

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Anthony Warren Thompson,
(CRD No. 445556)

TNP Securities, LLC,
(CRD No. 149178)

[REDACTED]

[REDACTED]

Respondents.

DISCIPLINARY PROCEEDING
No. 2011025785602

Hearing Officer - MC

FIRST AMENDED COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In February 2008, Respondent Anthony W. Thompson (Thompson) formed [REDACTED] an entity through which Thompson intended to conduct business as a large-scale commercial real estate investor. In July 2009, TNP Securities, LLC (TNP Securities or Firm), a wholly owned subsidiary of TNP, became the FINRA member broker-dealer through which TNP and Thompson conducted TNP business. Thompson serves as Chief Executive Officer of TNP and was CEO of TNP Securities from July 2009 to June 2012. From in or about March 2011 to January 2013, Respondent [REDACTED] acted as Chief Financial Officer (CFO) and/or president of TNP.

2. From 2008 through 2012, TNP, Thompson, and TNP Securities conducted a series of private placements of securities to raise operating capital for TNP through wholly-owned subsidiaries of TNP - the TNP 12% Notes Program, LLC (12% Notes LLC); TNP 2008 Participating Notes Program, LLC (PNotes LLC); and TNP Profit Participation Program, LLC (PPP Notes, LLC) (collectively, the Guaranteed Notes LLCs). To induce investors to fund Thompson's real estate ventures, the promissory notes offerings featured an express guaranty of principal and interest by TNP (12% Notes, PNotes, and PPP Notes; collectively, Guaranteed Notes).

3. As alleged below in paragraphs 33 through 72, the offering materials issued by the three Guaranteed Notes LLCs in connection with the promissory note offerings failed to disclose or omitted material facts concerning the TNP venture and the Guaranteed Notes LLCs during the respective offering periods. Expressly to assist potential investors in evaluating the guaranty offered by TNP, the private placement memorandum (PPM) for 12% Notes and the PNotes included an unaudited TNP balance sheet. The TNP balance sheet, dated April 30, 2008, included in the PPM for the 12% Notes LLC showed that TNP had approximately \$8.5 million in total equity. Likewise, the TNP balance sheet, dated September 2008, included in PPM for the PNotes LLC showed that TNP had approximately \$5 million in total equity.

4. By December 31, 2008, however, TNP had no more than \$1,272,000 in total equity, and had suffered losses of (\$8,461,000.00) in its first 11 months of operation. Consequently, by no later than January 1, 2009, the increasing operating losses and declines in total equity that TNP suffered comprised material changes in the financial condition of TNP that only worsened as time went on. During the offering periods for 12% Notes and PNotes, losses in 2009 of (\$25,645,000.00) took the company's equity to (\$13,580,000.00). Potential investors,

however, saw only the PPM balance sheets that reflected total equity of either \$8.5 million or \$5 million, respectively. Despite issuing multiple supplements to the offering materials, neither 12% LLC nor PNotes LLC disclosed TNP's negative financial performance during their respective offering periods.

5. As TNP struggled, so did both 12% LLC and PNotes LLC. Both issuers had declining equity and operating losses, resulting, in part, from non-performing loans made by Thompson from 12% Notes or PNotes to TNP or TNP affiliates, as described below. Strapped for cash, the 12% Notes and PNotes made investor distributions from offering proceeds. During the respective offering periods, neither 12% LLC nor PNotes LLC disclosed either their poor performance to potential investors, or that funds raised from investors would be used to make "interest" payments to themselves and other investors.

6. In 2009, TNP lost at least (\$25 million) and had negative total equity of (\$13.5 million). By April 2010, when Thompson, through TNP and TNP Securities, began offering PPP Notes, TNP had lost another \$7 million in the first quarter of 2010 and its total equity had dropped to negative (\$18 million). Unlike the prior guaranteed note offerings, however, the PPM for the PPP Notes offering, dated April 26, 2010, did not include a TNP balance sheet, which would have reflected its sizeable negative equity. Instead, the PPP Notes PPM stated generally that TNP had lost money since its inception. The PPP Notes PPM failed to disclose the magnitude of TNP's losses.

7. The PPP Notes PPM also stated generally that the prior notes programs, *i.e.*, 12% Notes and PNotes, were performing at or above expectations but it failed to disclose the declines in total equity each sustained, the cash flow shortages, use of investor funds for distributions, and portfolio losses, such as losses related to loans to the affiliate Bruin Fund, described below.

8. Thus, none of the PPMs for the 12% Notes LLC, PNotes LLC or PPP Notes LLC, nor their supplements, disclosed the increasing likelihood that TNP would not be able to meet the proffered guaranties of principal and interest or provided prospective investors with sufficient material information regarding the financial performance and condition of TNP or the Guaranteed Notes LLCs for an investor to be able to assess the risk that the Notes would default and TNP would abandon its “guaranty.”

9. Separately, in October 2010, six months after the PNotes offering closed, TNP, through Thompson, commenced a post-offering proxy solicitation to provide Thompson with increased discretion in managing the PNotes LLC to use greater amounts of investor proceeds to fund the operations of TNP or its affiliates. The proxy solicitation materials failed to disclose adequately, however, the current status of affiliate transactions, including the amount of funds already invested by PNotes in TNP affiliates; the true terms of those loans and investments as to accrued interest and extended maturities; and a default and foreclosure in TNP’s first affiliate offering, a fund known as Bruin Fund, L.P., described below. In that regard, the proxy solicitation materials failed to disclose that the Bruin Fund had defaulted on and lost through foreclosure the only property in its portfolio, which was the first property acquired and managed by Thompson’s new business. The proxy solicitation materials further failed to disclose that the foreclosure resulted in a total loss of principal and interest on loans made by 12% LLC and PNotes LLC to the Bruin Fund. Shortly after the proxy concluded, PNotes LLC assigned to TNP its interest in its loan to the Bruin Fund, while the 12% Notes LLC wrote-off its loan and accrued interest. Without knowledge of these material facts, the PNotes investors approved the proxy.

10. Based on the conduct alleged in paragraphs one through eight, Thompson, in connection with 12% Notes, PNotes, and PPP Notes, and TNP Securities in connection with PPP

Notes, violated Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 promulgated thereunder and, for conduct prior to December 15, 2008, NASD Conduct Rules 2110 and 2120, and for conduct occurring on or after December 15, 2008, FINRA Rules 2010 and 2020. In the alternative, the foregoing conduct constitutes violations of Section 17(a) of the Securities Act of 1933, and by virtue of this conduct, Thompson, and TNP Securities as to PPP Notes, violated NASD Conduct Rule 2110 for conduct prior to December 15, 2008, and FINRA Rule 2010 for conduct occurring on or after December 15, 2008. Based on the conduct alleged in paragraph nine, Thompson engaged in conduct that violates FINRA Rule 2010.

11. TNP Securities also failed to supervise in a reasonable manner the conduct of TNP Securities and its associated persons relating to its private placement business in connection with the PPP Notes LLC offering. The foregoing conduct constitutes violations of FINRA Rule 2010 and NASD Rule 3010 by TNP Securities.

12. TNP and TNP Securities, through Thompson, also failed to provide full, complete and timely responses to Rule 8210 requests for information and documents, while Respondent [REDACTED] failed and refused to appear for an on-the-record testimony, in violation of FINRA Rule 8210 and, as to TNP Securities, Thompson, and [REDACTED] FINRA Rule 2010.

RESPONDENTS AND JURISDICTION

13. In 1972, Respondent Thompson first became registered with a member broker-dealer. In 1982, he became registered as a General Securities Principal. Between 1986 and 2008, he was registered with Grubb & Ellis Securities, Inc. From September 4, 2008 to November 26, 2008, he was registered with Wilson-Davis & Co, Inc. From January 2, 2009 to July 14, 2009, he was registered with ARI Financial Services, Inc. (ARI). From July 9, 2009 to May 8, 2013, Thompson was registered with TNP Securities as a General Securities Principal.

Thompson currently is associated with TNP Securities as a majority owner, and therefore remains subject to FINRA jurisdiction.

14. In or about February 2008, Thompson formed TNP, a Delaware limited liability company. TNP is a direct owner of TNP Securities, a FINRA member broker-dealer, as reported on Schedule A of the TNP Securities Form BD. TNP is the Managing Member of TNP Securities.

15. In or about November 2008, TNP and Thompson formed TNP Securities, which is a wholly owned subsidiary of TNP. On or about December 16, 2008, TNP Securities submitted a FINRA Membership Application for TNP Securities, LLC, which FINRA approved on or about July 6, 2009. The primary purpose of TNP Securities is to act as a wholesale broker-dealer for offerings of TNP and its affiliated entities.

16. On or about March 14, 2011, Respondent [REDACTED] became the Chief Financial Officer of TNP. On or about April 19, 2012, he became associated with TNP Securities when [REDACTED] submitted to FINRA, through TNP Securities, a Uniform Application for Securities Industry Registration (Form U4), and opened a window to take the Series 28 Financial and Operations Limited Principal exam. Although [REDACTED] failed to complete the exam and is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the date upon which he ceased to be associated with a FINRA member, namely, February 14, 2013 and (2) the Complaint charges him with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

STATEMENT OF FACTS

A. Thompson held key positions at TNP and the Firm

17. Thompson is the sole Managing Member of TNP and has acted as its Chief Executive Officer from its inception to the present. TNP's operating agreement grants Thompson broad powers and discretion, which he consistently exercised in the course of running TNP's businesses. From its inception to on or about June 21, 2012, Thompson was the Chief Executive Officer of TNP Securities.

B. TNP Established a Nationwide Sales and Marketing Effort

18. Under Thompson's direction, TNP established an extensive national sales and marketing infrastructure. TNP executives solicited selling agreements with retail broker-dealers across the U.S., by telephone, personal and email contacts. If a firm was interested and Thompson approved, TNP would send a due diligence package to the firm, usually by overnight courier. In addition, TNP established a nationwide network of external wholesale registered representatives who marketed the TNP offerings to retail broker-dealers in multiple regions across the country. Thompson monitored each of their individual sales efforts closely through weekly email reports and twice-weekly conference calls. Internal wholesale representatives supported the external sales efforts, and coordinated communications, including transmission of due diligence packages for retail representatives to present to customers.

19. Under Thompson's close scrutiny, TNP's executives and external and internal wholesale representatives worked to promote TNP's product to the retail broker-dealers that had signed selling agreements for a TNP-sponsored offering. In addition to telephone and email contact, TNP marketed the offerings through property tours, retail sales seminar presentations to public customers, and participation in retail firm national sales and/or compliance meetings held

around the country with dining and entertainment events. As described below, this coordinated sales efforts resulted in TNP raising approximately \$250,000,000.00 from retail investors in less than four years.

20. Approximately \$50,000,000.00 of this amount consisted of high-yield promissory notes for which TNP provided a purported guaranty of principal and interest, *i.e.*, 12% Notes, PNotes, and PPP Notes. To assist investors in evaluating the offered guaranties by TNP, the 12% Notes PPM included an unaudited TNP balance sheet, dated April 30, 2008, which showed that TNP, the guarantor, had total equity of approximately \$8,505,879.00. The PNotes PPM included an unaudited TNP balance sheet, dated September 30, 2008, which showed that TNP had total equity of approximately \$5,393,188.00.

C. TNP Suffers Substantial Operating Losses and Declines in Total Equity But Fails to Disclose Them

21. From nearly the beginning of the enterprise TNP experienced significant operating losses and declines in total equity that went undisclosed to investors. By December 31, 2008, as reported in audited financial statements, TNP's total equity had declined to approximately \$1,271,615.00, in connection with a February-to-December total loss of approximately (\$8,461,000.00). According to TNP internal accounting statements, by September 31, 2009, TNP's total equity had dropped further to approximately (\$5,932,328.47), following a year-to-date loss of approximately (\$20,000,000.00). According to audited financials, by the end of the fourth quarter of 2009 (December 31, 2009), TNP's total equity had dropped further to approximately (\$13,580,000.00), on a 2009 annual loss of approximately (\$25,645,000.00).

22. TNP'S massive losses continued in 2010 and 2011. At the end of the first quarter in 2010 (March 30, 2010), shortly before the 12% Notes and PNotes offerings closed and the

PPP Notes offering opened, TNP's net equity had dropped further to approximately (\$18,064,835.18), following a first-quarter operating loss of approximately (\$7,322,141.00), according to TNP internal accounting statements. Audited financials reported that as of December 31, 2010, TNP's total equity had dropped further to approximately (\$29,113,000), on a 2010 annual loss of approximately (\$23,673,000.00). Draft audited financials reported that, as of December 31, 2011, TNP's total equity had declined to approximately (\$41,194,000.00), following a 2011 annual loss of approximately (\$17,091,000.00). Finally, as of September 30, 2012, TNP's internal financial statements report that TNP's total equity had declined to approximately (\$47,807,746.56), following a 2012 loss to date of approximately (\$11,418,047.00). Attached and incorporated herein is Schedule A, which reflects audited annual and unaudited interim financial statement data for the parent-guarantor, TNP, the 12% Notes LLC, the PNotes LLC, and PPP Notes LLC, and the quarterly and cumulative sales of the three Guaranteed Notes.

23. As described below, despite these massive losses by TNP, the 12% Notes LLC and the PNotes LLC continued using the original PPMs with the April and September 2008 balance sheets, described above, throughout the 12% Notes and PNotes offering periods, *i.e.*, from April 2008 to January 2010 (12% Notes) and from September 2008 to March 2010 (PNotes), respectively. Throughout the offering periods, these offerings continued to assert to investors that TNP offered, in good faith, a guaranty of principal and interest. Even though both issuers filed multiple offering supplements, the offering materials presented to potential investors included only the outdated balance sheets that reflected the guarantor as having positive total equity. As subsidiaries under TNP's direct control that shared staff with TNP, the issuers knew or were reckless in not knowing of TNP's losses.

D. The TNP enterprise offered several offerings to public investors, including three Guaranteed Notes Programs

24. In or about March 2008 through August 2012, TNP formed at least sixteen subsidiary entities that sponsored offerings through TNP. Among the offerings brought by the TNP family of entities are one public, non-traded REIT; two special purpose closed-end investment funds; approximately ten offerings of interests in single-property entities; and four note offerings. Three of the note offerings, 12% Notes, PNotes, and PPP Notes, feature a guaranty of principal and interest by TNP, as described below in paragraphs 33, 42, and 62, respectively.

The Bruin Fund, L.P.

25. On or about March 3, 2008, TNP commenced its first private placement offering in a TNP affiliate known as the Bruin Fund, L.P. As described below, both 12% Notes LLC and PNotes LLC made loans to the Bruin Fund, which resulted in losses to both LLCs.

26. According to TNP offering documents, the purpose of the Bruin Fund, a closed-end special purpose fund, was to invest in real estate and other opportunities via real estate loans, operating companies and real property transactions, with no geographic market to represent more than 20% of the portfolio. Although the offering had a maximum raise of \$250,000,000.00, the Bruin Fund raised only approximately \$1,950,000.00 from eight investors between May and July 2008.

27. In 2008, the Bruin Fund acquired an approximate 90 percent interest in two properties located in Dallas, Texas, (known collectively as Oakwood Towers). According to Bruin Fund offering materials, the aggregate acquisition cost was approximately \$13,700,000.00, of which approximately \$9,750,000.00 was financed with a loan and mortgage obtained through an unrelated third party. Oakwood Towers was the Bruin Fund's only asset.

28. Although the Bruin Fund reported that occupancy of the two Dallas properties was 92 percent and 94 percent, the buildings quickly experienced cash flow shortages. According to a TNP post-purchase analysis, occupancy quickly dropped, causing a cash flow shortage, and the buildings required significant improvements immediately to meet building codes and to update “tired” common areas. As described below, the Bruin Fund received loans from both 12% Notes and PNotes to meet cash flow shortages.

29. In June 2009, the 12% Notes LLC twice loaned funds to the Bruin Fund. According to the General Ledger (GL) for the 12% Notes LLC, on or about June 17, 2009, 12% Notes loaned Bruin \$83,000.00 for the “Oakwood Tower mortgage;” and, on or about June 24, 2009, \$28,000.00 for “Oakwood funding.”

30. Next, between September and November 2009, the PNotes LLC loaned funds to the Bruin Fund on four occasions for an approximate aggregate amount of \$186,000.00. According to the GL for PNotes LLC, loans were made: on or about September 9, 2009, in an amount of \$28,000.00 “for payment of Oakwood mortgage;” on or about October 8, 2009, in an amount of \$50,000.00 (same); on or about November 9, 2009, in an amount of \$80,000.00 “for pmt oakwood TK [sic] invoice;” and on or about November 10, 2009, in an amount of \$28,000.00, “for pmtoakwood [sic] mortgage.”

31. In 2010, the Bruin Fund defaulted on at least three payments of the Oakwood Towers mortgage. On or about July 14, 2010, TNP, the Bruin Fund and Thompson received a Notice of Foreclosure. On or about August 4, 2010, the mortgage lender foreclosed.

32. On or about October 27, 2010, PNotes LLC assigned to TNP the principal value *i.e.*, (\$186,000.00), of its outstanding loan to Bruin Fund. At or about the same time, 12% Notes LLC wrote off its loan to the Bruin Fund.

12% Notes Program, LLC (12% Notes), a Guaranteed Promissory Note

33. On or about June 10, 2008, TNP commenced a private placement offering of promissory notes (12% Notes), in connection with the 12% Notes LLC. The 12% Notes featured an unconditional guaranty by TNP of principal and interest payments to 12% Notes investors. According to its PPM, the purpose of the 12% Notes offering generally was to fund loans to or make equity investments in TNP or its affiliates, *i.e.*, to provide working capital for TNP. Between June 10, 2008 and January 6, 2010, the 12% Notes program raised approximately \$21,599,537.23 from public investors, as reflected on Schedule A.

34. Interest payments on the 12% Notes were to be paid quarterly at an annual rate of 12 percent. The 12% Notes were due to mature in 2011, subject to two extensions of one year, at TNP's discretion. In 2011 and 2012, TNP extended the due dates for the 12% Notes, resulting in a due date of June 10, 2013. In October 2012, Thompson reported that the maturity date for the 12% Notes was extended further to June 2016, pursuant to a post-offering proxy solicitation.

35. The offering materials for the 12% Notes offering comprised the private placement memoranda, dated June 10, 2008, and two supplements issued during the offering period, dated July 25, 2008 and June 25, 2009 (Offering Materials). Thompson participated in the drafting of the 12% Notes Offering Materials and reviewed and approved the materials for distribution to prospective investors. Between on or about June 10, 2008 and January 6, 2010, TNP, through Thompson, issued and distributed the Offering Materials for the 12% Notes offering through the means and instrumentalities of interstate commerce, as described above in paragraphs 18 and 19.

36. As alleged above, the 12% Notes PPM provided that TNP unconditionally guaranteed the payment of interest and repayment of principal. To facilitate the evaluation of the

proffered guaranties by potential investors, the 12% PPM included an unaudited consolidated TNP balance sheet, dated April 30, 2008, which reflected that TNP had total assets of approximately \$10,098,249.00 and total equity of approximately \$8,505,879.00. The 12% Notes PPM further provided that the 12% Notes LLC was newly formed, had limited capital and had not yet identified or made any investments.

37. Between in or about December 2008 and December 2009, the 12% Notes LLC made 88 loans to TNP, in an approximate aggregate amount of \$19,500,000.00, all of which remain outstanding to date except approximately \$220,000.00. The majority of the loans made to TNP by 12% Notes LLC initially were short-term loans, *i.e.*, 12 months or less in duration. These loans provided for monthly interest payments, but the majority of the loans did not pay interest until after January 2010. In or about September 2011, the 88 loans to TNP were consolidated and the maturity extended to June 2012. The 12% Notes LLC also made a few loans to TNP affiliates, including two loans to the Bruin Fund, in an approximate aggregate amount of \$111,000.00, described above in paragraph 29. In or about August 2010, the 12% Notes LLC wrote-off the Bruin Fund loans and the accrued interest, upon the Bruin Fund property's foreclosure.

38. The 12% Notes LLC performed poorly and it suffered undisclosed operating losses and declines in total equity as a result of TNP's and Thompson's business practices, including those described in paragraph 37. TNP's internal accounting reports reflect both initial negative results and a continuing downward trend for the 12% Notes LLC, as reflected on Schedule A. For 2008, the 12% Notes LLC ended the year with total equity of (\$160,702.41) and suffered an annual loss of (\$161,701.00). The negative performance of the 12% Notes LLC continued in 2009, for which TNP's internal accounting reports reflect an annual loss of

(\$844,512.00) and total equity of (\$1,005,215.49) at year end. For 2010, internal accounting reports reflect an annual loss of (\$1,180,956.00) and total equity of (\$2,186,171.80) at year end. For 2011, internal accounting reports for the 12% Notes LLC reflect that it suffered an annual loss of (\$644,242.00), and a decline in total equity to (\$2,835,805.26.) at year end.

39. During its offering period, between June 10, 2008 and January 6, 2010, TNP and the 12% Notes LLC, through Thompson, continued to market and sell the 12% Notes as a guaranteed offering while, as reflected on Schedule A, TNP's financial condition deteriorated significantly, as set forth in paragraphs 21 and 22, above, and 12% Notes LLC suffered from poor operating performance of its investment portfolio, as set forth in paragraphs 37 and 38, above. Despite poor performance, TNP and the 12% Notes LLC, through Thompson, continued the offering without providing potential investors with any information in the Offering Materials regarding the current status of the financial condition of 12% Notes LLC or its guarantor, TNP, including the current 12% Notes LLC or TNP balance sheet and income statement, or information concerning the performance of 12% Notes LLC investments. By no later than January 1, 2009, the Offering Materials for the 12% Notes omitted material facts necessary to make the statements made regarding the guaranty, the financial condition of TNP and the capital and investment portfolio of 12% Notes LLC, in the light of the circumstances in which they were made, not misleading.

40. As a result of its poor performance, the 12% Notes LLC did not generate sufficient cash flow from investments to make distributions of interest to 12% Notes investors from the results of operations. According to TNP, between in or about June 2008 and January 2010, the 12% Notes LLC used investor proceeds to make distributions of interest due to investors, in the total approximate amount of \$1,171,263.00. From on or about June 10, 2008

through January 6, 2010, *i.e.*, the entire offering period, TNP and 12% Notes LLC, through Thompson, failed to disclose in the Offering Materials that investor proceeds would be and were used as a source of funds to make quarterly distributions to 12% Notes investors. These circumstances are material facts necessary to make the statements regarding the guaranty, the financial condition of TNP and the capital and investment portfolio of 12% Notes LLC, in the light of the circumstances in which they were made, not misleading.

41. By mid-July 2011, the 12% Notes LLC began experiencing difficulty in making its quarterly interest distributions of approximately \$650,000.00. In or about July 2011 and again in April 2012, the 12% Notes program paid its quarterly interest distributions late to certain investors. In June 2012, 12% Notes suspended its interest payments. In October 2012, TNP conducted a proxy solicitation to obtain investor approval to change the terms of the notes by extending the maturity date to June 2016 and reducing the interest rate through maturity to between three percent and five percent. The proxy also sought consent to a waiver as to any prior defaults under the 12% Notes and a waiver as to any interest due and unpaid in 2012. On November 13, 2012, Thompson advised 12% investors that a majority of investors approved the modifications.

2008 Participating Notes Program, LLC (PNotes), a Guaranteed Promissory Note

42. On or about December 9, 2008, TNP commenced a private placement offering of promissory notes (PNotes) in connection with the TNP 2008 Participating Notes Program, LLC (PNotes LLC). The PNotes featured a guaranty by TNP of principal and interest payments to PNotes investors. According to its PPM, the proceeds of the PNotes offering generally were to be used to fund or invest in, directly or indirectly, real estate and real estate-related debt

investments. Between December 9, 2008 and March 22, 2010, the PNotes offering raised approximately \$26,274,903.01 from public investors, as reflected on Schedule A.

43. The PNotes offering consisted of three series of notes, Series A paying 12%, Series B paying 10%, and Series Q for qualified plans, paying 13%. The interest payments were to be divided between current interest payments of 10% per annum, paid monthly, and additional accrued return, due on maturity, of 2% for Series A and 3% for Series Q investors. PNotes are due to mature on December 9, 2013, subject to two extensions of one year, at TNP's discretion.

44. The PNotes offering materials comprised the private placement memoranda, dated December 9, 2008, and five supplements, dated February 19, 2009; March 10, 2009; April 6, 2009; September 9, 2009; and December 9, 2009 (Offering Materials). Thompson participated in the drafting of the PNotes Offering Materials and reviewed and approved the materials for distribution to prospective investors. Between on or about December 9, 2008 and March 22, 2010, TNP, through Thompson, issued and distributed the Offering Materials for the PNotes offering through the means and instrumentalities of interstate commerce, as described above in paragraphs 18 and 19.

45. As did the 12% Notes, the PNotes PPM provided that TNP guaranteed the payment of interest and repayment of principal. Unlike the 12% Notes unconditional guaranty, the PNotes guaranty was limited to the value of certain collateral, specifically, "a pledge of TNP's membership interest in the [PNotes LLC]," in other words, PNotes LLC's total equity.

46. To facilitate the evaluation of the proffered guaranty by potential investors, the PNotes PPM included an unaudited consolidated TNP balance sheet, dated September 30, 2008, which reflected that TNP had total assets of \$21,801,019.00 and total equity of \$5,393,188.00.

The PNotes PPM further provided that the PNotes LLC was newly formed and had limited capital and that it had not yet identified or made any investments.

47. The PNotes LLC made investments in equity and debt of real estate and real estate-related operating companies, mostly in TNP affiliates. According to a schedule provided by TNP, on the equity side of the PNotes LLC investment portfolio, between January 2009 and April 2010, the PNotes LLC purportedly made investments in ownership positions for certain real property and real property operating companies in an aggregate amount of approximately \$19,000,000.00. On the debt side of the PNotes LLC investment portfolio, the TNP schedule reflects that, between in or about January 2009 and December 2011, the PNotes LLC purportedly also lent funds to TNP affiliated companies to acquire interests in real property and real property-related companies, in an aggregate amount of approximately \$25,000,000.00, of which approximately \$8,000,000.00 remains outstanding, as of in or about June 2012. The staff was unable to verify the schedule and the current market value of and return on these investments is not known because TNP and TNP Securities failed to provide information and documents, as alleged below in paragraphs 1251 to 134, and because Respondent [REDACTED] failed and refused to re-appear for testimony, as alleged below in paragraphs 103 to 113.

48. With respect to the outstanding loan portfolio of PNotes LLC, the LLC initially made short-term loans, *i.e.*, less than 12 months in duration, to TNP or TNP affiliates. These loans provided for accrued interest, which was to be compounded monthly but not paid until the loan matured. Thompson individually or in conjunction with TNP, provided a guaranty of principal and interest on the loans made by the PNotes LLC. At the time the loans came due, however, Thompson extended the maturities from two to five years and caused the loans to continue to accrue interest, thereby depriving PNotes LLC of current cash flow for the expected

life of the program. In so doing, Thompson often acted on behalf of TNP as guarantor, on behalf of the PNotes LLC as the creditor, and on behalf of TNP affiliates as the debtor.

49. The PNotes LLC has suffered negative financial performance since inception, according to the audited and internal TNP financial statements, and as reflected on Schedule A, as a result of Thompson's business practices described in paragraphs 47 and 48. For 2009, the PNotes LLC audited financial report reflects total equity of (\$2,535,540.29) and an annual loss of (\$2,475,000.00) at year end. For 2010, the PNotes LLC audited financial report reflects total equity of (\$8,044,000.00) and an annual loss of (\$5,246,000.00) at year end. For 2011, a PNotes LLC draft audit report reflects total equity of (\$9,701,000.00) and an annual loss of (\$3,183,000.00) at year end. For 2012, internal accounting reports prepared by TNP staff reflect total equity of (\$12,835,000), as of September 30, 2012, and a budgeted loss of (\$2,702,171.00), as of December 31, 2012.

50. None of the supplements to the PNotes PPM contained information regarding the financial condition of PNotes LLC or TNP, and did not include a balance sheet or other financial statements for either entity. As described above and reflected on Schedule A, with the exception of the second and third quarters of 2009, the TNP internal and the audited financial statements for PNotes LLC reported negative total equity throughout the offering period. Consequently, for the majority of the PNotes offering period, the collateral securing the PNotes guaranty had no value. The Offering Materials failed to disclose the financial condition of PNotes LLC and the "value" of the pledged collateral to prospective PNotes investors throughout the offering period.

51. During its offering period, between on or about December 9, 2008 and March 22, 2010, TNP and the PNotes LLC, through Thompson, continued to market and sell PNotes as a guaranteed offering while, as reflected on Schedule A, TNP's financial condition deteriorated

significantly, as described in paragraphs 21 and 22, above, and PNotes LLC suffered losses arising from poor operating performance of its investment portfolio and declines in total equity, as described in paragraph 49, above. Despite their poor performance, TNP and the PNotes LLC, through Thompson, continued the offering without providing potential investors with any information in the Offering Materials regarding the current status of the financial condition of PNotes LLC or its guarantor, TNP, including the current PNotes LLC or TNP balance sheet and income statement, or information concerning the performance of PNotes LLC investments. By no later than January 1, 2009, the Offering Materials for the PNotes omitted material facts necessary to make the statements made regarding the guaranty, the financial condition of TNP and the capital and investment portfolio of PNotes LLC, in the light of the circumstances in which they were made, not misleading.

52. The PNotes LLC did not generate sufficient cash flow from investments to make distributions of interest to PNotes investors from the results of operations. According to TNP, on 15 instances between on or about February 6, 2009 and April 15, 2010, the PNotes LLC used investor proceeds to make distributions of interest due on the PNotes promissory notes, in a total approximate amount of \$1,558,300.00. Throughout the PNotes offering period, TNP and PNotes LLC, through Thompson, failed to disclose in the Offering Materials the material fact that investor proceeds would be and were used as a source of funds to make quarterly distributions to PNotes investors. That investor proceeds would be and were the source of funds for investor interest distributions are material facts necessary to make the statements made in the Offering Materials regarding the use of proceeds of PNotes LLC, in the light of the circumstances in which they were made, as described above, not misleading.

PNotes LLC Post-Offering Proxy to Increase Investments in TNP Affiliates

53. In or about October 2010, after the PNotes offering closed, TNP, through Thompson, commenced a post-offering proxy solicitation to PNotes investors to increase the limit of the amount of PNotes gross offering proceeds (*i.e.*, \$26,224,903.00) that could be used to invest in TNP affiliates, from 10% to 50% of proceeds. The proxy materials comprised a cover letter with Consent Solicitation attached, a PNotes Newsletter, and a Schedule of Investments. Thompson participated in the review and approval of the proxy materials before they were distributed to PNotes investors, and Thompson signed the cover letter.

54. The PNotes proxy materials included inaccurate and misleading representations and omissions regarding material facts relating to the status of the investments made with the PNotes offering proceeds. First, the Consent Solicitation indicated that TNP had exceeded the 10% limit and invested 31% of the PNotes offering proceeds (*i.e.*, \$8,232,000.00) in loans to affiliates. The actual percentage, however, was higher, as much as 58 percent of the PNotes offering proceeds, or approximately \$15,219,000.00.

55. Second, the Schedule of Investments further identified real property investments and 11 outstanding loans to TNP affiliates held by PNotes LLC, as of August 31, 2010. At or about the time of the Consent Solicitation, the 11 loans comprised the majority of outstanding investments held by PNotes LLC. For each loan, the schedule reflected several accounting entries, including "Maturity Date" and "Total Interest Earned to Date."

56. The proxy materials, however, failed to disclose material facts regarding the performance of the 11 loans in the PNotes portfolio made to TNP affiliates, in particular with respect to the loan by PNotes to the Bruin Fund for the Oakwood Tower property. The proxy materials failed to disclose that, after the loan was used in 2009 to make mortgage payments,

TNP failed to make timely payments in early 2010 and subsequently defaulted in June 2010, and that the mortgage lender had foreclosed upon the property on or about August 4, 2010, or two months prior to the commencement of the proxy solicitation. The foreclosure on the Oakwood Tower property resulted in losses of principal and interest in the PNotes loan portfolio (and also in the loan portfolio of 12% Notes), and a complete loss to the Bruin Fund of its investment capital. The failure of TNP's and Thompson's first offering and property, shortly before the PNotes proxy vote, reflected negatively on TNP and Thompson and was an undisclosed material fact.

57. In addition, the proxy materials misrepresented material facts concerning the terms of the loans made by PNotes to TNP affiliates, including the size of the loans, the maturity dates, and the nature and amount of interest "earnings." In that regard, the Schedule of Investments listed each of the 11 outstanding loans by PNotes to TNP affiliates as a single loan of a certain amount. The Schedule failed to disclose that certain of PNotes' investments in loans to TNP affiliates consisted of multiple loans and that PNotes LLC had made subsequent loans of additional funds to certain entities without requiring repayment of principal and interest of prior loans.

58. The proxy materials further failed to disclose material facts regarding the maturity of loans made by PNotes LLC to TNP affiliates. The proxy materials referred to "short terms loans" with "a maturity date of 12 months or less." In addition, with respect to the "Maturity Date" listed for the loans, the schedule reflected dates that range from December 2010 to December 2014, with four loans maturing in December 2010 and seven maturing in 2011 through 2014. These statements suggest that none of the loans had yet matured and most were multi-year loans. The statements failed to disclose, however, that TNP and Thompson had

extended the maturity date of most of the loans from an initial term of six months to periods ranging from two to five years. As a result, TNP and Thompson failed to disclose that TNP and its affiliates had been unable to repay certain loans as they initially became due; that TNP and its affiliates likely would have defaulted had the maturity dates not been extended; and that the loan portfolio no longer held “short term loans.”

59. The proxy materials further failed to disclose material facts regarding the interest earnings by PNotes LLC from TNP affiliates. With respect to the column on the Schedule of Investments captioned “Total Interest Earned to Date” – written in large type-face, bold, and all-caps – the schedule reflects “\$836,000” as the amount “earned” for the 11 loans. This representation was misleading, in that the schedule failed to disclose that PNotes LLC had received only approximately \$20,670.09 in interest payments from the TNP affiliates at the time of the proxy solicitation. The schedule further failed to disclose the material fact that the loans were accruing all interest prior to the extended maturities and that, as a result, PNotes LLC was not receiving cash from the loans made to TNP affiliates.

60. On or about October 29, 2010, Thompson advised PNotes investors that a majority had approved the increase.

61. In or about March and April 2012, PNotes made its distribution payments late to certain investors. In June 2012, PNotes suspended distributions. In August 2012, PNotes reduced distributions by sixty percent. On or about March 4, 2013, PNotes made a partial payment and defaulted on the remaining interest payments.

Profit Participation Notes, LLC (PPP Notes, LLC), a Guaranteed Promissory Note

62. On or about April 26, 2010, TNP commenced a private placement offering of promissory notes (PPP Notes), in connection with a third note program, the TNP Profit

Participation Program, LLC (PPP Notes LLC). The PPP Notes featured a guaranty by TNP of principal and interest payments to PPP Notes investors. TNP Securities acted as the wholesale broker-dealer for the PPP Notes offering. According to its PPM, the proceeds of the PPP Notes offering generally were to be used to invest or fund investments, directly or indirectly, in real estate and real estate-related debt investments. Between April 26, 2010 and April 26, 2012, the PPP Notes program raised from public investors approximately \$3,386,983.35, as reflected on Schedule A.

63. The PPP Notes offering consisted of three series of notes – Series A Participating Notes, paying 9% current monthly interest and accruing an additional 1% to be paid at maturity or prepayment by the PPP Notes LLC; Series B Participating Notes, paying 9% current monthly interest; and Series Q Notes for qualified plans, paying 10% current monthly interest. In addition, Series A and B were eligible to receive additional potential accrued return, due on maturity. PPP Notes are due to mature in 2015, subject to two extensions of one year, at TNP's discretion.

64. The offering materials for the PPP Notes offerings comprised the private placement memoranda and five supplements for each program (Offering Materials). Thompson participated in the drafting of the PPP Notes Offering Materials and reviewed and approved the materials for distribution to prospective investors. Between April 26, 2010 and April 26, 2012, TNP and TNP Securities, acting through Thompson, distributed the offering materials for PPP Notes through the means and instrumentalities of interstate commerce, as described above in paragraphs 18 and 19.

65. The PPP Notes PPM provided that TNP guaranteed the payment of interest and repayment of principal to PPP Notes investors. Unlike the 12% Notes unconditional guaranty

but similar to the PNotes guaranty, the PPP Notes guaranty was limited to the value of certain collateral, specifically, “a pledge of TNP’s membership interest in the [PPP Notes LLC],” in other words, PPP Notes LLC’s total equity. As described below and reflected on Schedule A, with the exception of PPP Notes LLC’s first quarter (*i.e.*, the first quarter of 2010), the TNP internal and the audited financial statements reported negative total equity for PPP Notes LLC throughout the PPP Notes offering period. But for one quarter, the collateral securing the PPP Notes guaranty had no value during the offering period. The Offering Materials failed to disclose to prospective PPP Notes investors the financial condition of PPP Notes LLC and the “value” of the pledged collateral throughout the offering period.

66. Unlike the PPMs for the 12% Notes and the PNotes offerings, the PPP Notes PPM did not include a TNP balance sheet. Instead, it stated that “[t]he most recently audited financial statements of TNP will be provided to Noteholders upon request.” The PPP Notes PPM further stated, in part, that “TNP has suffered losses since its inception” but failed to disclose the amount of the losses. The PPP Notes PPM provided no other information regarding the financial performance or condition of TNP.

67. The PPP Notes PPM further stated that “since 2008, TNP has guaranteed the unsecured debt obligations of two other affiliated note programs that have raised almost \$50,000,000 and continue to perform at or above expectations: the 12% Notes program and the PNotes program.” The PPP Notes PPM provided no other information regarding the declining financial condition of the 12% Notes LLC or the PNotes LLC, or of the performance of their respective investment portfolios, as described above, including that investor proceeds had been used to make interest distributions to investors in 12% Notes and PNotes.

68. Further according to TNP, on 27 instances between on or about May 14, 2010 and January 18, 2013, TNP provided PNotes LLC with cash for distributions to investors, in a total approximate amount of \$4,115,920.00. To the extent that TNP provided funds to the PNotes LLC that were used to make distributions of interest to promissory note investors, such funding by TNP constituted an exercise of the guaranty provided by TNP. By no later than May 14, 2010, TNP and PPP Notes LLC, through Thompson, failed to disclose in the Offering Materials the material fact that TNP funds were used as a source of funds to make quarterly distributions to PNotes investors or that the guaranty by TNP had been triggered.

69. The PPP Notes PPM further provided that the PPP Notes LLC was newly formed and had limited capital and that it had not yet identified or made any investments. As noted above, during the offering period, the Offering Materials failed to provide prospective investors with any information regarding the negative performance of the PPP Notes, LLC.

70. With the exception of its first quarter period, the PPP Notes LLC also has suffered negative financial performance, according to the audited and internal TNP financial statements, and as reflected on Schedule A. For the PPP Notes LLC, the first nine-month draft audited report for April through December 2010, reflects an annual total equity of (\$115,000.00) and a loss of (\$63,000.00) at year end. The negative performance of the PPP Notes LLC also continued. For 2011, the draft audited reports reflect an operating loss of (\$222,000.00) and a total equity of negative (\$474,000.00) at year end. Based on available information provided by TNP, by the end of the third quarter of 2012, it appears that PPP Notes had total equity of approximately (\$634,000.00) and year-to-date losses of approximately (\$108,000.00).

71. During its offering period, TNP and the PPP Notes LLC, through Thompson, continued to market and sell the PPP Notes as a guaranteed offering while, as reflected on

Schedule A, TNP's financial condition deteriorated significantly, as described in paragraphs 21 and 22, above, and PPP Notes LLC suffered from poor operating performance of its investment portfolio, as described in paragraph 70, above. Despite their poor performance, TNP and the PPP Notes LLC, through Thompson, continued the offering without providing potential investors with any information regarding the current status of the financial condition of PPP Notes LLC or TNP.

72. In or about January through May 2012, immediately following the close of the PPP Notes offering, PPP Notes LLC made its distributions payments late to certain investors. In July 2012, PPP again delayed its distributions to investors.

Supervision

73. In connection with the PPP Notes offering, TNP Securities acted as the managing broker-dealer for the offering but failed to supervise the offering with respect to the misrepresentations and omissions alleged above.

Failures to Cooperate with FINRA's Examination

74. As alleged below, TNP and TNP Securities repeatedly failed to provide complete and timely responses to FINRA requests for information and documents. As a result, FINRA staff had to issue multiple follow-up requests and conducted two on-site examinations in an attempt to obtain requested information and documents. These repeated failures impeded FINRA's investigation concerning TNP and the offerings by its affiliates, including the Guaranteed Notes LLCs.

FIRST CAUSE OF ACTION
**(Misrepresentations or Omissions Regarding Guaranty of Principal and Interest
And Use of Proceeds, by Thompson and TNP Securities)**
**(Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and
NASD Conduct Rules 2110 and 2120 and FINRA Rules 2010 and 2020)**

75. The Department realleges and incorporates by reference paragraphs 1 through 74, above.

76. As described above, TNP, through Thompson, and TNP Securities as to PPP Notes, continued to sell the 12% Notes, PNotes, and PPP Notes without providing potential investors with current information in the respective Offering Materials regarding the performance of TNP and the Guaranteed Notes LLCs. The withheld information was material to potential investors, especially in light of the offer of a guaranty by TNP.

77. In connection with the 12% Notes and PNotes offerings of guaranteed promissory notes, the issuers and TNP, acting through Thompson, failed to provide potential investors with material information in the respective Offering Materials.

- a. by no later than January 1, 2009 to the close of the offering periods, respectively, these non-disclosures and omissions included that:
 - i. TNP suffered from a severely deteriorating financial condition, beginning no later than in the fourth quarter of 2008;
 - ii. TNP's balance sheet in the PPM no longer accurately reflected the status of TNP's financial condition;
 - iii. TNP's ability to meet the terms of the guaranty had declined significantly from the date the PPM was issued and deteriorated further with the passage of time during the Guaranteed Notes LLC offerings;

- iv. the 12% Notes LLC and the PNotes LLC suffered from poor investment performance and a deteriorating financial condition during the respective offering periods;
 - v. that, as a result of the foregoing for PNotes, the collateral securing the guaranty by TNP had no value during the PNotes offering period, other than from March 1 to June 30, 2009;
 - vi. the poor investment performance and deteriorating financial condition of the 12% Notes LLC and the PNotes LLC arose, in part, due to the failure of TNP or its affiliates to make current payments of interest owed and to allow interest owed to accrue, which deprived both LLCs of needed cash flow;
 - vii. the poor investment performance and deteriorating financial condition of the 12% Notes LLC and the PNotes LLC arose, in part, due to the failure of TNP or its affiliates to repay loans when due and the renewal or consolidation of outstanding loans with lengthened maturities, which deprived both LLCs of needed cash flow; and
 - viii. the 12% Notes LLC and PNotes LLC used investor proceeds to make distributions of interest to investors because the LLCs were not generating sufficient cash flow from investments to make distributions.
- b. from the commencement to the closing of the offering period of 12% Notes and PNotes, respectively, these non-disclosures and omissions also included that, in certain instances:

- i. the 12% Notes LLC used investor proceeds to make distributions of interest to investors, in the total approximate amount of \$1,171,263.00; and
- ii. the PNotes LLC used investor proceeds to make distributions of interest to investors, in a total approximate amount of \$1,558,300.

78. As a result of the foregoing, in connection with transactions that occurred from no later than January 1, 2009 through their respective offering periods, the representations in the Offering Materials issued by 12% Notes LLC and PNotes LLC regarding the financial condition of TNP and the Guaranteed Notes Programs, and the guaranty offered by TNP, were misleading and omitted material information necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. As a further result of the foregoing, in connection with transactions that occurred from the commencement through closing of the respective offering periods, the representations in the Offering Materials issued by 12% Notes LLC and PNotes LLC regarding the use of proceeds, and the failure to disclose that investor proceeds would be and were used to pay investor distribution of interest, were misleading and omitted material information necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

79. In connection with the PPP Notes offering of guaranteed promissory notes, PPP Notes LLC, TNP, acting through Thompson, and TNP Securities failed to provide potential investors with material information throughout the offering period, in that the PPP Notes PPM failed to state:

- a. material information that would apprise potential investors of the true financial condition of TNP, including the magnitude of the operating

losses and negative total equity, from at least December 2009 through April 2012;

- b. that, rather than “performing at or above expectations,” the 12% Notes and PNotes offerings referenced therein:
 - i. used investor proceeds, or contributions from TNP pursuant to the guaranties, to make distributions to investors at certain times when operating cash flow was insufficient to meet distribution obligations;
 - ii. to the extent that TNP provided funds to PNotes LLC that were used to make distributions of interest to promissory note investors, such funding constituted an exercise of the guaranty provided by TNP;
 - iii. suffered poor investment performance and a negative trend in income and total equity;
 - iv. suffered losses of principal and interest on loans made to the Bruin Fund as a result of the foreclosure on the Oakwood Towers property, and that PNotes LLC had exercised its guaranty by assigning to TNP its interest in its loan to the Bruin Fund in an effort to obfuscate PNotes’ investment losses;
 - v. made short-term loans, *i.e.*, less than 12 months in duration, to TNP or TNP affiliates that provided for accrued interest until the loans were due, which were then extended to long-term loans; and that, as a result, 12% Notes LLC and PNotes LLC suffered cash flow shortages and were unable to make investor distributions from operating income;

- vi. that, in mid-2011, 12% Notes was unable to pay its investor distributions in a timely manner;
- vii. in early 2012, 12% Notes suspended its investor payments and PNotes made its distributions late to certain investors; and
- c. that the PPP Notes LLC suffered from poor performance, negative income and negative equity during the offering period, and thus, the collateral securing the guaranty by TNP had no value.

80. As a result of the foregoing, in connection with transactions that occurred from the commencement through closing of the PPP Notes offering period, the representations in the Offering Materials issued by PPP Notes LLC regarding the financial condition of TNP and the guaranty offered by TNP, as well as the prior performance of the 12% Notes LLC and the PNotes LLC, and the poor performance of the PPP Notes, LLC, were misleading and omitted material information necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

81. Thompson, and TNP Securities as to PPP Notes, knew, or was reckless in not knowing, that the Guaranteed Notes Programs failed to disclose the information set forth in paragraphs 76 through 80 above, including that the representations in the offering materials failed to provide potential investors with material information regarding TNP's deteriorating financial condition beginning in the fourth quarter of 2008, and failed to provide potential investors with material information regarding the financial performance and condition of any of the Guaranteed Notes Programs. Further, with respect to the PPP Notes, Thompson and TNP Securities knew or recklessly disregarded that the representations in the offering materials failed to disclose adequately to potential investors the operating performance of TNP, the two prior

note offerings, 12% Notes LLC and PNotes LLC, and of PPP Notes LLC. Thompson, and TNP Securities as to PPP Notes, knew or recklessly disregarded how the seriously declining financial condition of TNP and its affiliates impacted TNP's ability to fulfill its guaranties for each Guaranteed Notes Program, and that, as a result, PNotes and 12 Notes used investor proceeds to pay investor distributions. Yet, Thompson failed to disclose these material facts to prospective investors.

82. Thompson, by engaging in the conduct described above in paragraphs 1 through 81, and TNP Securities, by engaging in the conduct described above in paragraphs 1 through 76, and 79 through 81, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce, or of the mails or of the facilities of a national securities exchange, with scienter, made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

83. The aforementioned acts, practices and conduct are inconsistent with high standards of commercial honor and just and equitable principles of trade.

84. As a result of the foregoing conduct in connection with the offering of 12% Notes, PNotes and PPP Notes, Thompson willfully violated Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, thereby violating NASD Conduct Rules 2110 and 2120 for conduct occurring prior to December 15, 2008, and FINRA Rules 2010 and 2020 for conduct occurring on or after December 15, 2008. As a result of the foregoing conduct in connection with the offering of PPP Notes, TNP Securities willfully violated Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, thereby violating FINRA Rules 2010 and 2020.

SECOND CAUSE OF ACTION
**(Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 and NASD Rule 2110 and
FINRA Rule 2010, by Thompson and TNP Securities)**
(Pleaded in the Alternative to the First Cause)

85. The Department realleges and incorporates by reference paragraphs 1 through 84, above.

86. Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 prohibit, by the use of interstate commerce, “in the offer of sale of any securities ... , (1) material misstatements or omissions to obtain money or property” (Section 17(a)(2)); or (2) engaging in “any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchase.” (Section 17(a)(3)).

87. During the course of conduct described above in paragraphs 17 through 84, TNP, acting through Thompson, and TNP Securities as to PPP Notes, in connection with the offer of sale of securities, by the use of the means of instruments of transportation or communication in interstate commerce or by use of the mails: (a) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, all to obtain money or property; and/or engaged in transaction(s), practice(s), or courses of business which operated as a fraud or deceit upon the purchaser.

88. As a result of the foregoing conduct in connection with the offering of 12% Notes, PNotes and PPP Notes, Thompson, violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933, thereby violating NASD Conduct Rule 2110 for conduct occurring prior to December 14, 2008, and FINRA Rule 2010 for conduct occurring on or after December 14, 2008. As a result of the foregoing conduct in connection with the offering of PPP Notes, TNP

Securities violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933, thereby violating FINRA Rule 2010.

THIRD CAUSE OF ACTION
(Misrepresentations or Omissions in Connection with
Communications with Investors, by Thompson)
(FINRA Rule 2010)

89. The Department realleges and incorporates by reference paragraphs 1 to 88, above.

90. As described above in paragraphs 50 through 57, in or about October 2010, TNP and PNotes LLC, through Thompson, commenced a proxy solicitation to seek consent to an increase in the use of proceeds for investments in affiliates in the PPP Notes LLC.

91. The proxy solicitation materials, as described above in paragraphs 53 through 61, include material misrepresentations and omissions regarding the status of the investments made with the PNotes offering proceeds, including that:

- a. PNotes LLC had already greatly exceeded the 10% limit for investments of offering proceeds in TNP affiliates by the time of the proxy solicitation. In fact, while the amounts set forth in the Consent Solicitation indicated loans to affiliates already exceeded the limits set forth in the PPM and comprised 31% of offering proceeds, the total percentage invested in affiliates, including equity investments, was actually much higher than 31% ;
- b. the Schedule of Investments identified real property investments and 11 outstanding loans to TNP affiliates held by PNotes LLC, as of August 31, 2010. At or about the time of the Consent Solicitation, the 11 loans comprised the majority of outstanding investments held by PNotes LLC.

For each loan, the schedule reflected several accounting entries, including “Maturity Date” and “Total Interest Earned to Date.” The proxy materials failed to disclose material facts regarding the performance of the 11 loans in the PNotes portfolio made to TNP affiliates.

- c. with respect to the loan to the Bruin Fund for the Oakwood Tower property, the proxy materials failed to disclose that, after the loan was used in 2009 to make mortgage payments, TNP failed to make timely mortgage payments in early 2010 and subsequently defaulted in June 2010. The proxy materials further failed to disclose that the lender had foreclosed upon the property on or about August 4, 2010, or two months prior to the commencement of the proxy solicitation. The foreclosure on the Oakwood Tower property resulted in losses of principal and interest in the loan portfolios of PNotes (and also in the loan portfolio of 12% Notes), and a complete loss of principal to the Bruin Fund.
- d. in addition, the proxy materials misrepresented the terms of the loans made by PNotes to TNP affiliates, including the size of the loans, the maturity dates, and the nature and amount of interest “earnings.”
- e. the Schedule of Investments listed each of the 11 outstanding loans by PNotes to TNP affiliates as a single loan of a certain amount. The Schedule failed to disclose that certain of PNotes’ loans to TNP affiliates consisted of multiple loans and that PNotes LLC had made subsequent loans to certain entities without first requiring repayment of principal and interest of prior loans.

- f. the proxy materials also referred to “short terms loans” with “a maturity date of 12 months or less.” With respect to the “Maturity Date” listed for the loans, the Schedule of Investments reflected dates that ranged from December 2010 to December 2014, with four loans maturing in December 2010 and seven maturing in 2011 through 2014. These statements purport to reflect that none of the loans had yet matured and most were multi-year loans. But the proxy materials failed to disclose that TNP and Thompson had actually extended the maturity date of most of the loans from an initial term of six months to periods ranging from two to five years. As a result, TNP and Thompson failed to disclose that TNP and its affiliates had been unable to repay certain loans as they initially became due; that TNP and its affiliates would have been in default had the maturity dates not been extended; and that the loan portfolio no longer held “short term loans.”
- g. the proxy materials further failed to disclose material facts regarding the interest earnings by PNotes LLC from TNP affiliates. With respect to the column on the Schedule of Investments captioned “Total Interest Earned to Date” – written in large type-face, bold, and all-caps – the schedule reflected “\$836,000” as the amount “earned” for the 11 loans. This representation was misleading. The schedule failed to disclose that PNotes LLC had received only \$20,670.09 in interest payments from the TNP affiliates at the time of the proxy solicitation. The schedule further failed to disclose that the loans were accruing, *i.e.*, not receiving all

interest prior to the extended maturities and that, as a result, PNotes LLC was not receiving cash flow from the loans made to affiliates.

92. The misrepresentations and omissions described in paragraph 91, above, comprise material facts that were necessary to be disclosed in order to make the proxy materials statements made, in the light of the circumstances in which they were made, not misleading.

93. Thompson knew or should have known that the representations in the proxy materials were materially inaccurate.

94. The aforementioned acts, practices and conduct are inconsistent with high standards of commercial honor and just and equitable principles of trade.

95. As a result of the foregoing conduct, Thompson violated FINRA Rule 2010.

FOURTH CAUSE OF ACTION
(Failure to Supervise Offerings of Private Placement Securities, by TNP Securities)
(NASD Conduct Rules 3010 and FINRA Rule 2010)

96. The Department realleges and incorporates by reference paragraphs 1 to 95, above.

97. On or about April 26, 2010, the PPP Notes LLC entered into an agreement with TNP Securities, in which TNP Securities was named as the Managing Broker-Dealer for the PPP Notes offering.

98. From about July 9, 2009 through April 26, 2012, and in connection with the PPP Notes offering alleged in paragraphs 62 through 72 above, TNP Securities failed to enforce a supervisory system reasonably designed to achieve Firm compliance with applicable laws, rules and regulations regarding the Firm's business in private placement offerings of securities. In that regard, the Firm failed to ensure that the Firm and its personnel did not violate the antifraud

provisions of the federal securities laws or FINRA rules in connection with the preparation or distribution of offering documents, sales literature, or other communications with the public.

99. TNP Securities failed to establish, maintain, and enforce a system and procedures reasonably designed to supervise the firm's business in private placement offerings of securities, in particular with respect to the PPP Notes offering. In that regard, TNP Securities failed to detect that:

- a. the representation in the PPP Notes PPM that prior note offerings were performing at or above expectations was materially misleading in that it failed to disclose adequately the true financial condition of TNP, the 12% Notes program and the PNotes program, including that the prior note issuers made investor distributions from sources other than issuer operations, and that guaranties in prior offerings were exercised;
- b. the representation in the PPP Notes PPM that TNP has suffered losses since its inception was inadequate in that it failed to disclose the magnitude of the losses or negative total equity of TNP, and thus failed to disclose adequately the true deteriorating financial condition of TNP and its ability to fulfill its obligations regarding the offering's Guaranty of principal and interest; and
- c. the nominal positive or negative total equity of the PPP Notes LLC, and thus the value of the purported collateral securing the guaranty, comprise material facts that were necessary to be disclosed in order to make material statements made in the PPP Notes PPM regarding the guaranty, in the light of the circumstances in which they were made, not misleading.

100. As a result, TNP Securities failed to take steps necessary to ensure that PPP Notes offering documents and other materials distributed to potential and existing investors disclosed all material facts regarding PPP Notes, LLC, TNP, and its affiliates, including 12% Notes LLC and PNotes LLC, and described in paragraph 79.

101. The failure to supervise the ongoing sales of the PPP offering in a manner reasonably designed to achieve compliance with laws, rules and regulations applicable to securities transactions in offerings constitutes a violation of NASD Conduct Rule 3010 and FINRA Rule 2010 by TNP Securities.

FIFTH CAUSE OF ACTION
(Failure to Appear for On-The Record Testimony, by [REDACTED]
(FINRA Rules 8210 and 2010)

102. The Department realleges and incorporates by reference paragraphs 1 to 101, above.

103. In or about November 2011, FINRA initiated a cycle examination of TNP Securities. Based on information obtained in the course of the cycle exam, the staff determined to investigate certain offerings issued by TNP, the entity identified on Schedule A to the TNP Securities Form BD as the direct owner of TNP Securities, and Thompson and TNP Securities (Investigation). In connection with the Investigation, pursuant to FINRA Rule 8210, FINRA staff issued requests for information and documents, as described below.

104. On or about January 23, 2013, pursuant to and in accordance with FINRA Rule 8210, [REDACTED] appeared for an on-the-record interview (OTR) at FINRA's Los Angeles District 2 office, in connection with FINRA's Investigation of TNP Securities and offerings issued by its parent, TNP. During his OTR, [REDACTED] agreed to produce additional information and to correct errors in prior Rule 8210 responses provided by TNP and TNP Securities.

105. On or about March 26, 2013, following receipt of certain additional information and documents, including accounting schedules that ██████ prepared or reviewed and approved, FINRA requested that ██████ appear for OTR on April 3, 2013, at FINRA's Los Angeles District 2 office, pursuant to and in accordance with FINRA Rule 8210. FINRA's request was sent by regular first class and electronic mail to counsel of record for ██████ Thompson, TNP, and TNP Securities (Counsel).

106. ██████ through Counsel, knew of the request for testimony on or before April 1, 2013, when Counsel wrote to FINRA and advised that ██████ would not appear for testimony as noticed. ██████ based his refusal on the grounds that the date was inconvenient for him and that he "was uncertain that [he was] subject to [FINRA] jurisdiction."

107. By letter dated April 2, 2013, FINRA provided ██████ and Counsel with a detailed explanation of fact and law explaining that FINRA jurisdiction over ██████ as an associated person of TNP Securities, and requested ██████ appearance for OTR on April 10, 2013, pursuant to FINRA Rule 8210.

108. On April 9, 2013, Counsel's assistant left a voicemail message for staff in which she asserted that she had not been able to contact ██████ and therefore ██████ would not appear for OTR on April 10th. Staff promptly returned the call and informed Counsel, through his assistant, that ██████ obligation to appear remained in full force and effect and requested that, if necessary, Counsel provide an alternate date for ██████ OTR during the week of April 8th. Neither Counsel nor ██████ responded to staff's request or provided an alternate date. On April 10, 2013, ██████ failed appear for OTR. ██████ failure to appear impeded FINRA's investigation.

109. On April 11, 2013, pursuant to and in accordance with Rule 8210, FINRA requested that ██████ appear for OTR on April 25, 2013, at FINRA's Los Angeles District 2 office. FINRA's request was sent by regular first class and electronic mail to ██████ Counsel. In addition, the staff requested that Counsel confirm that he remained counsel to ██████

110. ██████ through Counsel, knew of the request for testimony on or before April 16, 2013, when Counsel's assistant wrote to FINRA and advised that Counsel represents ██████ and that ██████ would not appear for testimony as noticed. ██████ through Counsel, provided no basis for his refusal to appear for OTR. On April 17, 2013, the staff wrote to Counsel and requested that he provide the basis for ██████ refusal to comply with FINRA Rule 8210. Neither Counsel nor ██████ responded or provided a basis for ██████ non-compliance. On April 23, 2013, FINRA staff initiated a call to Counsel, during which Counsel requested that the staff identify the subject areas to be covered in ██████ second OTR. Although not obligated to do so, FINRA staff complied with Counsel's request. Counsel stated that he would provide staff promptly with a commitment for ██████ to appear or an explanation for his refusal. Staff received no further communication from Counsel before the noticed OTR.

111. On April 25, 2013, ██████ did not appear for OTR. On April 26, 2013, Counsel informed staff orally that he required further information from staff regarding the scope of the proposed OTR. Staff's written response requested a confirmation that ██████ would appear and proposed dates. Counsel did not respond to the staff's written request, other than to suggest that the staff issue interrogatories.

112. ██████ failure to appear for OTR delayed and hindered FINRA's investigation. Following his second failure to appear for OTR, on May 1, 2013, FINRA advised

██████ in writing that FINRA had made a preliminary determination to initiate a disciplinary action alleging that he had failed to provide testimony requested pursuant to FINRA Rule 8210. FINRA received no response from ██████ or Counsel. ██████ never appeared for the OTR.

113. By failing to provide testimony as requested, ██████ violated FINRA Rules 8210 and 2010.

SIXTH CAUSE OF ACTION
(Failure to Respond and Failure to Respond Fully and Timely
to Rule 8210 Requests, by TNP and Thompson)
(FINRA Rules 8210 and 2010)

114. The Department realleges and incorporates by reference paragraphs 1 to 113, above.

June 5, 2012 Rule 8210 Request – Untimely Response

115. On June 5, 2012, FINRA staff sent to TNP and Thompson a written request pursuant to FINRA Rule 8210 for information related to the Investigation, including audited and interim financial statements for TNP and subsidiary entities that issued private placement offerings.

116. The June 5, 2012 request was sent by first class mail and email to TNP and Thompson at the principal business location of TNP and TNP Securities listed in FINRA's Central Records Depository (CRD) (hereinafter Principal Office Address) and by email to Thompson. The June 5, 2012 request required TNP to provide the requested written information and records on or before June 11, 2012.

117. On June 11, 2012, TNPS advised FINRA staff, on behalf of TNP, that it had a partial response available on its web portal; FINRA staff was unable to access the partial response. On or about June 12, June 13, and June 15, 2012, TNP provided some, but not all, of

the written information and records requested in the June 5, 2012 letter. In particular, TNP failed to produce interim financial statements for the parent entity or its affiliates.

118. On or about July 11, 2012, TNPS, on behalf of TNP, provided additional documents in response to the June 5, 2012 letter. The CCO of TNP Securities brought responsive documents to his on-the-record examination. On that day, FINRA staff reviewed the documents and informed the CCO and Counsel that the response remained incomplete and inaccurate. On or about July 13, 2012, TNP provided a further response. On or about July 18, 2012, TNP provided an amended response that included revised copies of documents previously provided that reflected inaccurate data.

119. The submission of further written information and records by TNP between June 11, 2012 and July 18, 2012, included some, but not all, of the written information and records requested in the June 5, 2012 letter.

120. On December 11, 2012, FINRA staff conducted an onsite visit to the Principal Office Address, and hand-delivered a Rule 8210 request dated December 11, 2012 that set forth the requested information and documents from the June 5, 2012 letter that the staff had not yet received. The December 11, 2012 letter requested immediate production. On December 11 and 12, 2012, TNP provided additional documents in response to the June 5, 2012 and December 11, 2012 letters, followed by a confirming letter dated December 18, 2012. The submission of further written information and records by TNP in December 2012 included some but not all of the written information and records requested in the June 5, 2012 and December 11, 2012 letters.

121. FINRA staff reviewed the written information and records provided in December 2012 and determined that certain information and documents reflected information that was inaccurate and thereby unresponsive. On January 11, 2013, FINRA staff conducted a second

onsite visit to the Principal Office Address, and hand-delivered a Rule 8210 request that set forth the requested information and documents from the June 5, 2012 and December 11, 2012 letters that the staff had not yet received. On January 11, 2013, TNP provided additional documents in response to the June 5, 2012, December 11, 2012, and January 11, 2013 letters. The January 2013 submission of further written information and records by TNP included some but not all of the written information and records requested in the letters dated June 5, 2012, December 11, 2012, and January 11, 2013.

122. On January 23, 2013, FINRA staff conferred with [REDACTED] and his counsel during [REDACTED] on-the-record examination. As a result of the discussion, TNP agreed to provide an amended response to the letters dated June 5, 2012, December 11, 2012 and January 11, 2013. On January 30 and February 1, 2013, TNP provided additional documents. On January 30, 2013, TNP also provided a written response that reflected additional information and asserted that TNP could not and would not provide a response to two related requests.

123. On February 1, 2013, approximately seven months after the due date set forth in the initial request and after FINRA staff engaged in substantial efforts to obtain production, FINRA received most of the information and records requested in the Rule 8210 Letter dated June 5, 2012. TNP's and Thompson's failure to respond fully to the Rule 8210 request letters dated June 5, 2012, December 11, 2012 and January 11, 2013 in a timely manner delayed and hindered FINRA's investigation.

124. By providing information and records requested pursuant to FINRA Rule 8210 after the June 11, 2012 due date, TNP and Thompson committed separate and distinct violations of FINRA Rule 8210. By violating FINRA Rule 8210, Thompson engaged in conduct

inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

January 17, 2013 Rule 8210 Request – Incomplete Response

125. On or about January 17, 2013, FINRA staff sent to TNP and Thompson a written request pursuant to FINRA Rule 8210 for information related to the Investigation of the PNotes and PPP Notes offerings, including financial, transaction, governing and offering documents of the entities in which the PNotes LLC or the PPP Notes LLC invested. The letter also requested updated information regarding distributions to and communications with investors and information regarding pending civil and regulatory actions.

126. The January 17, 2013 request was sent by first class mail to TNP and Thompson at the Principal Office Address and by email to Counsel. The January 17, 2013 request required TNP to provide the requested written information and records on or before January 31, 2013.

127. On January 30, 2013 and February 8, 2013, through Counsel, TNP and Thompson advised FINRA staff that TNP and Thompson refused to provide any information or documents in response to the January 17, 2013 letter. On March 13, 2013, through Counsel, FINRA issued a Wells letter to TNP and Thompson regarding, among other things, TNP and Thompson's failure to respond to the January 17, 2013 letter.

128. On or about April 4 and April 18, 2013, in response to the Wells letter, FINRA received some but not all of the information and documents requested in the January 17th letter. On June 10, 2013, by first class mail and email to Counsel, FINRA staff provided TNP with a written list of documents the firm had failed to produce, and requested production pursuant to FINRA Rule 8210. To date, FINRA has not received any further response regarding the January 17th and June 10th letters. TNP's and Thompson's failure to respond fully to the Rule 8210

request letters dated January 17, 2013, and June 10, 2013, in a timely manner delayed and hindered FINRA's investigation.

129. By providing incomplete information and records requested pursuant to FINRA Rule 8210 after the January 31, 2013 due date, TNP and Thompson committed separate and distinct violations of FINRA Rule 8210. By violating FINRA Rule 8210, Thompson engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

May 23, 2013 Rule 8210 Request – Failure to Respond

130. Following the failure of ████████ to appear for OTR, on or about May 23, 2012, FINRA staff sent to TNP, through Counsel, a written request pursuant to FINRA Rule 8210, for TNP to designate the person most knowledgeable regarding certain accounting schedules produced in or about February 2013, the sources of funds for distributions to investors in the Guaranteed Notes Programs, and the financial performance of the investment portfolios of the Guaranteed Notes Programs. The May 23rd letter further requested that the designated person appear for OTR on June 4, 5 and 6, 2013, at the District 2 office in Los Angeles.

131. The May 23rd letter was sent by first class mail and email to TNP through its Counsel. The May 23rd letter required TNP to provide its written response on or before May 30, 2013. As of May 30, 2013, FINRA had not received the requested information and records, or any response to the May 23rd letter, and no persons from TNP appeared for the OTR.

132. On or about June 10, 2013, FINRA sent to Counsel a second written request pursuant to FINRA Rule 8210 for the information and records previously requested in the May 23, 2013 request. The June 10, 2013 letter was sent by first class mail and email to TNP through

Counsel. The June 10th letter required a response by June 14, 2013, and that the designated person(s) appear for OTR on June 17 and 20, 2013 at the District 2 Los Angeles office.

133. On or about June 14, 2013, FINRA had not received the requested information and records, or any response to the May 23rd letter, and no representative of TNP appeared for OTR on June 17 or June 20, 2013. On or about June 20, 2013, through Counsel, TNP sent a letter that provided no information regarding the person(s) who prepared the documents referenced in the May 23rd letter. Instead, TNP asserted that it is unable to designate a person most knowledgeable because there has been turnover in the TNP accounting staff since the entity's inception. To date, TNP has not provided such information. TNP'S and Thompson's failure to respond to the Rule 8210 request letters dated May 23, 2013 and June 10, 2013, delayed and hindered FINRA's investigation.

134. By refusing to provide information and records requested pursuant to FINRA Rule 8210, TNP and Thompson committed separate and distinct violations of FINRA Rule 8210. By violating FINRA Rule 8210, Thompson engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

SEVENTH CAUSE OF ACTION
(Failure to Respond and Failure to Respond Fully and Timely
to Rule 8210 Requests, by TNP Securities, TNP, and Thompson)
(FINRA Rule 8210 and 2010)

135. The Department realleges and incorporates by reference paragraphs 1 to 134, above.

October 10, 2012 Request – Untimely Response

136. On or about October 10, 2012, FINRA staff sent to TNP Securities a written request pursuant to FINRA Rule 8210 for information related to the Investigation, including documents and information relating to investment transactions entered into by PNotes LLC and

distributions to investors and sources of funds for distributions by each of the Guaranteed Notes Programs.

137. The October 10, 2012, request was sent by first class mail and email to Counsel. The October 10, 2012 request required TNP Securities to provide the requested written information and records on or before October 23, 2012. As of October 23, 2012, FINRA had not received the requested information and records.

138. On or about October 25, 2012, FINRA sent to Counsel a second written request pursuant to FINRA Rule 8210 for the information and records previously requested in the October 10, 2012, request. The October 25, 2012 letter was sent by first class mail and email to TNP Securities through Counsel.

139. In the October 25, 2012 letter, FINRA requested TNP Securities to confirm by October 26, 2012 that TNP Securities would respond to the outstanding Rule 8210 request and to provide information and records on or before November 2, 2012. As of October 26, 2012, FINRA had not received any communication from TNP Securities or Counsel. As of November 2, 2012, FINRA further had not received the requested information and records.

140. On or about November 5, 2012, TNP Securities provided some, but not all, of the written information and records requested in the October 10, 2012, letter. TNP Securities provided no explanation regarding the missing items, its delay in responding, nor did it request a further extension.

141. On November 15, 2012, FINRA staff sent to TNP Securities, through Counsel, a third written request letter pursuant to FINRA Rule 8210 for the written information and records requested in the October 10, 2012, letter but not provided with the November 5, 2012, submission (November 15 TNP Securities Letter).

142. The November 15 TNP Securities Letter was sent by first class mail and email to TNP Securities through its Counsel. The November 15 TNP Securities Letter required TNP Securities to provide its written response and records on or before November 29, 2012. As of November 29, 2012, FINRA had not received the requested information and records, or any response to the November 15 TNP Securities Letter.

143. On November 15, 2012, FINRA staff also sent to TNP, through Counsel, a request letter pursuant to FINRA Rule 8210 for the written information and records requested in the October 10, 2012 letter but not provided with the November 5, 2012 submission (November 15 TNP Letter).

144. The November 15 TNP Letter was sent by first class mail and email to TNP, through its Counsel. The November 15 TNP Letter required TNP to provide responsive written information and records on or before November 29, 2012. As of November 29, 2012, FINRA had not received from TNP the requested information and records, or any response to the November 15 TNP Letter.

145. On December 11, 2012, FINRA staff conducted an onsite visit to the Principal Office Address, and hand-delivered to TNP a Rule 8210 request dated December 11, 2012 that set forth the requested information and documents from the October 10, 2012 and November 15, 2012 letters that the staff had not yet received. The December 11, 2012 letter also was sent to Counsel by email. The December 11, 2012 letter requested immediate production. On December 11, 12, and 20, 2012, TNP provided additional documents in response to the November 15, 2012 and December 11, 2012 letters, and also sent a confirming letter dated December 18, 2012.

146. The submissions of written information and records in December 2012 by TNP included some but not all of the written information and records requested in the letters dated October 10, 2012, November 15, 2012, and December 11, 2012. Certain records provided in December 2012 contained materially inaccurate information.

147. On or about January 11, 2013, FINRA staff conducted a second onsite visit to the Principal Office Address and hand-delivered to TNP a Rule 8210 request that set forth the requested information and documents from the October 10, November 15, and December 11, 2012 letters that the staff had not yet received, and described the inaccurate information previously provided and requested a revised response. The January 11, 2013 letter also was sent to Counsel by email. The January 11, 2013 letter requested immediate production.

148. On January 11, 2013, TNP provided two additional documents in response to the October 10, November 15, and December 11, 2012 letters. The submissions of written information and records in January 2013 included some but not all of the written information and records requested in the letters dated October 10, 2012, November 15, 2012, December 11, 2012 and January 11, 2013.

149. On January 23, 2013, FINRA staff conferred with [REDACTED] during his on-the-record examination, regarding the responses provided by TNP. As a result of the discussion, TNP agreed to provide an amended response. On January 30 and February 1, 2013, TNP provided additional documents, including again the inaccurate information provided in December 2012. TNP also provided a written response that reflected some additional information; it further asserted that TNP could not and would not provide a response to two related inquiries.

150. On February 5, 2013, FINRA staff again wrote to Counsel and described the outstanding deficiencies in TNP's responses, and requested production of the outstanding items by February 8, 2013, pursuant to FINRA Rule 8210.

151. On February 7, 2013, TNP, through Counsel, agreed to provide certain additional information and records, including revised schedules of payments to investors. On February 12, 2013, FINRA received additional records, including a correction of the previously produced inaccurate distribution information and documents, referenced in paragraph 146.

152. On February 12, 2013, approximately four months after the due date set forth in the initial request to TNP Securities, and three months after the duplicate request to TNP, and following substantial efforts by FINRA staff to obtain production, FINRA received most of the information and records requested in the Rule 8210 Letter dated October 10, 2012. As a result of this production, however, staff required additional information from [REDACTED] or TNP. As described above, [REDACTED] refused to appear for OTR and TNP provided no response to follow-up requests for information and documents. TNP'S failure to respond fully to the Rule 8210 request letters dated June 5, 2012, December 11, 2012 and January 11, 2013, and in a timely manner delayed and hindered FINRA's investigation.

153. By providing information and records requested pursuant to FINRA Rule 8210 after the October 23, 2012 due date, TNP Securities committed separate and distinct violations of FINRA Rule 8210. By providing information and records requested pursuant to FINRA Rule 8210 after the November 29, 2012 due date, and by twice providing inaccurate information, TNP and Thompson committed separate and distinct violations of FINRA Rule 8210. By violating FINRA Rule 8210, TNP Securities and Thompson engaged in conduct inconsistent with high

standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed;
- C. order that Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. make specific findings that Respondents Thompson and TNP Securities willfully violated Section 10 of the Exchange Act and Rule 10b-5 promulgated thereunder.

FINRA DEPARTMENT OF ENFORCEMENT

Date: September 18, 2013

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