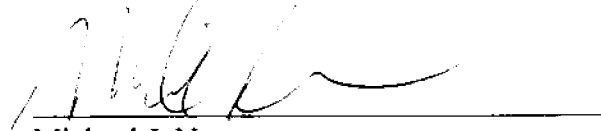
Reviewed by:

 8/7/13
Regis J. Frumento, Esq.
Counsel For Respondents
Stern Tannenbaum & Bell LLP
380 Lexington Avenue
New York, NY. 10168

Accepted by FINRA

8/21/13
Date

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



Michael J. Newman
Senior Regional Counsel
FINRA Department of Enforcement
581 Main Street, Suite 710
Woodbridge, New Jersey 07095
Phone: (732) 596-2030
Fax: (202) 721-6557